Ministry of Housing, Communities & Local Government

Our ref: APP/M2270/V/21/3273015
Your ref: 20/00815/FULL

Mr Robert Franks
Berkeley Homes (Eastern Counties) Ltd
Berkeley House
Oakhill Road
Sevenoaks
Kent
TN13 1NQ

22 November 2024

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION MADE BY BERKELEY HOMES (EASTERN COUNTIES) LTD
LAND ADJACENT TO TURNDEN, HARTLEY ROAD, CRANBROOK
APPLICATION REF: 20/00815/FULL

This decision was made by Matthew Pennycook MP, Minister of State for Housing and Planning, on behalf of the Secretary of State

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1. I am directed by the Secretary of State to say that consideration has been given to the report of G D Jones BSc(Hons) DipTP DMS MRTPI, who held a public local inquiry which opened on 21 September 2021 into your application for planning permission for the construction of 165 new dwellings with associated access, car parking, refuse/recycling storage, landscaping, earthworks and other associated works, in accordance with application Ref. 20/00815/FULL, dated 11 March 2020.

2. On 12 April 2021, the previous Secretary of State, Michael Gove MP, directed, in pursuance of Section 77 of the Town and Country Planning Act 1990, that your application be referred to him instead of being dealt with by the local planning authority.

3. The previous Secretary of State initially issued his decision in respect of the above application by way of his letter dated 6 April 2023. That decision was challenged by way of an application to the High Court and was subsequently quashed by order of the Court dated 6 October 2023. The application has therefore been redetermined by the Secretary of State. In redetermining the application, she has taken into account all of the evidence submitted prior to the earlier determination of the application, including the Inspector's report, and all other material representations received following the close of the Inquiry.

Inspector's recommendation and summary of the decision

4. The Inspector recommended that the application should be approved, and planning permission granted, subject to the attached schedule of conditions and all the obligations in the Legal Agreements.

Ministry of Housing, Communities & Local Government
Laura Webster, Decision Officer
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5. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation. She has decided to grant planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Environmental Statement

6. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and the environmental information submitted before the inquiry opened. Having taken account of the Inspector's comments at IR52, the Secretary of State is satisfied that the Environmental Statement and other additional information provided complies with the above Regulations and that sufficient information has been provided for her to assess the environmental impact of the proposal.

Matters arising since the close of the inquiry

7. Following the quashing of the previous Secretary of State's decision letter, on 31 October 2023 the previous Secretary of State issued a letter under Rule 19 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 to all interested parties setting out a written statement of the matters with respect to which further representations were invited for the purposes of re-determination of the application. These matters were:

    a. The progress of the emerging Local Plan, as well as any relevant emerging or made Neighbourhood Plans;

    b. The current housing land supply position;

    c. Any material change in circumstances, fact or policy, that may have arisen since the Inspector's report of 4 April 2022 was issued and which the parties consider to be material to the Secretary of State's further consideration of this planning application.

8. Alternatively, interested parties could ask for the inquiry to be reopened. Responses to the letter of 31 October 2023, and subsequent responses were recirculated to parties as set out in Annex A.

9. The Secretary of State referred back to parties 2 February 2024 inviting comments on the representation received on behalf of the applicant on 11 January 2024, progress of the emerging Local Plan and any emerging or made Neighbourhood Plans, and the revised National Planning Policy Framework (the Framework) published 20 December 2023. Responses were recirculated to parties as set out in Annex A.

10. On 21 March 2024 the previous Secretary of State, Michael Gove MP, informed parties that he was of the view that there were no issues that required the inquiry to be re-opened.

11. The responses to the Rule 19 letter of 31 October 2023, and subsequent circulation of further representations back to parties as set out in Annex A, identified a number of matters which have arisen since the previous decision.

    Changes to national and local policy and guidance

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a. The Cranbrook and Sissinghurst Neighbourhood Plan was made on 4 October 2023 and now forms part of the development plan. The Secretary of State has taken the made Neighbourhood Plan into account in the determination of this application and this is addressed at paragraph 13 below.

b. On 20 December 2023, a revised version of the Framework was published. Of relevance to this case are the revisions to paragraphs 76, 77, 226 and footnote 8 regarding housing land supply and the presumption in favour of sustainable development; paragraphs 60-68 which set out revisions to the standard method; and revisions to paragraphs 88, 96, 128 and the heading of Chapter 12 of the Framework which emphasise the importance of beautiful buildings and places. The Secretary of State has taken the December 2023 revisions to the Framework into account in the determination of this application and deals with the relevant matters relating to housing land supply, the presumption and beauty in paragraphs 33-34, 42 and 25-30 below.

c. On 30 July 2024, the Written Ministerial Statement (WMS) 'Building the Homes we Need' (UIN HCWS48) was published. On that same date, the government launched a consultation on proposed reforms to the Framework. The Secretary of State does not consider that publication of the WMS and the consultation on the existing Framework, which relates to emerging policy which may be subject to change, raises any matters that would require her to refer back to the parties for further representations prior to reaching her decision on this application, and she is satisfied that no interests have thereby been prejudiced.

d. The emerging Local Plan (eLP) Examination has been proceeding since the previous decision and stage 3 hearings took place in July 2024. Further consultation on specific matters was undertaken from 11 September to 23 October 2024 and an additional hearing took place on 14 November 2024. The Secretary of State has taken the eLP into account in the determination of this application. Her conclusions on the weight which attaches to it are set out at paragraph 23 below.

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Changes to legislation

e. The Levelling Up and Regeneration Act (LURA) 2023 received Royal Assent on 26 October 2023. Section 245[1] of the LURA came into force on 26 December 2023 and provides a strengthened duty regarding Areas of Outstanding Natural Beauty (AONB)[2]. Section 93 of the LURA (once in force) will amend Section 38 of the Planning and Compulsory Purchase Act (PCPA) 2004[3]. No date has yet been set

[1] "(1A)In exercising or performing any functions in relation to, or so as to affect, land in any National Park in England, a relevant authority other than a devolved Welsh authority must seek to further the purposes specified in section 5(1) and if it appears that there is a conflict between those purposes, must attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park".

"(2A)The Secretary of State may by regulations make provision about how a relevant authority is to comply with the duty under subsection (1A) (including provision about things that the authority may, must or must not do to comply with the duty)."

[2] The Secretary of State notes that Areas of Outstanding Natural Beauty have been renamed 'National Landscapes', however for consistency with the Framework and the planning application, this letter refers to Areas of Outstanding Natural Beauty.

[3] After subsection (5) insert—
"(5A)For the purposes of any area in England, subsections (5B) and (5C) apply if, for the purposes of any determination to be made under the planning Acts, regard is to be had to—
(a)the development plan, and
(b)any national development management policies.
(5B)Subject to subsections (5) and (5C), the determination must be made in accordance with the development plan and any national development management policies, taken together, unless material considerations strongly indicate otherwise.
(5C)If to any extent the development plan conflicts with a national development management policy, the conflict must be resolved in favour of the national development management policy."

for this to come into force. The Secretary of State has taken Section 245 of the LURA into account in the determination of this application and her conclusions on matters pertaining to the AONB are set out at paragraph 30 and 53-54 below. As Section 93 of the LURA has not yet come into force, this has not been taken into account.

f. Biodiversity Net Gain (BNG) under the Environment Act 2021 came into force for major development on 12 February 2024 and applies to planning applications made on or after 12 February 2024. As this application was submitted to Tunbridge Wells Borough Council (TWBC) 11 March 2020, mandatory BNG does not apply.

Updated evidence

g. The applicant has provided updated evidence:

   i. Planning Proof of Evidence (PoE) addendum dated 21 November 2023

   ii. Urban design PoE addendum dated 21 November 2023.

   iii. An updated Statement of Common Ground (SoCG) dated November 2023 between the applicant and TWBC.

h. The Secretary of State has noted CPRE's representation of 28 November 2023 suggesting that the applicant has provided information that goes beyond the scope of the request in the Secretary of State's letter of 31 October 2023 and should be disregarded, however if the Secretary of State decides to consider it, 3 weeks should be given for parties to comment. The additional information was recirculated to parties and responses received as set out in Annex A. As such, parties have had the opportunity to make further representations, and the Secretary of State is satisfied that no interests have thereby been prejudiced. Her conclusions are set out in the relevant sections below.

i. The 2024-2029 High Weald Area of Outstanding Natural Beauty (HWAONB) management plan was approved by the High Weald Joint Advisory Committee (JAC) for adoption by each of the Local Authorities 27 March 2024, as referenced in the representation from HWAONB Unit 29 August 2024. The Secretary of State has taken the 2024-2029 HWAONB management plan into account. Her conclusions on matters pertaining to the AONB are set out at paragraphs 30 and 53-54 below.

j. In the representation dated 21 November 2023, and the accompanying PoE, the applicant refers to the Policy Exchange design matrix published 20 June 2023 and also notes that on 8 September 2023, the previous Secretary of State wrote to Council Leaders reiterating the role of local government in delivering the Government's long-term plan for housing. The Secretary of State has taken the Policy Exchange design matrix into account. Her conclusions on design are set out at paragraphs 25-29 below. She does not consider that the previous Secretary of State's letter to Council Leaders affects her decision in this case.

Change in circumstances

k. In the representation dated 21 November 2023, and the accompanying SoCG and PoE, the applicant addresses the changes on the ground in relation to the progress of other housing developments near the site. The planning PoE notes

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that the application site wraps around (but excludes) an area previously known as Turnden Phase 1 (Turnden Farmstead) which at the time of the Inquiry had been implemented, but is now complete (40 dwellings), and it also notes that Brick Kiln Farm (for up to 180 dwellings) had outline permission at the time of the Inquiry but is now under construction. The updated SoCG notes that Brick Kiln Farm has detailed planning permission for 180 homes and will form the new settlement edge of Cranbrook (being allocated for development within the Site Allocations Local Plan 2016 for between 200-250 dwellings – ref: AL/CR4). The SoCG also refers to the appeal at Highgate Hill, Cranbrook, which was allowed and granted planning permission for 71 homes 22 March 2022. The Secretary of State has taken the impact of nearby development schemes into account in the determination of this application and deals with this at paragraph 25 below.

l. In the representation dated 21 November 2023, and the accompanying planning PoE, the applicant confirms a Traffic Regulation Order has now been made, reducing the speed limit on Hartley Road. The Secretary of State has taken into account the reduced speed limit on Hartley Road in the determination of this application and sets out her conclusions on highways issues at paragraphs 40-41 below.

m. The 2022 Housing Delivery Test figures were published on 19 December 2023. These indicate a figure of 96% for TWBC, and that no action is required as a result. The Secretary of State notes that the 2021 Housing Delivery Test figures, published on 14 January 2022, indicated a figure of 97% and no action. Given the very minor difference she does not consider that the new figures affect her conclusions in this case.

Court Judgment

n. The Secretary of State has taken into account the Consent Order approved by Mr Justice Eyre on 6 October 2023.

Correspondence

o. A number of other representations have also been received since the previous decision. These are listed as 'general representations' in Annex A of this decision letter. The Secretary of State is satisfied that the issues raised do not affect her decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these letters, as well as any post-inquiry correspondence listed in Annex A of the original decision letter of 6 April 2023, may be obtained on request to the email address at the foot of the first page of this letter.

Other matters

p. Representations from the Parish Council dated 12 November 2023 and 24 February 2024 have raised concerns around infrastructure requirements for water and secondary school places. The Secretary of State notes that similar concerns were raised by the Parish Council at Inquiry stage. Her conclusions on infrastructure are set out at paragraph 57 below.

Policy and statutory considerations

12. In reaching her decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be

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determined in accordance with the development plan unless material considerations indicate otherwise.

13. In this case the development plan consists of the saved policies of the Tunbridge Wells Borough Local Plan, March 2006 (the Local Plan), the Tunbridge Wells Borough Core Strategy, June 2010 (the Core Strategy), the Site Allocations LP and the Cranbrook and Sissinghurst Neighbourhood Plan (CSNP). The Secretary of State considers that relevant development plan policies include those set out in the SoCG[4] (IR20) of which the most pertinent of these are summarised at IR21-30, and further considers the relevant CSNP policies include:

    a. Policy LN3.1 Biodiversity & Ecology

    b. Policy LN3.3 Protecting the Historic Landscape Character

    c. Policy LN3.4 Green Gaps and Preventing Settlement Coalescence

    d. Policy LN3.5 Protection of the High Weald AONB & its setting

    e. Policy LN3.7 Local Green Space Designations (Site LGS 9)

    f. Policy HD4.4 Protection, Conservation & Enhancement of Agricultural Heritage Assets

    g. Policy HD4.7b Exceptions for Large-Scale Development & Community Involvement (including the CSNP Design Checklist July 2022)

    h. Policy HD4.8 The Design of New Buildings Within of Within the Setting of Conservation Areas

    i. Policy HD4.10 Avoidance of Light Pollution

    j. Policy AM5.1 The Pedestrian Environment

14. Other material considerations which the Secretary of State has taken into account include the Framework and associated planning guidance (the Guidance), as well as the relevant Council Supplementary Planning Documents (IR31) and other documents that are relevant listed at IR40. The IR contains paragraph references to the previous version of the Framework; this decision letter refers to both the old and the new paragraph numbers, where these are different.

15. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has 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.

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[4] CD9.1 (18 June 2021), CD9.2 (29 July 2021), CD9.18 (21 August 2021)

Emerging plan

16. The emerging Local Plan (eLP) comprises the Submission Local Plan 2020-2038. The current position is set out at paragraph 11d above. The Secretary of State considers that the emerging policies of most relevance to this case include those set out at IR33-38.

17. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. At the time of the Inquiry the Inspector concluded that the eLP carried limited weight (IR32).

18. The Secretary of State notes that the eLP Examination has progressed since the previous decision but has not yet concluded. The status of the eLP has been raised in numerous representations to the Secretary of State and the views of parties are summarised in paragraphs 19-23 below.

19. TWBC considers that the eLP is well advanced following considerable engagement and examination in public by an appointed Inspector (representation of 21 March 2024). The Council notes that the Inspector makes no reference to site allocation Policy STR/CRS 1 (the Strategy for Cranbrook and Sissinghurst parish), nor does he make reference to Policy AL/CRS3 (Land at Turnden) [which covers the application site] in his Initial Findings of November 2022. A series of recommended changes to resolve matters raised by the Local Plan Inspector in respect of TWBC's Delivery Strategy (representation of 16 November 2023), were consulted on between 15 January 2024 and 12 April 2024. TWBC concludes overall that weight of some significance can be attributed to the policies outlined in the eLP (representation of 21 March 2024).

20. The applicant suggests in its representation of 21 November 2023 and accompanying planning PoE that greater weight is now attributable to the allocation of the site in the eLP than at the time of the previous decision. The November 2023 SoCG between the applicant and TWBC notes that the Local Plan Inspector's Initial Findings letter on 16 November 2022 raised concerns in relation to the suitability or deliverability of eleven specific sites in the Borough, but this did not include the site at Turnden, and there was no reference or challenge to the overall housing requirement for Tunbridge Wells and no comment on draft allocation AL/CRS3 for Land at Turnden. The applicant's representation dated 11 January 2024 notes that on 13 December 2023, TWBC Full Council voted in favour of progressing the eLP, subject to modifications, with the changes subject to consultation in January 2024. No modifications were proposed to the Turnden site allocation (AL/CRS3) and therefore the allocation will not be subject to further consultation. The applicant's representation dated 22 March 2024 states that the eLP is at an advanced stage, close to adoption and significant weight should be afforded to the eLP's site allocation policy.

21. CPRE states in its representation dated 20 November 2023 that serious questions were raised by the Inspector in his Initial Findings letter of November 2022, and that alternative options for the eLP recommend significant changes be made to the submission plan. CPRE consider that the eLP is at a no more advanced stage than it was on the date of the decision and is procedurally at a less advanced state. As such, CPRE concludes that little weight should be attached to the eLP and its policies (representations of 20 November 2023 and 14 February 2024). CPRE note the Secretary of State's decision on this application was still awaited at the time of the Local Plan Inspector's Initial Findings and consider no significance should be attached to the omission of any reference to Policy AL/CRS3 and the acknowledged relevance was demonstrated by repeated

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deferrals of the Examination of that policy, in the hope that the decision would clarify the position. CPRE's view is that the Council's strategy with regard to allocations within the HWAONB should be reviewed and that its preferred strategy does not give sufficient regard to the new duties arising from Section 245 of LURA 2023. CPRE consider that as the Council have agreed with the eLP Inspector that the public consultation should be similar to the Regulation 19 consultation procedure for making representations about a local plan, the eLP can be given no more weight than it would be given were it at the Regulation 19 stage.

22. The representations from the HWAONB Unit dated 20 November 2023, 24 February 2024 and 24 August 2024 state its view is that the eLP should be afforded no more than limited weight and note it continues to object to the Local Plan allocation. The response from Natural England refers to the SoCG with TWBC in October 2021 submitted with the Local Plan for examination but does not offer any further views on changes since.

23. The Secretary of State has considered the representations and the views of parties in relation to the weight of the eLP and its site allocation policy and draft allocation. She has taken into account that the Inspector did not make any comments on site allocation Policy STR/CRS1 (the Strategy for Cranbrook and Sissinghurst parish), or draft allocation AL/CRS3 (Land at Turnden) or suggest that any modifications were required in respect of these site allocation policies, and that the further consultation which was carried out by TWBC in January-April 2024 therefore did not propose any modifications to these site allocation policies. She does not agree with CPRE's suggestion that the Inspector's lack of comment on draft allocation AL/CRS3 has no significance. While the eLP may of course still be subject to change, she considers that, on the basis of the evidence currently before her, Policy STR/CRS 1 and draft allocation AL/CRS3, which are of most relevance to this application, are unlikely to change. Furthermore, she considers that Policy STR/CRS 1 and draft allocation AL/CRS3 are consistent with the relevant policies in the Framework. In the particular circumstances of this case, she therefore considers that policy STR/CRS 1 and draft allocation AL/CRS3 of the eLP are most relevant given they propose to allocate housing at the application site and carry significant weight. As they are emerging policy and do not form part of the adopted development plan, they do not carry full weight. She considers the other emerging policies of the eLP carry moderate weight in this case.

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Main issues

24. The Secretary of State agrees that the main issues are those set out by the Inspector at IR703.

High Weald Area of Outstanding Natural Beauty (HWAONB)

25. In reaching her conclusions on this matter, the Secretary of State has taken into account the representations submitted since the Inquiry, including the Framework changes in respect of beauty (paragraph 11b above), Section 245 of the LURA (paragraph 11e above), the updated HWAONB management plan (paragraph 11i above), the design checklist in the CSNP and the design guidance referred to at policy HD4.7b, the Policy Exchange design matrix and progress on other housing developments near the site (paragraph 11j and 11k above).

26. Taking into account the evidence before her, the Secretary of State concludes that for the reasons given at IR705-731, with the exception of the Inspector's conclusions on the quality of the design at IR723, the Secretary of State agrees with the Inspector's analysis of the effect of the proposals on the HWAONB and consideration of landscape and visual impacts, and further agrees that while the application proposals would affect the

HWAONB, any harm arising would be limited, particularly in the longer term (IR732). She further agrees, in this regard, that the proposal would comply with Core Policies 4 and 12 of the Core Strategy and with Local Plan Policy EN1 and criterion 1 of Policy EN25 (IR732). She also agrees with the Inspector that there would be conflict with criterion 2 of Policy EN25, as the development would cause at least some detriment to the landscape setting of settlements, and with Core Policy 14 in terms of its criterion 6, including the protection of the countryside for its own sake (IR732). For the reasons given at IR818 she agrees that these policies should be given full weight in terms of how they relate to matters of character and appearance, including effects on the HWAONB.

27. In terms of the design of the proposed development, the Secretary of State has considered the Inspector's analysis of the effect of the proposals on the HWAONB at IR705-733, along with the case put forward by the Council (summarised at IR261-410) and the cases for Natural England (summarised at IR56-106), the High Weald AONB Unit (summarised at IR107-183), CPRE Kent (summarised at IR184-260) and the case for other parties who gave evidence at the Inquiry (summarised at IR655-695). The Secretary of State recognises that both the HWAONB Management Plan and the High Weald Housing Design Guide emphasise that housing development in the HWAONB should be landscape-led. She further recognises that since the Inquiry, the CSNP has been adopted and the HWAONB Management Plan (2024-2029) is the version that now applies in this case.

28. Whilst the Secretary of State has concerns about the layout and design of the proposal, particularly the sensitivity and appropriateness of the design in the context of its setting, she has taken into account that only 20% of the site would be built on (IR730) and the proposed development would deliver landscape enhancements (IR826). Overall, she considers that the design of the scheme is a neutral factor in this case.

29. Overall, the Secretary of State agrees with the Inspector at IR823 that there would be some harm to the HWAONB, which would be limited, and that the harm to the landscape and scenic beauty of the HWAONB attracts great weight.

30. The Secretary of State has kept her duty under section 85 of the Countryside and Rights of Way Act 2000, to seek to further the purpose of conserving and enhancing the AONB's natural beauty, in mind when assessing the impact of harm on the AONB and applying weight to it. This duty has been considered along with the other changes identified in paragraph 25 above. In the particular context of this case, she concludes that the harm to the HWAONB is limited, and this harm attracts great weight.

Air Quality

31. The Secretary of State agrees at IR750 that the evidence indicates that nitrogen dioxide (NO_2) pollution at Hawkhurst is the only potentially significant air quality issue and that it arises mostly from road traffic on Cranbrook Road. For the reasons given at IR748-754 the Secretary of State is of the same view as the Inspector that the evidence indicates that effects of the proposal would not be significant (IR754). She further agrees at IR755 that the evidence indicates that air quality will continue to improve at Hawkhurst in any event, and that while the proposed development would be likely to have a small effect on the timing of that improvement, its likely overall effect would not be significant. As such the Secretary of State agrees that the proposed development accords with the Framework, including paras 8(c), 180 (e) (formerly 174 (e)), 191 (formerly 185) and 192 (formerly 186), and with the development plan, including the Core Strategy Core Policy 5, in that regard (IR755). However, for the reasons given at IR756, the Secretary of State agrees with the Inspector there would be conflict with eLP Policy EN 21 albeit to a very limited extent. In addition, Policy EN 22 of the eLP would also be breached given that the

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S106 Agreement would not secure contributions to mitigate the identified impact, albeit that in the particular circumstances of this case, such a payment would not be necessary (IR756). She further agrees at IR812 and IR837 that there would be very limited harm to air quality, and notwithstanding the increased weight now attaching to the eLP, she affords this very limited weight in the planning balance.

Site Allocation Strategy

32. For the reasons given at IR766, IR817 and IR837 the Secretary of State agrees with the Inspector's conclusion that the site is in the countryside beyond the Limits of Built Development of Cranbrook (IR766).

33. The Secretary of State has taken into account the revisions to the Framework in December 2023, and the provisions of paragraph 226 which sets out that Local Planning Authorities meeting certain criteria[5] will only need to demonstrate a 4 year housing land supply. TWBC has a plan submitted for Examination and therefore she concludes the 4 year housing land supply is applicable in this case. She has taken into account the representations received from parties since the Inquiry, and notes the position stated in TWBC's representation dated 21 March 2024 that TWBC can demonstrate a 4.5 year housing land supply. This has not been disputed by the parties.

34. TWBC can now demonstrate a Framework-compliant housing land supply, and the presumption in favour of sustainable development is therefore not triggered by that route. The Secretary of State has gone on to consider whether the policies which are most important for determining the application are out of date. She considers that the policies which are most important for determining the application include the development plan policies on spatial strategy, housing, landscape and the AONB. Taking into account the material changes since the inquiry, which include the progress of the eLP and the weight she applies to its site allocation policies in paragraph 23 above, and built development changes on the ground, the Secretary of State concludes that some aspects of the Spatial Strategy are out of date, and she considers that the Spatial Strategy as a whole carries significant but not full weight. However, she concludes overall that the most important policies in this case are not out of date, and therefore considers that the presumption in favour of sustainable development, which was found to apply at the time of the previous decision, does not apply. This is not disputed by the parties.

35. For the reasons given at IR766, IR817 and IR837 the Secretary of State agrees with the Inspector's conclusions that given that the site is in the countryside beyond the Limits of Built Development of Cranbrook (IR766) and that the proposed development does not meet any of the relevant exception criteria, it conflicts, in this regard, with Core Policies 1, 12 and 14 of the Core Strategy, Policy LBD1 of the Local Plan and the associated Policy AL/STR 1 of the Allocations LP (IR766).

36. Taking into account the change in weight to both the Spatial Strategy and the eLP since the previous decision, the Secretary of State considers that overall, the harm arising from development outside the limits of built development carries moderate weight.

Historic Environment

37. For the reasons given at IR767-774 the Secretary of State agrees with the Inspector at IR773 that the proposed development would not harm any significant historic landscape

[5] with a plan submitted for examination, or with a regulation 18 or 19 plan that includes both a policy map and proposed allocations to meet a requirement

resource and all of the individual features which could be of potential interest would be retained.

38. Regarding the Conservation Area and four listed buildings the Secretary of State notes at IR779 that none of the listed buildings are within the site or adjacent to it and the site is not within the Conservation Area nor adjacent to it. For the reasons given at IR775-782 the Secretary of State agrees with the Inspector that the proposals would cause no harm to the character or appearance of the Conservation Area, primarily due to the lack of intervisibility (IR781). She further agrees for the reasons given at IR783-784 that there would be no material impact on the settings of the listed buildings as a result of the proposed development, and that consequently it would preserve these listed buildings and their settings, as well as the features of special architectural and historic interest which they possess (IR783).

39. Overall, the Secretary of State agrees with the Inspector's conclusions at IR784 that the development would not conflict with the development plan, Core Policy CP4 of the Core Strategy and Policy EN5 of the Local Plan in terms of its effect on the historic environment and would also accord with the Conservation Area Appraisal and Section 16 of the Framework.

Sustainable Transport

40. For the reasons given at IR785-788, the Secretary of State continues to agree with the Inspector at IR789 that, overall, there is no good reason to believe that the proposed development, alone or in combination with other development, would have a significant effect on highways safety other than in a positive sense. In reaching this conclusion she has taken into account that since the Inquiry, a Traffic Regulation Order has now been made, reducing the speed limit on Hartley Road, and notes the SoCG dated November 2023 confirms the Deed of Variation to secure s.106 highways works submitted at the Inquiry has now been signed.

41. For the reasons given at IR790-793 the Secretary of State agrees with the Inspector that the development would promote sustainable transport in the terms of the Framework and accord with relevant development plan policy in that regard (IR794).

Other issues

Housing Need and Delivery

42. In reaching her conclusions on housing need and delivery, the Secretary of State has taken into the account the effect of paragraph 226 of the Framework, which means that TWBC can now demonstrate a Framework-compliant housing land supply, and the progress of the eLP since the previous decision. As a result, she considers that some elements of the Inspector's conclusions at IR801-810 in respect of housing need and delivery are now out of date. However, it is undoubtedly still the case that the ability to respond to the need for housing is heavily constrained (IR803), and on the basis of the evidence now before her, in particular the significant weight which she attaches to policy STR/CRS 1 and draft allocation AL/CRS3 of the eLP, she agrees with the Inspector at IR810 that it is reasonable to conclude that there is a compelling case for the need for development of this type and in Cranbrook. She further agrees that there are considerable benefits associated with delivering market and affordable housing (IR810). In reaching this conclusion she has taken into account paragraph 60 of the Framework which sets out the Government's objective of significantly boosting the supply of homes. The Secretary of State considers that the delivery of 165 homes (40% affordable housing) carries significant weight.

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Prematurity and the eLP

43. For the reasons given at IR814-816, and taking into account the progress of the eLP, the Secretary of State agrees with the Inspector that this proposal would not have any significant effect on the plan-making process of the eLP (IR816) and considers that this carries very limited weight against the proposal (IR814).

Biodiversity

44. For the reasons given at IR734-747 the Secretary of State agrees that the proposed development would be very likely to comfortably exceed 10% BNG required for certain developments by the Environment Act 2021 and targeted in the eLP (IR743). She further agrees that the evidence shows that the proposed measures meet the requirements of the HWAONB Management Plan in this regard (IR744).

45. The Secretary of State agrees that, subject to the proposed mitigation, there would be no significant residual biodiversity effects of the proposed development. As such she agrees that the proposed development would accord with Circular 06/2005 (IR746). She therefore concludes overall that the proposed development would secure significant BNG such that it would accord with the Framework, including paras 180 (formerly 174), 185 (formerly 179) and 186 (formerly 180) and development plan policy, as well as the eLP, in this regard (IR747).

Other Benefits

46. The Secretary of State agrees for the reasons given at IR774, IR720 and IR811 that the proposed reinstatement of hedgerows along historic boundaries and of the shaw in the southern fields would be beneficial to the time-depth character of the HWAONB (IR774). Furthermore, the proposed re-creation of Tanner's Lane would also be beneficial in heritage terms as it would reinstate a historic feature in the local landscape (IR774).

47. The Secretary of State agrees for the reasons given at IR720 and IR811 that the new woodland planting and management of existing woodland would be to the benefit of the environment and landscape. She further agrees for the reasons given at IR786 that the proposed highway works may result in improving highway safety. In addition, for the reasons given at IR811 the additional footpaths and substantial new publicly accessible amenity space would enhance recreational opportunities.

Conclusion on Benefits

48. The Secretary of State has had regard to the Inspector's view at IR824 as to weight attaching to the benefits of the scheme. She has taken into account the changes since the previous decision, including her conclusion at paragraph 42 above that TWBC has a Framework compliant housing land supply, and overall, she considers that the combined weight of the benefits remains as substantial.

Application of policies concerning AONB

49. The Secretary of State has applied her duty under section 85 of the Countryside and Rights of Way Act 2000 to seek to further the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the HWAONB, and has also taken into account paragraph 182 (formerly 176) of the Framework, which states among other things that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs (IR796). The Secretary of State has found limited harm to the

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landscape and scenic beauty of the HWAONB, and has concluded at paragraph 30 above that this harm carries great weight.

50. The Secretary of State agrees with the Inspector's analysis of the test in paragraph 183 (formerly 177) of the Framework as set out at IR797-800. She agrees that the proposal constitutes major development in the AONB and that paragraph 183 (formerly 177) of the Framework is engaged. As such, she agrees that planning permission should be refused unless there are exceptional circumstances justifying the development, and where it can be demonstrated that the development is in the public interest (IR797).

51. The Secretary of State has gone on to consider whether there are the exceptional circumstances required to justify this proposed development in the terms of paragraph 183 (formerly 177) of the Framework, and whether it can be demonstrated that the development is in the public interest. In line with that paragraph she has considered the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy; the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

52. The Secretary of State has found that that the ability to respond to the need for housing in this Borough is heavily constrained, and that this particular development is needed (paragraph 42 above). She has found that the benefits of the scheme, which include landscape benefits and enhanced recreational opportunities, carry substantial weight (paragraphs 46-47 above). She has further found that policy STR/CRS 1 and draft allocation AL/CRS3, which allocates this site for this purpose, are unlikely to change and carries significant weight (paragraph 23 above). It is therefore likely that within a relatively short space of time, this allocation will form part of an adopted development plan.

53. When assessing whether exceptional circumstances exist, the Secretary of State has also considered the harm to the AONB that would arise from the proposed development, as summarised in paragraph 30, and has applied her duty under section 85 of the Countryside and Rights of Way Act 2000 to seek to further the purpose of conserving and enhancing the AONB's natural beauty. She has found limited harm to the HWAONB and has concluded that the harm to the landscape and scenic beauty of the HWAONB attracts great weight.

54. Overall, in terms of the paragraph 183 (formerly 177) test in the Framework, the Secretary of State considers that the above factors together constitute exceptional circumstances which justify major development in the HWAONB. The Secretary of State further considers that there are factors in this case which suggest that granting permission for the development is in the public interest. The AONB test is therefore favourable to the proposal.

Cranbrook and Sissinghurst Neighbourhood Plan

55. The Secretary of State has taken into account the CSNP which has been made since the Inquiry and now forms part of the Development Plan. Overall, she concludes the application is in accordance with the CSNP.

Planning conditions

56. The Secretary of State has given consideration to the Inspector's analysis at IR827-835, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. She is

satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework, and that the conditions at Annex B should form part of her decision.

Planning obligations

57. Having had regard to the Inspector's analysis at IR836, the planning obligation dated 30 March 2021, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy (CIL) Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR836 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 57 of the Framework.

Planning balance and overall conclusion

58. For the reasons given above, the Secretary of State considers that the application is not in accordance with Policies LBD1 of the Local Plan, Core Policies 1 and 14 of the Core Strategy, and Policy AL/STR 1 of the Site Allocations LP, and is not fully in accordance with Policy EN21, EN22, EN25 of the Local Plan or Core Policy 12. She considers that the application is not in accordance with the development plan overall. She has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

59. Weighing in favour of the development are the need for and delivery of housing, the BNG, enhanced recreation opportunities, improvements in highway safety, heritage benefits to the historic landscape and landscape benefits by way of woodland planting and management, which collectively carry substantial weight.

60. Weighing against the proposal is the harm to the landscape and the scenic beauty of the HWAONB which attracts great weight, harm arising from development outside the limits of built development which carries moderate weight, harm to air quality which carries very limited weight and the effect on the plan-making process of the eLP which carries very limited weight.

61. The Secretary of State has concluded for the reasons given above that exceptional circumstances exist to justify the proposed development in the HWAONB and that the development would be in the public interest. The AONB test at paragraph 183 (formerly 177) of the Framework is therefore favourable to the proposal.

62. Overall, the Secretary of State's conclusion on section 38(6) of the Planning and Compulsory Purchase Act 2004 is that despite the conflict with the development plan, the material considerations in this case indicate that permission should be granted.

63. The Secretary of State therefore concludes that planning permission should be granted.

Formal decision

64. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. She hereby grants planning permission for the construction of 165 new dwellings with associated access, car parking, refuse/recycling storage, landscaping, earthworks and other associated works, in accordance with application Ref. 20/00815/FULL, dated 11 March 2020.

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65. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act (TCPA) 1990.

Right to challenge the decision

66. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.

67. A copy of this letter has been sent to TWBC, Natural England, the HWAONB Unit and CPRE Kent, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Laura Webster
Decision officer

This decision was made by Matthew Pennycook MP, Minister of State for Housing and Planning, on behalf of the Secretary of State, and signed on his behalf

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Annex A Schedule of representations

RULE 19 PROCESS

Representations received in response to the Secretary of State's Rule 19 letter of 31 October 2023

Party	**Date**
Tunbridge Wells Borough Council	16 November 2023
Natural England	20 November 2023
CPRE Kent	20 November 2023
High Weald AONB Unit	20 November 2023
Cranbrook and Sissinghurst Parish Council	21 November 2023
Ashurst on behalf of the Applicant, enclosing: 1. Planning Proof of Evidence Addendum 2. Urban Design Proof of Evidence Addendum 3. Updated Statement of Common Ground between the Applicant and TWBC	21 November 2023

Representations received in response to the Secretary of State's two recirculation's of responses of 22 November 2023

Party	Date
Ashurst on behalf of Applicant	28 November 2023
CPRE Kent	28 November 2023
High Weald AONB	29 November 2023
Ashurst on behalf of the Applicant, enclosing: 1. Updated Statement of Common Ground between the Applicant and TWBC, showing changes	4 December 2023, enclosing attachment dated November 2023

The representations above were recirculated on 30 November and 4 December 2023, with no further responses received

REFERENCE BACK TO PARTIES

Representation received

Party	Date
Ashurst on behalf of the Applicant, enclosing: 1. TWBC Local Development Scheme, published December 2023	11 January 2024

Representations received in response to the Secretary of State's reference back letter of 2 February 2024

Party	Date
Cranbrook and Sissinghurst Parish Council	12 February 2024
CPRE Kent, enclosing: 1. Guidance and Explanation Note – Consultation on Response to Inspector's Initial Findings published January 2024 2. Updated Local Plan Housing Trajectory (position as of 1 April 2023), published December 2023 3. Chief Planning Officer letter of 5 February 2024	14 February 2024
Natural England	16 February 2024, enclosing a letter dated 13 February 2024
High Weald AONB	16 February 2024

Representations received in response to the Secretary of State's recirculation of responses of 15 March 2024

Party	Date
CPRE Kent	20 March 2024
Tunbridge Wells Borough Council	21 March 2024
Ashurst on behalf of Applicant	22 March 2024

Correction received in response to the Secretary of State's recirculation of responses of 25 March 2024

Party	Date
CPRE Kent	26 March 2024

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CIRCULATION FOR INFORMATION

Representation received

Party	Date
Berkeley	8 August 2024

Representations received in response to the Secretary of State's circulation for information letter of 21 August 2024

Party	Date
CPRE Kent	29 August 2024
High Weald Joint Advisory Committee	29 August 2024

No responses were received to the circulation of this representation

General representations

Party	Date
Just Build Homes	12 April 2022
Millie Dodd	14 April 2022
Berkley Homes (incl 180 letters of support from public)	22 April 2022
LLP Ashurst	22 April 2022
Lichfields on behalf of the applicant	17 November 2022
Ashurst on behalf of Applicant	28 April 2023
Tunbridge Wells Borough Council	2 May 2023, enclosing email attachment dated 28 April 2023
Cllr for Sherwood Ward	3 May 2023
Chris Elphick	4 May 2023
The National Association for Areas of Outstanding Natural Beauty	26 June 2023
Tunbridge Wells Borough Council	5 October 2023
Ashurst on behalf of Applicant	9 January 2024
CPRE Kent	9 January 2024, enclosing letter dated 20 November 2023
Tunbridge Wells Borough Council	10 January 2024
Ashurst on behalf of Applicant	11 January 2024
Cranbrook and Sissinghurst Parish Council	4 February 2024
Ashurst on behalf of Applicant	21 March 2024
Tunbridge Wells Borough Council	14 May 2024

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Annex B List of Conditions

Definitions (relating to the Conditions below)

'Initial Enabling Works' means: Initial infrastructure enabling and site set up works required for the development which include:

- Ecological enabling works required for the development which include ecology works, including ecological vegetation/hedgerow/tree works, clearance,

management, mitigation, enhancement measures and compensatory habitat construction, and all works under Natural England licence;
- Site establishment and temporary welfare facilities and temporary site accommodation;
- Installation of construction plant;
- Utilities diversions and reinforcements insofar as necessary to enable the construction of the development to commence;
- Temporary drainage, temporary surface water management, power and water supply for construction;
- Archaeological investigations; and
- Contamination investigations.

'Above Ground Works' means: Development hereby permitted above the finished floor level approved under Condition 13.

Conditions

(1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

(2) The development hereby permitted shall be carried out in accordance with the following approved plans unless superseded by details approved under the terms of the following conditions:

Site Plans
- S101J - Location Plan
- C101-K Coloured Site Layout
- C108-E Parking Plan
- P101-AH Proposed Roof Level Plan
- P105-E Materials Site Plan
- P106-D Boundaries Plan
- P107-B Refuse Plan
- P108-V Open Space Plan

Housetypes
- P110-D - Plots 1, 4, 15 & 126 - 5H1b
- P111-B - Plots 2 & 14 - 4H7
- P112-C - Plots 3 & 9 - 4H7
- P113-D - Plots 5 - 4A1
- P114-B - Plots 6 - 4H7
- P115-B - Plots 7 - 4H7
- P116-B - Plots 36 - 4A1
- P117-C - Plots 35 - 4C
- P118-D - Plots 10-11 & 16-17 - 3H9b/3H1
- P119-C - Plots 12, 25, 129 & 159 - 3H10
- P120-D - Plots 13 - 3H10
- P121-B - Plots 19 3A.1.2
- P122-A - Plots 20 - 4C
- P123-B - Plots 21, 127 - 3A.1.2
- P124-B - Plots 22-23 - 3H10/4H18
- P125-C - Plots 24 & 162 - 4C
- P126-B - Plots 26-27, 28-29, 136-137, 151-152 - 3E.1b/3E.1
- P127-D - Plots 30, 32, 33, 37, 138 & 158 - 3A.1.2
- P128-D - Plots 31 - 3A.1.2

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- P129-A - Plots 34 - 4C
- P130-E - Plots 134 & 149 - 4A1
- P131-D - Plots 81 & 82 - 3H10
- P132-B - Plots 83-84 & 147-148 - 3H9b/3H1
- P133-C - Plots 104-106 - 3x3H1
- P134-B - Plots 107-108 - 2x3H1
- P136-D - Plots 111-112 - 3H10/4H18
- P137-E - Plots 128 & 157 - 4C
- P138-B - Plots 121-125 - 5 x 3H1
- P139-C - Plots 8 - 4C
- P140-C - Plots 109 - 3A.1.2
- P141-C - Plots 131 - 3H9
- P143-B - Plots 135 - 3H1
- P144-D - Plots 141 - 3E.1
- P146-B - Plots 150 - 4H7
- P147-D - Plots 153 - 4A1
- P148-B - Plots 154 - 4H7
- P149-F - Plots 155 & 156 - 5H1
- P150-D - Plots 155 & 165 - 5H1
- P151-C - Plots 160 - 3E1.b
- P152-C - Plots 161 - 3H9
- P153-D - Plots 113 & 114 - 4C
- P154-B - Plots 164 - 4H7
- P155 - Plots 110 - 4C
- P156 - Plots 130, 133 - 3A.1.2
- P157 - Plots 132 - 3A.1.2
- P158 - Plots 139 & 140 - 3H10
- P165-D - Plots 38-39 & 92-93 - FOG 2BFG
- P166-E - Plots 15 & 55 - FOG - 2BFG
- P170-E - Plots 52-54, 70-72, 85-87, 94-9 - Aff HT2A
- P171-D - Plots 62-64 - Aff HT4A & HT2A
- P172-D - Plots 65-67 - Aff HT3A & HT2A
- P173-F - Plots 68-69 - Aff HT2A
- P174-E - Plots 79-80 & 100-101 - Aff HT2A
- P175-E - Plots 88-91 - Aff HT4A HT3A & SO HT3B
- P176-C - Plots 97-99 - Aff HT3A4P
- P177-D - Plots 102-103 - Aff HT3A4P
- P178-D - Plots 142-146 - Aff HT2A

Apartment Types

- P180-D - Block A - Plots 115-120
- P182-D - Block A - Plots 115-120
- P183-D - Block B - Plots 56 & 57-61
- P184-C - Block B - Plots 56 & 57-61
- P185-C - Block C - Plots 73-78
- P186-D - Block C - Plots 73-78
- P187-C - Block D - Plots 40-51
- P188-C - Block D - Plots 40-51
- P189-C - Block D - Plots 40-51
- P190-B - Block D - Plots 40-51

Garages and Car Ports

- P160-C Proposed Detached Garages
- P161-C Proposed Car Barns
- P162-E Proposed Car Barns and Substations

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Street Scenes

- C102-C Coloured Street Scene AA, BB, CC
- C103-B Coloured Street Scene DD, EE
- C104-D Coloured Street Scene FF
- C105-C Coloured Street Scene GG

Landscaping Plans

- 6958-002-H Landscape Hardworks Sheet 1
- 6958-003-G Landscape Hardworks Sheet 2
- 6958_004-H Landscape Soft works 1 of 6
- 6958_005-J Landscape Soft works 2 of 6
- 6958_006-I Landscape Soft works 3 of 6
- 6958_007-J Landscape Soft works 4 of 6
- 6958_008-G Landscape Soft works 5 of 6
- 6958_009-F Landscape Soft works 6 of 6
- 6958_010-E Landscape Woodland Buffer
- 6958_011-A Lighting Strategy
- 6958_101-C Illustrative Section Pond 1A
- 6958_103-C Illustrative Section Pond 2
- 6958_SK017-E Betterment Plan
- 6958_012 - Illustrative Landscape Masterplan

Highways Plans

- 19072/001-D Site Access General Arrangement Plan
- Drainage Plans
- 19-012/P01 P5 Drainage Strategy Plan
- 19-012/P02 P6 Exceedance Flow Plan

Levels Plans

- 19-012-P200 I3 Bulk Earthworks Bund Plan
- 19-012-P201 I3 Bulk Earthworks Bund Sections
- 19-012-P202 I2 Bulk Earthworks Bund Sections
- 19-012-P203 I2 Bulk Earthworks Bund Sections
- 19-012-P100-P4 Proposed Site Levels Site Plan
- 19-012-P101-P5 Proposed Site Levels Sheet 1
- 19-012-P102-P4 Proposed Site Levels Sheet 2
- 19-012-P103-P4 Proposed Site Levels Sheet 3
- 19-012-P104-P4 Proposed Site Levels Sheet 4
- 19-012-P105-P5 Proposed Site Levels Sheet 5
- 19-012-P106-P5 Proposed Site Levels Sheet 6
- 19-012-P107-P5 Proposed Site Levels Sheet 7
- 19-012-P108-P4 Proposed Site Levels Sheet 8
- 19-012-P109-P4 Proposed Site Levels Sheet 9
- 19-012-P110-P4 Proposed Site Levels Sheet 10
- 19-012-P111-P3 Proposed Site Levels Sheet 11
- 19-012-P112-P3 Proposed Site Levels Sheet 12
- 19-012-P120-P1 Contour Plan

LEMP

- Landscape and Ecology Management Plan March 2021

(3) No development (excluding 'Initial Enabling Works' as described in the 'Definitions' above) shall take place until a scheme detailing the phasing of the construction of the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.

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(4) Notwithstanding the submitted details and approved plans, no development (excluding ecological enabling works required for the development which includes ecology works, including ecological vegetation/hedgerow/tree works, clearance, management, mitigation, enhancement measures and compensatory habitat construction, and all works under Natural England licence) shall take place until a site specific Construction/Demolition Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority (LPA). The Plan shall demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The Plan shall include, but not be limited to:

- All works and ancillary operations which are audible at the site boundary or at such other place as may be approved by the LPA, shall be carried out only between the following hours: 07:30 hours and 18:00 hours on Mondays to Fridays, 08:30 and 13:00 hours on Saturdays and at no time on Sundays and Bank Holidays, unless in association with an emergency or with the prior written approval of the LPA;
- Deliveries to and removal of plant, equipment, machinery and waste from the site shall only take place within the permitted hours detailed above;
- Measures to minimise the production of dust on the site;
- Measures to minimise noise and vibration generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s);
- Design and provision of site hoardings;
- Management of traffic visiting the site including temporary parking or holding areas;
- Provision of off road parking for all site operatives;
- Measures to prevent the transfer of mud and extraneous material onto the public highway;
- Measures to manage the production of waste and to maximise the re-use of materials;
- Measures to minimise the potential for pollution of groundwater and surface water;
- The location and design of site office(s) and storage compounds;
- The location of temporary vehicle access points to the site during the construction works;
- The arrangements for public consultation and liaison during the construction works; and
- Measures for controlling the use of site lighting whether required for safe working or for security purposes.

(5) The approved details of foul drainage (drawing 19-012/P01 P5 Drainage Strategy Plan) shall be fully implemented concurrent with the development and shall not be varied without details being first submitted to and approved in writing by the Local Planning Authority.

(6) Notwithstanding the submitted details and approved plans, development (excluding 'Initial Enabling Works' as described in the 'Definitions' above) shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be based upon the detailed Drainage Strategy prepared by Withers Design Associates (Rev D 06 November 2020) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and

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disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance) that:

- Silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters; and
- Appropriate operational, maintenance and access requirements for each drainage feature or sustainable drainage system component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The approved drainage scheme shall be consistent with the details approved under Condition 20 and shall be fully implemented in accordance with the approved details, including a timetable for implementation.

(7) No building on any phase of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system associated to that Phase, has been submitted to and approved in writing by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system, associated to that Phase, where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed associated to the Phase.

(8) Prior to the commencement of 'Above Ground Works', as described in the 'Definitions' above, on any phase of development, details (including source/ manufacturer, and photographic samples) of bricks, tiles and cladding materials to be used externally on that phase, together with details relating to windows and dormer windows, and details associated with the appearance of Block A shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

(9) Notwithstanding the submitted details and approved plans, prior to the commencement of 'Above Ground Works', as described in the 'Definitions' above, on any phase of development, detailed plans and information regarding the following aspects of the proposed development phase shall be submitted to and approved in writing by the Local Planning Authority:

a) The alignment, height, positions, design, materials and type of boundary treatment / means of enclosure, including to parking forecourt gates;

b) Design and location of utility meters, the pumping station and enclosure, and below ground water booster tank and equipment;

c) The storage and screening of refuse and recycling areas, and bin collection points (in conjunction with approved drawing P107-B Refuse Plan); and

d) A timetable for the implementation for each aspect of the details.

The development shall be carried out in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.

(10) Notwithstanding the submitted details and approved plans, prior to the commencement of 'Above Ground Works', as described in the 'Definitions' above, on any phase of development, detailed plans and information regarding the following aspects of the proposed development phase shall be submitted to and approved in writing by the Local Planning Authority:

- The layout, position and widths of all proposed roads, footpaths, and parking areas (including the method of delineation between the road and the footpath)

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and the means of connecting to the existing highway, the materials to be used for final surfacing of the roads, footpaths and parking forecourts, and any street furniture;
- Details of highway design, including kerbs, dropped kerbs, gulleys, utility trenches, bollards and signs;
- Details showing how dedicated and continuous footway routes shall be demarked; and
- Details of the demarcation of the cycleway or revised cycleway between Plot 36 and the side of Plot 31 to enhance legibility between these two points.

The development shall be carried out in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority, including a timetable for implementation.

(11) Notwithstanding the submitted details and approved plans, prior to the first occupation of development on any phase, detailed plans and information regarding the following aspects of the proposed development phase shall be submitted to and approved in writing by the Local Planning Authority:

- Details of on-site play areas, as indicatively shown in the submitted 'Landscape Statement' (December 2020), including details and finished levels or contours, means of enclosure (where applicable), surfacing materials, and play equipment;
- Details of seating, litter bins and signs; and
- Timetable for implementation of all the above.

The development shall be carried out in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.

(12) The development hereby permitted shall incorporate measures to minimise the risk of crime. No phase shall be occupied until details of such measures, according to the principles and physical security requirements of Crime Prevention through Environmental Design have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained.

(13) Notwithstanding the submitted details and approved plans, no development (excluding 'Initial Enabling Works' as described in the 'Definitions' above) shall take place until details of existing and proposed levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved levels and shall not be varied without details being first submitted to and approved in writing by the Local Planning Authority.

(14) Notwithstanding the submitted arboricultural documents, unless otherwise approved in writing by the Local Planning Authority, no development shall take place until an updated Arboricultural Method Statement in accordance with the current edition of British Standard BS 5837 has been submitted to and approved in writing by the Local Planning Authority. The Statement shall incorporate the following:

- A schedule of tree works;
- An updated tree protection plan including, if appropriate, demolition/construction phases;
- Specific measures to protect retained trees during level changes, spoil deposition and utility installation;
- Specifications for the protective fencing, temporary ground protection and permanent cellular storage system(s) to be used;

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- Provision for a pre-commencement site meeting between the main contractor, appointed arboriculturist and appropriately qualified Council officer; and
- A schedule of arboricultural supervision, including the contact details of the Arboriculturist to be appointed by the developer or their agents to oversee tree protection on the site, the frequency of visits and the reporting of findings.

(15) The approved development shall be carried out by complying with the following:

- All trees to be retained shall be marked on site and protected during any operation on site by temporary fencing in accordance with the current edition of British Standard BS 5837 and in accordance with the approved Tree Protection Plan and Arboricultural Method Statement pursuant to Condition 14. Such tree protection measures shall remain throughout the period of construction;
- No fires shall be lit within the spread of branches or upwind of the trees and other vegetation;
- No materials or equipment shall be stored within the spread of the branches or Root Protection Area (RPA) of the trees and other vegetation;
- No roots over 50mm diameter shall be cut, and no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches or RPA of the trees and other vegetation;
- Ground levels within the spread of the branches or RPA (whichever the greater) of the trees and other vegetation shall not be raised or lowered in relation to the existing ground level, except as may be otherwise approved in writing by the Local Planning Authority; and
- No trenches for underground services shall be commenced within the RPA of trees which are identified as being retained in the approved plans, or within 5m of hedgerows shown to be retained without the prior written consent of the Local Planning Authority. Such trenching as might be approved shall be carried out to National Joint Utilities Group recommendations.

(16) All existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed, or their removal is otherwise approved in writing by the Local Planning Authority (LPA) beforehand. All hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site.

Any parts of hedges or hedgerows which become, in the opinion of the LPA, seriously diseased or otherwise damaged following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by no later than the end of the first available planting season, with equivalent hedge or hedgerow species.

(17) The development shall be implemented in accordance with the approved Landscape and Ecology Management Plan in perpetuity unless otherwise approved in writing by the Local Planning Authority.

(18) Notwithstanding the submitted details and approved plans, prior to the commencement of 'Above Ground Works', as described in the 'Definitions' above, on any phase of the development, a scheme showing the specific locations of bird, dormouse and bat boxes on that phase of the development site, together with a timetable for installation, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall take account of any protected species that have been identified on the site and shall have regard to the enhancement of biodiversity generally. The scheme(s) shall be fully implemented and retained unless otherwise approved in writing by the Local Planning Authority.

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(19) Prior to the commencement of development, suitable licences covering protected and notable species and habitats (as identified in the ecological site surveys), proposals for avoidance, mitigation, monitoring and future long-term site management shall be obtained and shall be submitted to and approved in writing by the Local Planning Authority. In addition to this, the submission shall include details of mitigation measures for species identified in the submitted ecological survey which are not required to be subject to Natural England licences. The works shall be implemented fully in accordance with the approved licences and details, unless otherwise approved in writing by the Local Planning Authority.

(20) Prior to the commencement of development of the new ponds hereby approved (in accordance with Condition 6), details of the drainage outlet/overflow leading from them to the stream within the adjacent woodlands shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a method statement, alignment of the drainage outlet and details of construction. The development shall be carried out in accordance with the approved details.

(21) Notwithstanding the submitted details and approved plans, prior to any works of excavation, a full method statement for the deposition of spoil within the application site shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall include appropriate controls for the handling of the soil, methods of working and remediation along with a timetable for this element of the development. The scheme shall also have regards to the position of the existing Southern Water sewer adjacent to Hartley Road. The development shall be carried out in accordance with the approved details.

(22) Notwithstanding the submitted details and approved plans, prior to the commencement of 'Above Ground Works', as described in the 'Definitions' above, on any phase of the development, details of soft landscaping and a programme for carrying out the works associated with that phase shall be submitted to the Local Planning Authority (LPA) for approval in writing. The submitted details shall include details of soft landscape works, including planting plans, written specifications (including cultivation and other operations associated with the plant and grass establishment) and schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The submission shall include details of protection for new and retained structural planting.

The landscaping scheme approved for each phase of development on any part of the site shall be carried out fully within 12 months of the completion of the development on that phase, or in accordance with a timetable to be approved in writing by the LPA. Except where otherwise indicated by the approved Landscape and Ecological Management Plan, any trees or other plants which, within a period of ten years from the completion of the development on that phase, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the LPA give prior written consent to any variation.

(23) a) If during excavation/demolition works evidence of potential contamination is encountered, works shall cease and the site shall be fully assessed to enable an appropriate remediation plan to be developed. Works shall not recommence until an appropriate remediation scheme has been submitted to and approved in writing by the Local Planning Authority and the remediation has been completed;

b) In the event that potential contamination is encountered, no dwelling shall be occupied within the relevant phase where the contamination has been found, until

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a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of:

i) Any sampling, remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology; and

ii) Any post-remedial sampling and analysis to show the site has reached the required clean-up criteria together with the necessary documentation detailing what waste materials have been removed from the site.

(24) Notwithstanding the submitted details and approved plans, prior to the installation of any external lighting full details shall be submitted to and approved in writing by the Local Planning Authority. Details shall include a lighting layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles). The approved scheme shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

(25) The areas shown in each phase of development on the approved plans as resident and visitor vehicle garaging, parking, servicing and turning shall be provided, surfaced and drained in that phase in accordance with details to be submitted to and approved in writing by the Local Planning Authority before the buildings they serve are occupied. After this they shall be retained as parking and turning areas, for the use of the occupiers of and visitors to the development in accordance with the details approved, and no permanent development, shall be carried out on that area of land so shown or in such a position as to preclude the use of such facilities for their intended purpose.

(26) Prior to the commencement of above-ground development, details of off-site highways works within the A229 (Hartley Road) as shown in principle on approved drawing 19072/001-D shall be submitted to and approved in writing by the Local Planning Authority. The submission shall include details of the following:

- Footpath widening to the north and south of the proposed access onto the A229 (within the site frontage);
- Right hand turn ghost lane highway works into Turnden Road and the site access;
- Traffic Islands; and
- Details of the timetable for implementation and completion.

The works shall be carried out in accordance with the approved plans.

(27) a) Prior to the commencement of development (excluding Initial Enabling Works as described in the 'Definitions' above) and only if used for construction and operative traffic, as determined by Condition 4, the access point to the highway shown on the approved plans shall be completed to a bound course in accordance with the approved drawing 19072/001-D (drawings associated with the submitted Transport Assessment Addendum II dated October 2020, Appendix 13). The area of land within the vision splays shown on the approved plan 19072/001-D shall be reduced in level as necessary and cleared of any obstruction exceeding a height of 0.6 metres above the level of the nearest part of the carriageway and be so retained in accordance with the approved plan.

b) Prior to the first occupation of development the access point to the highway shown on the approved plans shall be practically completed in accordance with the approved drawing 19072/001-D (drawings associated with the submitted Transport Assessment Addendum II dated October 2020, Appendix 13), unless otherwise approved in writing by the Local Planning Authority.

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(28) Before the first occupation of any dwelling on any phase of the development, the following works shall be completed as follows:

i. Footways and/or footpaths shall be completed, with the exception of the wearing course; and

ii. Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
- Highway drainage, including off-site works;
- Junction visibility splays; and
- Street lighting, street nameplates and highway structures if any.

Before the final occupation of the last dwelling, the final wearing course for the internal footpaths and roadways shall be completed.

(29) No dwelling on any phase of the development shall be occupied until details of an emergency access have been submitted to and approved in writing by the Local Planning Authority. The details shall include the location and design of the emergency access linking the development and the adjacent development (reference 18/02571/FULL and 19/01863/NMAMD or subsequent variation thereof), the means of preventing access by other vehicles, and a timetable for the implementation of the emergency access in relation to the phasing of the development. The approved emergency access shall be provided in full in accordance with the approved details and timetable, and shall be retained thereafter.

(30) Notwithstanding the submitted details and approved plans, no dwelling on any phase of the development shall be occupied until a detailed Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan measures shall subsequently be implemented and thereafter maintained in accordance with a timetable for the implementation of each element that has been approved as part of the submission. The Travel Plan shall include the following:

- Setting objectives and targets;
- Measures to promote and facilitate public transport use, walking and cycling;
- Measures to reduce car usage;
- Monitoring and review mechanisms;
- Provision of travel information; and
- Marketing of environmentally sensitive forms of travel.

(31) Unless otherwise approved in writing by the Local Planning Authority, no flats within any phase of the development shall be occupied until secure cycle storage facilities to serve them have been provided in accordance with the approved details (P180-D - Block A - Plots 115-120, P183-D - Block B - Plots 56 & 57-61, P185-C - Block C - Plots 73-78, and P187-C - Block D - Plots 40-51). The cycle storage shall thereafter be retained.

(32) Prior to the commencement of 'Above Ground Works', as described in the 'Definitions' above, on each phase of the development, full details of a scheme for the incorporation of energy efficiency measures and renewable energy (including the location of photovoltaic panels and resident/visitor electric vehicle charging points within that phase) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, which shall be retained thereafter.

(33) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order revoking or reenacting that Order with or without modification), no development shall be carried out within Classes A, B or F of Part 1 of Schedule 2 of that Order (or any

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Order revoking and re-enacting that Order) without prior planning permission from the Local Planning Authority.

(34) Prior to the commencement of any works that require ground breaking, the applicant, or their agents or successors in title, shall secure and implement:

i. Archaeological field evaluation works in accordance with a specification and written timetable which have been submitted to and approved in writing by the Local Planning Authority (LPA); and

ii. Further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which have been submitted to and approved in writing by the LPA.

(35) No dwelling on any phase of the development shall be occupied until details and the location of the provision of obscure glazing, and measures to control or restrict the opening of specific windows to dwellings within that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall thereafter be retained unless otherwise approved in writing by the Local Planning Authority.

(36) No dwelling on any phase of the development shall be occupied until details of a scheme of wayfinding, heritage, arboriculture, and ecological interpretation as a form of public art, including a timetable of implementation, has been submitted to and approved in writing by the Local Planning Authority (LPA). The approved details shall thereafter be implemented as approved and shall be retained thereafter, unless otherwise approved in writing by the LPA.

(37) Prior to the commencement of 'Above Ground Works', as described in the 'Definitions' above, details of residential boilers / heating systems, to mitigate the air pollution arising from the development when in occupation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

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The Planning Inspectorate

Report to the Secretary of State

by G D Jones BSc(Hons) DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Date 4 April 2022

Richborough

TOWN AND COUNTRY PLANNING ACT

TUNBRIDGE WELLS BOROUGH COUNCIL

APPLICATION BY

BERKELEY HOMES (EASTERN COUNTIES) LTD

Inquiry opened on 21 September 2021 and closed on 5 November 2021

Land Adjacent to Turnden, Hartley Road, Cranbrook, TN17 3QX

File Ref: APP/M2270/V/21/3273015

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List of Abbreviations used in the Report

AQA	Air Quality Assessment, June 2020
AQMA	Air Quality Management Area
BKF	The Brick Kiln Farm site, which adjoins the application site
BNG	Biodiversity net gain
CD/s	Core Document/s
Committee Report	The officer's report on this planning application to the Council Planning Committee, 27 January 2021
Conservation Area	Cranbrook Conservation Area
Core Strategy	Tunbridge Wells Borough Core Strategy, adopted June 2010
CPRE Kent	The Campaign for the Protection of Rural England Kent
CVLT	Crane Valley Land Trust
DoM	The Deed of Modification, dated 4 November 2021, which varies the S106 Agreement
eC&SNP	The emerging Cranbrook and Sissinghurst Neighbourhood Plan
eLP	The emerging Local Plan 2020-2038, latest version of which was submitted for examination during the Inquiry
ES	Environmental Statement
Framework	The National Planning Policy Framework
Housing Design Guide	High Weald Housing Design Guide, November 2019
HWAONB	High Weald Area of Outstanding Natural Beauty
HWAONB Unit	The High Weald AONB Unit
ID	Inquiry Document
KCC	Kent County Council
LBD	Limits to Built Development
LCA	Landscape Character Area/s
LEMP	Landscape & Ecological Management Plan
Local Plan	Tunbridge Wells Borough Local Plan, adopted March 2006
LVIA	Landscape and Visual Impact Assessment
NCA 122	National Character Area 122
NE	Natural England
NO_2	Nitrogen dioxide
NVC	National Vegetation Classification
PPG	Planning Practice Guidance
PROW	Public right/s of way
OAN	Objectively Assessed Need, in respect to housing
S106 Agreement	The legal agreement, dated 30 March 2021, containing planning obligations pursuant to Section 106 of the Act
SHELAA	Strategic Housing and Economic Land Availability Assessment
SoCG	Statement of Common Ground
Site Allocations LP	Tunbridge Wells Borough Site Allocations Local Plan, adopted July 2016
SPD	Supplementary Planning Document/s
TF	Turnden Farmstead – building / site / proposed development
VP	Viewpoint/s
ZTV	Zones of Theoretical Visibility

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File Ref: APP/M2270/V/21/3273015
Land Adjacent to Turnden, Hartley Road, Cranbrook TN17 3QX

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 12 April 2021.
- The application is made by Berkeley Homes (Eastern Counties) Ltd to Tunbridge Wells Borough Council.
- The application Ref 20/00815/FULL is dated 11 March 2020.
- The development proposed is the construction of 165 new dwellings with associated access, car parking, refuse/recycling storage, landscaping, earthworks and other associated works.
- The reason given for making the direction was that the Secretary of State has considered his policy on calling in planning applications and concluded, in their opinion, that the application should be called-in.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
  a) *The extent to which the proposed development is consistent with Government policies for conserving and enhancing the natural environment in the NPPF (NPPF Chapter 15);*
  b) *The extent to which the proposed development is consistent with Government policies for delivering a sufficient supply of homes in the NPPF (NPPF Chapter 5);*
  c) *The extent to which the proposed development is consistent with Government policies for conserving and enhancing the historic environment in the NPPF (NPPF Chapter 16);*
  d) *The extent to which the proposed development is consistent with Government policies promoting sustainable transport in the NPPF (NPPF Chapter 9);*
  e) *The extent to which the proposed development is consistent with the development plan for the area; and the weight to be attributed to the policies in the emerging development plan for the area (NPPF Chapter 4); and*
  f) *Any other matters the Inspector considers relevant*.

Summary of Recommendation:

I recommend that the application should be approved, and planning permission granted, subject to the attached schedule of conditions and all the obligations in the Legal Agreements.

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Preliminary Matters

1. The application, which is for full planning permission, has been called in by the Secretary of State for his determination. The Secretary of State identified a number of matters which he particularly wishes to be informed about for the purposes of his consideration of the application, which are set out in his letter to the Council of 12 April 2021[1]. These matters are listed in the banner heading above and are also reflected in the Main Considerations as set out in para 703 below. The 'call in' followed the Council having resolved to grant planning permission subject to conditions and the completion of a legal agreement, but before the decision notice had been issued.

2. A legal agreement dated 30 March 2021 containing planning obligations pursuant to Section 106 of the Act (the S106 Agreement) was submitted by the applicant with their evidence − CD7.5. During the course of the Inquiry the S106 Agreement was varied by way of a Deed of Modification dated 4 November 2021 made under Sections 106 and 106A of the Act (the DoM) − ID66.

3. I carried out a site visit on 12 October 2021, which covered the site and the

[1] CD8.01

surrounding area. That visit was unaccompanied, as agreed by the main parties to the Inquiry, and included all locations and views which those parties had asked me to cover.

The Site and Surroundings

4. The application site is located to the south of the A229 Hartley Road on the northern side of the Crane Valley. It measures some 23.94ha and comprises fields enclosed by hedgerows, trees and scrub which form part of the landholding associated with the adjacent Turnden Farmstead to the west. The site lies to the south-west of the town of Cranbrook and north-east of the village of Hartley. The settlement pattern in the area has evolved over time with some 20th Century ribbon development along the A229, although Cranbrook and Hartley retain their separate identities.

5. Land adjoining the site to the north-east has outline planning permission for 180 homes. It forms part of housing allocation AL/CR4 within Tunbridge Wells Borough Site Allocations Local Plan, July 2016 (the Site Allocations LP) and is known as Brick Kiln Farm (BKF).

6. The site wraps around but excludes another adjoining parcel of land that has planning permissions for residential development[2]. This development, known as Turnden Farmstead (TF), has commenced and its design is intended to reflect the farmstead and rural context. The initial planning permission included the restoration of the medieval Turnden Farmhouse, which had been a Grade II listed building, but which was delisted following a fire in September 2019. The latter permission allows the erection of a replacement farmhouse, three additional dwellings, and the redesign of Plots 1-3 within the scheme as initially approved.

7. The Crane Valley is defined by gentle ridges, one to the north-west along which the A229 runs, and one to the south, which separates the Beult Catchment, of which the Crane is a tributary, from the Rother Levels Catchment to the south. A further slightly lower ridge lies to the south-east defining the south-eastern valley sides. The Crane Brook flows north-east through Cranbrook. Due to its valley side location, the topography of the site slopes in an easterly direction from c115m AOD along the A229 to c85m AOD along the Crane Brook.

8. A number of mature freestanding trees sit on the current field boundaries, while Ancient Woodland can be found along the Crane Brook itself, forming the south-eastern boundary to the site. There are currently nine ponds within the site, together with a number of existing field ditches, and some shallow wet depressions.

9. A public right of way, WC115, runs roughly north-south through the western portion of the site, crossing the wooded area known as Hennicker Pit. There are other public rights of way extending from Cranbrook into the Crane Valley and along the ridge which defines the valley to the south-east.

10. The site is adjacent to the Limits to Built Development (LBD) as defined by the Site Allocations LP following the allocation of the BKF site. The application site, along with the whole of Cranbrook town and adjoining areas is within the High Weald Area of Outstanding Natural Beauty (the HWAONB), which is a nationally

[2] Planning permission Ref Nos 18/02571/FULL and 21/01379/FULL

valued landscape described as one of the best preserved Medieval landscapes in North West Europe. The site is also within Agricultural Land Classification Grade 3.

11. Although it is not within a Conservation Area, the site access is some 0.4km from Cranbrook Conservation Area (the Conservation Area). Between roughly 140m and 210m north-east of the site is a cluster of four listed buildings comprising: The Cottage, also referred to as Crane Cottage, a small 18th Century roadside cottage at Grade II; the Grade II Cranbrook War Memorial at the junction of the A229 and High Street; the Grade II* Goddards Green Farmhouse, formerly 'Wardes', a 15th / 16th Century cloth hall; and a 17th Century Barn at Goddard's Green Farm listed for group value at Grade II.[3]

12. Beyond the Ancient Woodland referred to above, which lies along Crane Brook, Robins Wood Site of Special Scientific Interest stands some 500m south of the site at its nearest point. Angley Wood and Bedgebury Forest Local Wildlife Sites are some 250m and 600m away from the site to the north-west. Turnden Lane, which joins the A229 opposite the site, has been identified as a Rural Lane. Three trees along the Hartley Road frontage and four along the access drive are protected by a Tree Preservation Order.

13. Cranbrook is identified in the Core Strategy as one of three Small Rural Towns, which it states are not intended to be a main focus for development but to be local hubs for employment, retailing and services. The town has a range of retail, education, leisure, community and medical facilities, including, a bank, a Royal Mail delivery office, and a pub. Most of these facilities are within walking and/or cycling distance of the site. Cranbrook is also served by bus services, which amongst other things, offer links to the rail network. The nearest railways station is at Staplehurst some 10km north of the site with services to London Charing Cross and Ramsgate[4].

14. The Tunbridge Wells Borough Landscape Character Area Assessment 2017, which is adopted by the Council as a Supplementary Planning Document (SPD), identifies a series of Landscape Character Areas (LCAs). The site falls within LCA 4 Cranbrook Fruit Belt, which amongst other things is referred to in this SPD as a diverse zone of transition and typical of the High Weald landscape, with strong yet diverse character incorporating elements of fruit belts, forested plateau and wooded farmland and the historic town of Cranbrook.[5]

Planning Policy

15. The National Planning Policy Framework (the Framework) outlines a presumption in favour of sustainable development. It also identifies that achieving sustainable development means that the planning system has three overarching objectives – economic, social and environmental.

16. Framework para 11 sets out how this presumption is to be applied. It indicates that development proposals that accord with an up-to-date development plan should be approved without delay. It goes on to say that where no relevant

[3] Ref 041/2003
[4] Further details of facilities and public transport services are set out in Section 3 of the Statement of Common Ground signed by Kent County Council – CD9.20
[5] Extract at CD12.19

development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, including Areas of Outstanding Natural Beauty (AONB) and designated heritage assets, provides a clear reason for refusing the development proposed or 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.

17. The Framework indicates that, for applications which involve the provision of housing, such as this, where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, as is the case in this instance, the policies which are most important for determining the application are out-of-date in the terms of para 11.

18. Although I have considered the Framework in its entirety, the following sections are also particularly relevant to this case:
    - 2 – Achieving sustainable development
    - 4 - Decision-making
    - 5 – Delivering a sufficient supply of housing
    - 9 – Promoting sustainable development
    - 11 - Making effective use of land
    - 12 - Achieving well-designed places
    - 15 – Conserving and enhancing the natural environment
    - 16 – Conserving and enhancing the historic environment

19. Although a weighty material consideration, the Framework does not change the statutory status of the development plan. The development plan for the area includes the saved policies of the Tunbridge Wells Borough Local Plan, March 2006 (the Local Plan)[6], the Tunbridge Wells Borough Core Strategy, June 2010 (the Core Strategy)[7] and the Site Allocations LP[8]. The Local Plan planned for the period to 2011, whereas the Core Strategy and associated Site Allocations LP plan for the period to 2026.

20. The relevant Development Plan Policies, along with other policy documents, are listed in the respective Statements of Common Ground (SoCG) between most of the main parties at Section 6[9]. Only the most pertinent of these are summarised below.

21. Local Plan Policy LBD1 establishes the concept of *Limits to Built Development* for settlements in the Borough. It states that outside LBDs development will only be permitted where it would be in accordance with all relevant policies of the Local Plan. Policy EN1 is a wide ranging, criteria based development management policy concerning, amongst other things, design, character and appearance, and nature conservation. Policy EN5 relates to development effecting Conservation Areas. Policy EN25 concerns development outside the LBD. It sets out criteria that must be satisfied, including in respect to landscape character and the

[6] Extracts at CD11.5 to CD11.12
[7] CD11.4
[8] Extracts at CD11.1 to CD11.3
[9] CD9.1, CD9.2 & CD9.18 – NB the SoCG involving the HWAONB Unit does not include a policy list of this type

landscape setting of settlements.

22. The Core Strategy establishes a three tier settlement hierarchy: 1 – Main Urban Areas, which comprise Tunbridge Wells and Southborough, 2 – Small Settlements, which comprise Cranbrook, Hawkhurst and Paddock Wood, and 3 – Villages, which includes a number of villages.

23. The Spatial Strategy of the Core Strategy is to:
    - Pursue an urban focus for development in order to optimise the vitality of the Borough's town centres; to make optimum use of previously developed land; and to protect the distinctive character of the rural environment
    - Focus the majority of new development at Royal Tunbridge Wells and Southborough to support the Regional Hub role with Tonbridge, while improving access to, from and within, it
    - Provide sufficient development at Cranbrook, Hawkhurst and Paddock Wood to support and strengthen them as local service centres for the Borough's rural area
    - Protect the character of the Borough's villages by limiting new development to be within the existing LBD, unless it is specifically required to meet local needs.

24. Core Strategy Core Policy 1 deals with delivery of development pursuant to that Spatial Strategy. Amongst other things, it states that priority will be given to the allocation and release of previously developed land within the existing LBDs of settlements. It adds that selected greenfield sites within and/or adjacent to the LBD of settlements in the main urban area and small rural towns will also be allocated and released as appropriate to maintain a sufficient phased supply of deliverable and developable land, and sites adjacent to or outside the LBD of villages will not generally be allocated or released. It also sets out a series of specific exceptions.

25. Core Strategy Core Policy 4 refers to the HWAONB and states, amongst other things, that the locally distinctive sense of place and character will be conserved and enhanced, including via the conservation and enhancement of rural and urban landscapes, nature conservation and biodiversity enhancement, and conservation of heritage assets.

26. Core Strategy Core Policy 5 states, amongst other things, that all new developments will be expected to manage and seek to reduce air pollution levels.

27. Core Strategy Core Policy 6 concerns housing delivery across the plan period. Amongst other things, it includes the requirement that affordable housing shall normally be provided as part of housing development for 10 or more units at a rate of 35%.

28. Core Strategy Core Policy 12 concerns development in Cranbrook and seeks to support and strengthen its role as a small rural town with its own character. Core Strategy Core Policy 14 concerns development in the Villages and Rural Areas. Amongst other things, it states that new development will generally be restricted to sites within the LBDs, that the countryside will be protected for its own sake and a policy of restraint will operate in order to maintain the landscape character and quality of the countryside, that development will maintain local distinctiveness, and that non-motorised modes of transport will be encouraged.

29. Policy AL/STR 1 of the Site Allocations LP largely maintains the LBDs of the Local Plan. In the case of Cranbrook, it extends its LBD to include the BKF housing site allocation. The Policy states that the saved policies of the Local Plan will continue to be relevant in considering details of the appropriate uses inside, and outside of, these defined areas until such time as they are updated and superseded by the Core Strategy Review.

30. Policy AL/CR 4 of the Site Allocations LP concerns a housing allocation for the BKF site and an adjoining site known as Corn Hall, which are located to the north-east of the application site.

31. There are also a range of relevant Council Supplementary Planning Documents. These include Cranbrook Conservation Area Appraisal June 2010[10], Farmsteads Assessment Guidance for Tunbridge Wells Borough February 2016[11], and the Landscape Character Area Assessment 2017 referred to above[12]. In respect to the latter, the site falls within Area 4 Cranbrook Fruit Belt.

32. Although not part of the development plan there are also two emerging development plan documents, the Submission Local Plan 2020-2038, which was submitted for examination during the course of the Inquiry (the eLP)[13], and the emerging Cranbrook and Sissinghurst Neighbourhood Plan (the eC&SNP)[14]. Given their respective stages of progress they may be subject to change such that they both carry no more than limited weight.

33. Policy STR 1 of the eLP sets out the Council's intended Borough-wide development strategy for the period to 2038, including for the delivery of 12,204 dwellings, while Policy STR/CRS 1 identifies the development strategy for Cranbrook and Sissinghurst Parish.

34. Policy STR 8 of the eLP concerns the conservation and enhancement of the natural, built and historic environment, including the HWAONB and heritage assets.

35. The application site is a proposed housing allocation within the eLP, via draft Policy AL/CRS 3. It proposes, amongst other things, that approximately 200-204 (164-168 new additional) dwellings, of which 40 percent shall be affordable housing, and significant green infrastructure would be acceptable subject to a set of criteria and other details. The nearby BKF and Corn Hall sites are also proposed housing allocations, respectively via draft Policies AL/CRS 1 and AL/CRS 2. Together these latter two proposed allocations cover a similar area of land to that allocated under Policy AL/CR 4 of the Site Allocations LP.

36. Policy EN 9 of the eLP concerns Biodiversity Net Gain (BNG) and includes a minimum rate of 10% BNG. Policy EN 19 of the eLP concerns development within the HWAONB. It seeks, amongst other things, to conserve and enhance its landscape and scenic beauty, having particular regard to any impacts on its character components.

37. Policy EN 21 of the eLP states, amongst other things, that development will not

[10] CD12.10
[11] CD12.9
[12] CD12.19
[13] CD14.1.1
[14] CD13.1

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be permitted when it is considered that the health, amenity, or natural environment of the surrounding area would be subject to unacceptable air quality effects (that are incapable of being overcome by a condition or planning obligation), taking into account the cumulative effects of other proposed or existing sources of air pollution in the locality. It also states that sensitive receptors will be safeguarded at all times.

38. Policy EN 22 of the eLP concerns development effecting Air Quality Management Areas. Amongst other things, it requires an emissions mitigation assessment and cost calculation to be undertaken and adds that Section 106 agreements will be used to secure contributions to mitigate any identified impact.

39. The eC&SNP does not include any proposed housing allocations. Indeed, its draft Policy LN7.10 seeks to maintain green gaps and prevent settlement coalescence and shows the application site as open space and green gap. Draft Policy LN7.7 seeks to protect and enhance the Crane Valley, while Draft Policy 7.9 concerns protection of historic landscape character.

40. There are a number of other documents that are relevant, which include:
    - High Weald AONB Management Plan 2019-24[15]
    - High Weald Housing Design Guide, November 2019[16]
    - Legislation and Planning Policy in the High Weald AONB, July 2021[17]
    - Natural England's An Approach to Landscape Character Assessment Guidance 2014[18]
    - The Council's Historic Landscape Characterisation, June 2017[19]
    - National Design Guide, January 2021[20]
    - Guidelines for Landscape and Visual Impact Assessment (GLVIA), April 2013[21]
    - National Character Area 122, September 2014[22]
    - High Weald Parish Landscape Character Maps, August 2018[23]
    - The Council's Planning Position Statement for proposed developments which may impact on air quality in Hawkhurst June 2020[24].

Planning History

41. The application site and adjoining Turnden Farmhouse site have been the subject of numerous planning applications, including for commercial storage and equine use. These are summarised in the case officer's report to the Council's Planning Committee (the Committee Report)[25] and the various SoCGs. The site has also been promoted for development through the plan-making process. Although it is not allocated for development in the adopted development plan, it is proposed to be allocated for residential development in the eLP as outlined above.

[15] CD12.13
[16] CD12.15
[17] CD12.17
[18] CD16.30
[19] CD14.3.7 and CD14.3.8
[20] CD10.10
[21] CD16.1
[22] CD16.2
[23] CD16.4
[24] CD12.14
[25] CD7.1

The Proposals[26]

42. This is an application for full planning permission. The proposed scheme has been amended during the course of the application process. In its current form, it is for the construction of 165 new dwellings with associated access, car parking, refuse/recycling storage, landscaping, earthworks and other associated works. The proposed homes would be a mix of 1 and 2 bedroom apartments and 2, 3, 4 and 5 bedroom houses. They would include affordable homes at a rate of 40%, with a 50/50 split of rented and shared ownership. One of the 2-bedroom and three of the 1-bedroom homes would be wheelchair accessible.

43. The majority of the built form would be 2-storeys, although there would be some at 2.5 storeys as well as single storey ancillary buildings, including garages. A range of terraced, semi-detached and detached forms are proposed.

44. Vehicular access to the site is proposed via a new junction to the A229, linking to a new internal highway network that would serve the proposed dwellings. Further off-site highway works are proposed, including carriageway widening to the A229, bollarded traffic islands, a right-hand turn ghost lane into the site, plus an additional right hand turn lane to serve Turnden Lane, a road to the north off the A229.

45. In broad terms the developed site would have two distinct parts, what are referred to in much of the evidence as the *Development Area* and the *Wider Land Holding*, which respectively make up some 39.43% and 60.57% of the site[27]. As the name suggests, the Development Area is where the proposed housing would be located, positioned between the approved housing development sites at BKF to the north-east and TF to the south-west. Those parts of the site that are not within the Development Area are described as the Wider Land Holding. In broad terms, the Wider Land Holding is located to the south and west of both the application site and the TF site.

46. Earthworks are also proposed including the removal of top and sub-soil from the Development Area. This would be spread across two fields within the Wider Land Holding to the south-west. The material amounts to some 24,403m3, including material from the approved TF development. The soil would be regraded to follow the existing land contours and exclude existing ponds, trees and hedgerows, resulting in an increase in the ground level of up to some 45cm within the area effected.

47. Within the Development Area, the area occupied by houses and roads, excluding open space, would amount to some 4.7ha, giving a density of 35.1 dwellings per hectare. Proposed open space within the Development Area includes:
    - A landscape buffer along the A299 leading to a central 'village green' to be used for recreational and play purposes;
    - A multi-functional east to west green corridor with retained trees and hedgerows linking the open spaces within the TF development, accommodating space for play, drainage features, existing and proposed vegetation; and

[26] The proposal drawings are listed in Condition 2 in the Annex attached thereto
[27] The Development Area and the Wider Land Holding are shown on the plan at CD0.1.07

- A graduated landscaping buffer in excess of 15m from the Ancient Woodland along the southern boundary, including drainage features and additional woodland edge scrub for habitat creation and ancient woodland protection; and
- Other landscaping, including new planting in the Wider Land Holding to create new woodlands, woodland buffers, flower rich meadows and restored hedge lines, tree lines and a woodland shaw.

48. Several drainage features and ponds would be created within the central green, the green corridor and the edge of the Ancient Woodland buffer, capturing surface water run-off and providing a new habitat.

49. New footpath and cycle routes would connect the proposed development to the TF and BKF developments and the existing public right of way (PROW) network providing routes into Cranbrook, Hartley and beyond.

50. Proposals for the Wider Land Holding include:
    - The field immediately to the west of Turnden Farmhouse comprising of a newly planted woodland, crossed by permissive paths connecting with PROW WC115;
    - Publicly accessible land, with permissive paths set within meadow grassland, scrub to the field margins, and field trees in the field immediately to the south-east of and abutting the residential development of Hartley; and
    - The southernmost field located between Hennicker Pit and the Crane tributary valley would be subdivided by new hedgerows with hedgerow trees aligning to historic field boundaries. Stockproof fencing and gates would be installed to support grazing by livestock. A permissive path is also proposed through these fields, connecting the Development Area and the BKF site with WC115. Along the northern edge of the field new areas of woodland would connect Hennicker Pit to woodland south of the TF development.

51. The application is accompanied by a Landscape & Ecological Management Plan (LEMP) which contains actions for management of the land.

52. An Environmental Statement (ES) and various associated addendum under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 were submitted in association with the application[28]. Comments from key consultees, including statutory consultees, are contained in Core Documents 6.1 to 6.27. The Planning Inspectorate undertook a review of the ES, including addendums, in accordance with Schedule 4, Part 2 of the EIA Regulations on 21 July 2021 and concluded that the ES is adequate. No legal points have been raised over the adequacy of the ES. I have taken the ES, the wider application submissions and the consultation responses into account in producing this report and in making my recommendation.

Other Agreed Facts

53. In addition to the Council and the applicant, under Rule 6 of the Inquiries Procedure Rules, there were three other main parties to the Inquiry, Natural England (NE), the High Weald AONB Unit (the HWAONB Unit)[29] and the Campaign for the Protection of Rural England Kent (CPRE Kent). A suite of SoCGs between

[28] CD5.0 to CD5.12 inclusive
[29] While there is also reference to the HWAONB Partnership, as there appears to be no significant difference between the 'Partnership' and 'Unit' for the purposes of my report, for the sake of clarity I use the latter only herein

the Council and the applicant, between those two parties and each of the three other main parties, and between the applicant and Kent County Council (KCC) were produced prior to and during the course of the Inquiry[30]. Although the detailed content of each of the main SoCGs differ somewhat, there is broad agreement regarding the site description, the proposal and the policy context, as well as some agreement on other matters of detail.

54. Notably, these include that the applicant and Council agree that the Council could not demonstrate a Framework compliant supply of deliverable housing land and that supply amounts to 4.89 years. The three other parties have not disputed this figure. NE and CPRE Kent also acknowledge that the proposed development would contribute to meeting the Council's housing requirements and would deliver affordable housing, and subject to planning permission being granted, the site is available.

55. The summaries of cases of the parties set out in the following sections are based on the closing submissions and on the written and oral evidence, with references given to relevant sources, up to the point at which I closed the Inquiry.

The Case for Natural England

Matters of Uncommon Ground[31]

56. NE disagrees with the applicant and the Council in respect to whether:

- There is a need to bring forward and test proposed site allocations through the local plan, rather than the development management, process. Whether determining the application ahead of the adoption of the Local Plan risks undermining the plan-led approach to sustainable development, having regard to Framework para 49;
- The eLP should be given little weight in the determination of this application, having regard Framework para 48, given its current stage and the unresolved objections to relevant policies;
- The proposed development would, due to its size and scale, result in significant harm to the HWAONB. Whether or not its significant impacts on the HWAONB could be overcome through the proposed mitigation;
- The proposed development would have significant in combination landscape and visual effects on the HWAONB when considered in the context of adjacent approved development and whether this has been adequately assessed;
- The proposed development would conserve or enhance the HWAONB as required by Core Strategy Policy CP4 and eLP Policies EN19 and STR8; and whether it complies with Framework paras 174(a)/(b) and 176;
- There are exceptional circumstances, or whether it has been demonstrated that this proposal is in the public interest, to show compliance with Framework paras 177, including (a)–(c);
- The components of natural beauty of an AONB are expressed differently across the area of the AONB and whether each area has its own combination of features and qualities which gives rise to local distinctiveness. Whether an assessment of the impact of development on 'individual' components of an

[30] CD9.1, 9.2, 9.8, 9.18, 9.19 & CD9.20
[31] Adapted from Section 8.0 of the SoCG - CD9.2

AONB disaggregates the landscape such that the unique combination of qualities manifest in a particular area have been properly appraised. Whether the full extent of any detrimental change to an area as a result of development has been appraised. Whether it is necessary to consider the effects of the proposed development on the wider area and on its special qualities defined by its components of natural beauty which derive from the combination of landscape, historic and ecological features;

- The need for major development in this location has been properly identified;
- The robust assessment of alternatives to major development in an AONB should be undertaken through the local plan process;
- BNG should be used as part of an exceptional circumstances case under Framework paras 177, or whether the BNG proposed in this matter otherwise constitutes exceptional circumstances; and
- The proposals are not in conformity with the development plan.

Introduction

57. NE requests that the Secretary of State refuse planning permission for this application. It considers that the evidence to the Inquiry confirmed that there are no exceptional circumstances or sufficient reasons in the public interest justifying the grant of permission, including because the proposed major development would cause significant harm to the landscape and scenic beauty of the HWAONB.

The Call-In Request

58. NE states that its decision to seek the call-in was not undertaken lightly. It required the approval of its Chief Executive. There have been less than ten occasions when NE has even raised the prospect of calling in planning applications on the grounds of landscape harm, which it says underlies the strength of its long-standing concerns regarding these proposals.

59. Part of the reason NE sought the call-in was the potential significance to the weight afforded to protected landscapes in future decision-making. NE's concerns about the approach taken by the Council in this matter align with the findings of the Glover Review[32], which identified the concern that insufficient weight is being given to the need to conserve and enhance the landscape and scenic beauty of AONBs.

60. Although the Government is yet to set out its response to the findings in the Glover Review, NE say that those findings followed a comprehensive body of work which reviewed a very large amount of submissions and involved liaison with central Government. The conclusions of the Glover Review include the finding that "the NPPF should make a reality of its promise that 'great weight' should be given to national landscapes by issuing new advice", and that the reviewed evidence highlighted "the risk that the 'exceptional circumstances' provision in the [NPPF] which was intended to limit development in national landscapes is being used to argue for major development instead, on the grounds that no other sites outside AONBs are available".

61. NE confirmed that, firstly, its case does not make an in principle objection to all

[32] Reference is made to para 20 of the call-in letter

major development in the AONB whatsoever the circumstances. Both the call-in request and NE's statement of case explained its specific concerns about the proposed development. Those concerns were presented through the independent evidence of Ms Farmer, NE's landscape witness. NE rejects any suggestion that an in principle approach has prevented appropriate regard being given to the merits of the application.

62. NE has a statutory role, which, it says, makes it particularly well-placed to provide views about the impacts of development on the landscape and scenic beauty of AONBs. That, it advises, is exactly what it has sought to do, not just with this application, but also through its positive engagement with the eLP. NE's ongoing objection to the allocation of major development in the eLP has followed this engagement, and the consideration of the specific sites proposed to be allocated, including the application site. Its ongoing objection to these major allocations, NE maintains, necessarily meant that it did not accept the findings of the HDA Landscape and Visual Impact Assessment[33] (LVIA). It adds that its specific objections to this proposal underlined its objections to the development strategy of the eLP and supported its request that the Council reconsider the merits of that strategy.

63. Secondly, NE says that its statement of case also makes no argument that major development should only be considered through the plan-making process. NE maintains that its plan-making objection relates only to prematurity.

64. NE adds that its overriding concern has remained that the development would be significantly harmful to the HWAONB. In that regard, NE does object to the principle of this major development. That is because of the harm it considers that would be caused by the scale and extent of the housing proposed in this location, including in accumulation with the housing already, and recently, approved at the BKF and TF sites.

Effect on the High Weald Area of Outstanding Natural Beauty

The Application Site and its Place in the Crane Valley

65. The site sits on the south-east facing side of the Upper Crane Valley, in what NE considers to be an important gap between Cranbrook and Hartley. The Crane Valley itself sits within LCA 4, Cranbrook Fruit Belt, which is typified by the same valleys and ridges as seen in the Crane Valley. There is a long history of settlement evident in the HWAONB, with connection between those settlements frequently seen in routes and roads running along ridgelines.

66. NE consider that Cranbrook has a tight-knit, nucleated form, centred on the crossing point of the Crane Brook, while Hartley is a ridge top / ribbon settlement, which extends along the A229. It maintains that the Crane Valley contains several of the important characteristics which contribute to the special significance of the HWAONB, including its scattering of dispersed farmsteads, including the former farmstead at Turnden Farm, as well as field patterns, pastures, and hedgerows, which NE says remain discernible on or within the vicinity of the site.

[33] CD14.3.9 & CD14.3.9a

67. NE states that, given the intervisibility of the site with the wider Crane Valley, the Crane Valley itself is an appropriate landscape receptor for the purposes of Ms Farmer's evidence. NE maintains that Mr Duckett, the Council's landscape witness, agreed that as a landscape receptor, the Crane Valley is not dissimilar to sub-area Cr2 as identified in the LUC Sensitivity Study[34], and is smaller than the "wider AONB" which he assessed through his evidence. NE say that the choice of the Crane Valley as a relevant receptor was an appropriate and reasonable judgement for Ms Farmer to make, and also draws upon, for example, LCA 4, which describes the Crane Valley as "an integral part of the green infrastructure of [Cranbrook] cutting through the built-up area forming a key element in the setting of the town." The site forms an important part of this green infrastructure in NE's view.

68. According to NE, Ms Farmer's evidence is also that, even following the introduction of new housing at the BKF and TF sites, the application site would remain strongly influenced by the Crane Valley. And that it would continue to be intervisible with, and strongly influenced by, the opposite side of the Valley, remain bounded to the south by the Ancient Woodland along the Crane Brook, and retain views in the lower sections of the site up and down the valley. NE maintain that it would continue to be a key element in the green infrastructure setting of Cranbrook.

69. In contrast, Mr Duckett and Mr Cook, the applicant's landscape witness, considered that the Development Area of site would be strongly influenced by the consented development at the BKF and TF sites. Mr Cook even suggests that the TF development would be perceived as part of Cranbrook, due to its intervisibility with the BKF scheme, notwithstanding the former's closer proximity to Hartley. While not set out in his proof of evidence, NE note that it may have been a necessary judgement for him to make given his conclusion that the application site, if left, would detract from the local landscape. While not expressly stated, NE considers that the effect of Mr Cook's judgement is that the site is effectively an infill site.

70. However, NE maintain that Mr Cook's conclusion is not supported by any sensible appreciation of the site. Nor is it supported by Mr Duckett, who considers that TF would become part of Cranbrook only once the application site fills the gap between the BKF and TF sites. Additionally, Mr Duckett's evidence is that the new housing at TF would have a dispersed character. NE consider that, while he qualified his evidence to an extent in cross-examination, to mean that the TF development would have elements of separation which are retained, on no view did he support the more extreme position taken by Mr Cook.

71. In contrast, Ms Farmer's evidence is that the TF development would retain a dispersed character. NE maintain that her evidence was not subject to the same late qualification as provided by Mr Duckett, and that the farmstead character of TF reflects the intent of the applicant when seeking permission for that scheme.

72. The dispersed character of the TF development will, in NE's view, be consistent with its historic use. The new houses would replace the former farming and storage buildings, but like the former buildings, the new houses would be set within the adjacent fields. The new houses within the TF development would,

[34] CD12.22

according to NE, by this means, be consistent with the historic dispersed settlement pattern in the gap between Hartley and Cranbrook. NE note that research prepared for the HWAONB Unit on Historic Farmstead and Landscape Character concluded that "the character of historic farmstead sites has shown that many farmsteads are, and were, more akin to hamlets than single farmsteads", and consider that would be the case with the TF development.

73. NE maintains that the separation between Cranbrook and Hartley has long been identified as of importance, and make reference to the LUC Sensitivity Study, which states, "Retention of openness around the Turnden farmhouse would help to preserve its rural setting, and to retain a degree of separation between Cranbrook and Hartley". That this should be recognised by LUC is not surprising in NE's view as the HWAONB Management Plan:
    - Has as one of its five defining components of character "Settlement", that being "dispersed historic settlement including high densities of isolated farmsteads and late Medieval villages founded on trade and non-agricultural rural industries" (underlining added by NE); and
    - In respect of settlement, has as the first two key characteristics, those of "High density of historic farmsteads, with a long continuity of settlement in the same place; their position strongly influenced by topography and routeways", and "Separation between settlements formed by fields associated with individual historic farmsteads" (underlining added by NE).

74. The new housing at TF will be visible from the application site, as were the former farm and storage buildings. Importantly in NE's opinion, however, the retention of the fields of the application site would enable the historic dispersed settlement pattern to continue to be appreciated.

75. The BKF site is now the subject of a further reserved matters application. In NE's opinion, there was general consensus that it is within the Council's gift to seek appropriate landscaping along the boundary of the BKF site with the application site. NE considers that Mr Slatford's evidence in chief, the applicant's planning witness, that any landscaping has to be "within" the scope of the parameters plan is fine so far as it goes, so long as it is understood that condition 5 of the permission for the BKF development provides the developer of that site and the Council with flexibility. NE takes the view that Condition 5 does not provide any absolute restriction on the nature or disposition of green infrastructure, stipulating as it does that reserved matters must be in "general conformity" with certain documents, including the parameters plan.

76. In any event, NE consider that Mr Cook and Mr Duckett relied on the northern portion of the hedgerow boundary between the BKF site and the application site to filter views to the proposed development from the A229. Self-evidently, in NE's view, the same hedgerow could serve this purpose further south, and be bolstered as necessary, should the application scheme not come forward, and should the Council wish to further filter or screen views of the housing at the BKF site from the wider Crane Valley.

77. Mr Cook's view that the site would, if left to its own devices, be detracting to the local landscape character is a matter that NE considers that the Secretary of State will be able to judge, having regard to the development that is proposed at the BKF and TF sites, but it is a starting point which NE finds surprising, to say the least. NE consider the site to be an attractive rural landscape, with managed

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grassland, boundaries of ancient woodland and hedgerows, and with elements of the tranquillity so prized within the AONB. Mr Cook confirmed in cross-examination that the "derelict" elements of the application site described in his evidence related only to the, temporary, fence boundaries. NE say that it can otherwise be seen from the aerial photographs in Mr Duckett's appendices that the quality of the grassland on site has improved since the cessation of the former commercial equestrian use, which was also Ms Farmer's evidence. To say that this is a detracting landscape is, in NE's opinion, to materially underestimate its value.

78. NE considers that, in effect, Mr Cook agreed that his conclusion that the Development Area of the application site has a low susceptibility to housing depends on his conclusions as to the present quality of the site, including his conclusion that it would have an urban fringe character. Ms Farmer disagreed and if her conclusions on these matters were adopted, NE consider that it would follow that new housing on the application site would be out of character and harmful to the HWAONB.

Landscape and Visual Effects

79. Having regard to the above matters, NE consider that the proposed development would have a significantly harmful characterising effect on the Crane Valley. Its detracting and harmful impact would be experienced on the opposite valley side, and up and down the valley. The qualities of the Crane Valley, including of course those representing the special qualities of the AONB, would be eroded, in combination with the consented development at the BKF and TF sites.

80. Significantly, in NE's view, the development would fill the gap between the edge of Cranbrook and Turnden Farm, and fundamentally compromise the separation between Cranbrook and Hartley. NE maintain that Mr Duckett was prepared to accept that the perception of separation would be affected, albeit he described this change as "not great", which NE considers to be an unsustainable conclusion. NE maintain that it is obvious that the coalescence of Cranbrook with the Turnden Farm development would compromise the separation of Cranbrook and Hartley, the result, it says, would be significant harm to the HWAONB.

81. The actual and perceived coalescence between Hartley and Cranbrook would be further exacerbated along the A229 in NE's view. In cross-examination, Mr Cook explained that the perception of separation between Hartley and Cranbrook would be retained by the green "corridor" fronting the A229, sitting between the proposed housing and the road. NE maintain that this does not amount to any sensible form of separation between the two settlements at all, it is simply, as Mr Cook described, a green corridor, and a narrow one at that. Such a corridor would not act to prevent or moderate to any material degree the coalescence between the two settlements.

82. NE considers that there would be actual and perceptual impacts of coalescence along the A229. In cross-examination, Mr Duckett was taken to the LVIA and the related photomontages, which set out the applicant's views as to the visibility of the proposed development from the A229 at VP 1, which is in the vicinity of the area of land proposed to be the new Goddard's Green for the BKF development. The LVIA's conclusion was that there would be views from this location of the proposed development and the landscape beyond. NE maintains that, even accounting for the additional landscaping proposed for BKF in this location, Mr

Duckett agreed this would be the position. NE considers that it would obviously be the case that the views from this location would be of the settlement of Cranbrook extending into the Crane Valley towards Hartley.

83. Along the A229, the access works for the proposed development, which would provide views of the proposed housing in the site, to widen the road to allow for the proposed right hand turn and for associated street furniture, would in NE's opinion materially diminish any sense that "Mr Cook's green corridor" functions to separate Cranbrook and Hartley. Additionally, given the context of the development at Orchard Way on the opposite side of the A229 and the nearby site access for the TF development, Ms Farmer's assessment that this would all materially contribute to the perception and appreciation of coalescence is obviously correct in NE's view.

84. NE does not dispute that there would be benefits arising from the proposals contained in the LEMP, and from the green infrastructure proposed in the Wider Land Holding. Indeed, in some respects these are welcomed by NE. In its view, Ms Farmer properly and fairly accepted, in terms of the quantum of green infrastructure proposed, save in respect of grassland, that there would be the benefits identified by Mr Cook.

85. NE maintains that that does not, however, lead to the conclusion that the effects on landscape character are of any less significance. It considers that a similar point can be made in respect of the design of the proposals. Ms Farmer was asked a series of questions about the quality of the design of the proposed development. However, NE contends that, if at the very start of a process a site is identified as unsuitable for development, it cannot be made suitable by even the best of designs. Well-designed development, it says, must still be in the right location. Mr Slatford's agreement that Framework para 130 would likely not be satisfied if it is concluded that the proposed development resulted in significant landscape effects illustrates exactly this point in NE's view.

86. NE says that Mr Duckett agreed that the most significant impact on the landscape from the development proposals would result from the introduction of the built housing. Such housing would represent a permanent and irreversible change to the landscape. When considering the impacts of the housing, Mr Duckett's conclusion is that the harm arising from the development would be substantial/moderate adverse on completion, reducing to moderate adverse 15 years post completion. He then further adjusted this level of harm downwards, stating that having regard to the landscape enhancements to the Wider Land Holding, the level of harm would reduce to minor adverse / neutral.

87. It is NE's view that no explanation is provided in Mr Duckett's evidence for this further adjustment, save for his statement that he has had regard to the overall wider landscape enhancements. NE states that, as Ms Farmer explained, the approach taken by Mr Duckett is flawed. If landscape harm is able to be off-set by wider landscape improvements in this way, any new harmful development could be rendered acceptable simply by enlarging the application site and making unrelated landscape enhancements on the balance of that site. NE adds that, this is not to say that landscape enhancements should be ignored; plainly they can in appropriate cases be taken into account as benefits of a particular proposal as part of a planning balance. Nonetheless, it considers that what such enhancements cannot do is factor into the actual assessment of the level of

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landscape harm that arises. The 'flawed approach' reflected in Mr Duckett's proof of evidence at para 10.7.1 should for these reasons be ignored in NE's view.

88. According to NE there would also be adverse visual effects arising from the above matters, in views from the A229, but also from VPs 3, 4 and 6[35]. NE maintains that, as Mr Cook agreed, it is necessary to consider the AVRs[36] for both the winter and summer views. Ms Farmer's evidence, based on the available visual material and her assessment of the impact of the development, is that the views of the proposed development from VP 6 would be particularly harmful. They would also result in any perception of separation between Cranbrook and Hartley being removed in NE's view, in addition to the harm arising from the views of housing through and over the trees, extending up and along the valley sides. NE contend that the result would be that Cranbrook would appear to extend in a linear fashion along one side of the valley, eroding the existing tranquil rural character and the legibility of the settlement pattern.

Conclusions on Landscape and Visual Effects

89. NE considers that in sum there are material flaws in the assessments undertaken by both Mr Cook and Mr Duckett. Notably, it says, their conclusions are both more optimistic than even the applicant's own LVIA, which concluded that there would be moderate to major-moderate adverse landscape effects. In contrast, Ms Farmer's evidence was fair and balanced in NE's opinion. Her overall conclusion, it says, is that the application site is highly sensitive and unsuitable for the proposed development, including due to the cumulative impacts that would arise with the consented developments at the BKF and TF sites, and that the proposed development would cause significant harm to the HWAONB.

90. In NE's submission, Ms Farmer's evidence about the landscape and visual effects of the development should be preferred, and the significant level of harm to the HWAONB she identifies be given great weight.

National Policy Relating to AONBs

91. NE state that the national policy test applicable to this application sets a stringent and high threshold. Under Framework para 177, it must be shown that there are 'exceptional circumstances' and that the proposed development 'is in the public interest'. NE add that it is a test that is of a different order to a situation involving non-major development and requires that the balance be struck differently. In this regard NE also refers to Lindblom LJ in Monkhill [2021] EWCA Civ 74, at para 42[37].

92. NE says that when applying the test under Framework para 177, it is not sufficient simply to weigh harm against benefits. In this regard it refers to R (Megavissey PC) v Cornwall Council [2013] EWHC 3684 (Admin), at para 51[38]. NE considers that Mr Slatford properly accepted that by suggesting that a decision-maker should start with harm to AONB, he was not also suggesting that what is involved is a simple balancing exercise. NE add that he also accepted a finding of significant harm to the HWAONB is likely to lead to the para 177 test

[35] There is a map showing the viewpoints at Appendix 12 of Mr Cooks' Proof of Evidence
[36] Accurate Visual Representation
[37] CD20.8
[38] CD20.7

not being satisfied. In NE's submission, when what is in issue is the delivery of the scale of housing proposed in this case, such a finding would be, if not the only rational finding, certainly one that was at least highly likely.

93. NE contends that, notwithstanding the applicant's position that that a basket of ordinary or garden variety benefits is capable of demonstrating exceptional circumstances, none of the AONB appeal decisions relied upon by Mr Slatford illustrate this position. Two of them, it adds, involved cases in which the housing shortfall relied upon by the Inspector was described as severe, in those cases at 2.48 years and less than two years, one involved a housing supply of 4.12 years but the provision of extra care housing in respect of which there was a "critical" and "substantial unmet need", and one involved particular reliance upon the failure to bring forward a new plan which was in effect the condition of the existing plan having been found to be sound[39].

94. The applicant and the Council agree that the Council's present housing supply position is that it can demonstrate 4.89 years' supply. NE states that Mr Hazelgrove, the Council's planning witness, agreed that the present shortfall is properly capable of being described as slight, as did the Inspector in the Hartley decision[40]. According to NE, this is quite simply not anywhere near the same order as the other decisions before the Inquiry in which development in the AONB has been found to be acceptable.

95. NE state that what the Council and applicant say in response is that there is a substantial need for market and affordable housing, which it does not dispute. It is, NE states, a point recognised in national policy, which seeks to boost significantly the supply of housing. It follows, in NE's view, that the presence of this substantial need is not itself exceptional, as Mr Hazelgrove agreed. NE add that, as Mr Hazelgrove also agreed, the considerations in Framework para 177 are just that; they do not require a yes / no answer, but rather the application of planning judgement.

96. Ultimately, NE state, the determination to be made is whether there are exceptional circumstances. According to NE, the difficulty for the applicant in relying upon a need which exists up and down the country, is the absence of such exceptionality. It adds that, if housing need of this nature can ultimately be a decisive consideration in the present application, even if not singularly decisive, then it follows that the same would apply for any housing scheme, anywhere in the country. In this regard, it is notable in NE's view that, while the Inspector in the Horsham decision[41] set out that the factors relevant to the Framework para 177 test do not have to be 'unlikely to recur in a similar fashion elsewhere', she also took into account when making her overall assessment of exceptional circumstances that the housing need matters relied upon, while weighty considerations, were 'not unusual'.

97. NE say that, both Mr Hazelgrove and Mr Slatford agreed that that the approach to alternatives must be taken seriously. NE adds that its case quite simply is that it has not been demonstrated that the 165 homes sought by this application cannot be provided outside the AONB, or that the need for them cannot be met in

[39] CD19.1, paras 5, 29 and 90
[40] CD19.8
[41] CD19.13

another way. In NE's view, the difficulty with Mr Slatford's reliance on the local plan evidence base is that this is subject to testing at the local plan examination and assumes that the Council's plan will provide for its full Objectively Assessed Need (OAN). NE contend that, if that is not the decision made, and Mr Hazelgrove confirmed that this is a matter in respect of which objections have been made to the plan, his confirmation that there are sites outside of the HWAONB which are possible for residential development comes to the fore.

98. NE add that this also answers the applicant's reliance upon paragraph 89 of the Steel Cross decision[42], where the Inspector as a matter of his planning judgement concluded that if all available sites fall collectively short of the full OAN, then the existence of other sites do not amount to alternatives. That, NE says, was a judgement, moreover, made in the context of that appeal and the recent failure to bring forward a new plan to allocate housing, which is not a feature that applies in this case.

99. NE maintain that Mr Slatford properly confirmed, insofar as there are landscape enhancements going beyond mitigation, and BNG, that the applicant relies on these as free-standing benefits outside of para 177(c) of the Framework. In determining the weight to be given to these matters, NE says the Framework is clear that great weight is to be given to conserving and enhancing landscape and scenic beauty in AONBs, while the conservation and enhancement of wildlife, albeit important, does not attract this same weight.

100. NE says that Mr Hazelgrove agreed that this distinction in Framework para 176 is relevant to the weight to be given to BNG. He was taken in re-examination to references in the HWAONB Management Plan which refer to the importance of biodiversity in the High Weald. So they are, in NE's view, but it remains the case that it is the contribution of BNG to landscape and scenic beauty that is afforded great weight under the Framework, and not the fact of this provision by itself.

101. In sum, NE maintains that the provision of housing in this matter quite simply does not distinguish this development and demonstrate the requisite level of exceptionality, including when account is taken of the associated benefits that would come alongside this housing. The fundamental point of principle remains, in NE's view, that this proposed development is located in the wrong place and would result in significant adverse harm to the HWAONB. It adds that, whatever view is taken of need and benefits, it is right that particular consideration and great weight is paid to the significant harm arising from the proposed development. When that is done, NE's submission is that the only proper conclusion to reach is that the required exceptional circumstances are quite simply not established.

Prematurity

102. NE submits that even apart from the clear reason for refusing permission provided in application of Framework para 177, the proposed development should be refused planning permission on the grounds of prematurity. The approach taken by the Council in the Council's Development Strategy Topic Paper[43] was, in NE's opinion, to rely upon the test in para 177 in order to determine the

[42] CD19.1
[43] CD14.2.2

suitability of the proposed HWAONB major development allocations in the eLP. That Topic Paper, NE says, relies upon the same housing need and similar assessments of landscape harm and lack of alternatives to conclude that the proposed major allocations are acceptable.

103. In NE's submission, it is inevitable that if this application gains the support of the Secretary of State and is approved, that the reasoning and arguments relied upon in this matter will determine exactly the same points as are in issue in the eLP. This, it adds, would have the effect of pre-determining decisions about the scale and location of new development that is central to the eLP, it being the Council's case that it cannot meet its housing requirement without major allocations in the HWAONB. NE maintain that Mr Hazelgrove's answer that each allocation will be considered on its own merits downplays the significant overlap in the arguments made in support of all of the major allocations in the HWAONB in the Development Strategy Topic Paper, including the proposed allocation of the application site.

The Development Plan and the Planning Balance

104. If having found that exceptional circumstances do not exist for the purposes of Framework para 177, it would in NE's submission follow that the proposed development would conflict with relevant policies in the development plan directed at conserving and enhancing the AONB. Those policies are agreed to be up to date and entitled to be given full weight in NE's view.

105. NE adds that Mr Slatford agreed that so far as the eLP is concerned, the proposed policy which allocates the site should be given only limited weight, while Mr Hazelgrove suggested that it should be given moderate weight, in light of the eLP having now been submitted for examination. NE say that Mr Hazelgrove agreed, however, that if the Secretary of State were to agree with Ms Farmer's evidence that the proposed development would result in significant harm to the HWAONB, that this would amount to a significant objection to this emerging allocation policy. The net result would be the same in NE's view. It adds that, if following detailed assessment at the Inquiry, the proposed development was determined to be in conflict with national and existing policy, a proposed allocation in the eLP could on no view save the application and result in the grant of permission.

106. NE concludes, having regard to the significant harm that would be caused to the natural environment, as well as the fact of the proposed development being outside the LBD, the proposed development is contrary to both national policy and to the development plan. For these reasons, and the matters explored in evidence at the Inquiry, it asks the Secretary of State to refuse permission for this application. NE contends, it is not exceptional, and it is not in the public interest.

RIGHBOROUGH

The Case for the High Weald AONB Unit

Matters of Uncommon Ground[44]

107. The HWAONB Unit disagrees with the applicant and the Council in respect to whether:

- The LVIA produced in support of the application provides a reliable assessment of effects on the HWAONB landscape;
- The grassland surveys that support the application and the proposed eLP allocation of the site have been correctly carried out and the findings are considered to be reliable;
- The Biodiversity Metric 2.0 is suitable for calculating measurable BNG in this case and whether it has been correctly used particularly in relation to grasslands on site; and
- The proposals for landscaping/ecological enhancement, and management would deliver HWAONB Management Plan objectives, including those relating to Ancient Woodland, and constitute exceptional benefits to the HWAONB.

The Time Depth of the High Weald

108. The HWAONB Unit says that the High Weald is an outstandingly beautiful landscape cherished by people and celebrated for its scenery, tranquillity and wildlife. Its ridges and valleys are clothed with an intricate mosaic of small fields interspersed with farmsteads and surrounded by hedges and abundant woods, all arranged around a network of historic routeways. It is one of the best surviving Medieval landscapes in North West Europe and has remained a unique and recognisable area for at least the last 700 years.

109. It is clear, according to the HWAONB Unit, that Turnden itself has a history stretching back to at least the 8th Century and forms part of the typical Wealden story of people outside the area travelling into it for grazing livestock, foraging and accessing other resources, which led to the establishment of 'dens' of which Turnden was one. Its relationship with the prehistoric routeway, now Hartley Road, the A229, together with its relationship with the Crane Brook was accepted by Dr Miele, the applicant's heritage witness, as part of the medieval framework of the farmstead. This is a landscape that has been settled for over a thousand years and used for grazing livestock, raising crops and utilising the woodland and water resources to support the livelihood of the residents of TF and the other farmsteads around it.

110. This 'time depth' is, in the HWAONB Unit's view, an essential quality of the HWAONB and gives meaning to the relationship between its main physical landscape components of geology, watercourses, routeways, settlement, fields and woodland. The HWAONB Management Plan explains how the dens developed into farmsteads and formed the distinctive dispersed settlement pattern of the High Weald which underpins the structure and special character of this AONB.

111. The HWAONB Unit says that layered on top of this dispersed settlement pattern is that of the later medieval towns, villages and hamlets, of which Cranbrook and Hartley are the closest to this site. Whilst there were clearly links between these later settlements and the farmsteads, the HWAONB Unit considers

[44] CD9.19 – SoCG, Section 7.0

that they are two distinctly different forms of settlement. It adds that the HWAONB Management Plan emphasises the need to retain the separation between these settlement types so that future generations can read the landscape and understand how it came to be and how it has been used over the centuries.

112. The HWAONB Unit maintains that many AONB Management Plans focus on the scenic or visual qualities of their landscapes, but in the High Weald its outstanding qualities lie in its time depth and cultural heritage, and this is why it is covered in some depth in the Management Plan. Whilst Framework para 176 acknowledges the importance of cultural heritage in AONBs, the HWAONB Unit considers that the way that it then deals with landscape, ecology and heritage as separate aspects disadvantages the HWAONB where they are so intrinsically linked.

Witness for the HWAONB Unit

113. The HWAONB Unit maintains that much was made during the Inquiry by the applicant's and the Council's advocates of its landscape and biodiversity witness, Ms Marsh, living within the parish of Cranbrook and how that might affect her evidence. The HWAONB Unit considers that she was open in her proof of evidence about her place of residence, that it was over a mile away, not within sight of the application site or in any way effected by the development, and that therefore she did not consider that she had a conflict of interest under the Landscape Institute's Code of Conduct.

114. The HWAONB is a very large area and Ms Marsh has worked within it for nearly 30 years as a lead officer. Her evidence, the HWAONB Unit say, is based on that experience and knowledge of the High Weald and its history and her professional qualifications in landscape and ecology. In the HWAONB Unit's view, if she has a more in-depth local knowledge of this site and the surrounding area, that can only be an advantage and give her views more weight compared to other witnesses who have only visited the site a handful of times.

115. Ms Marsh has also been referred to by the applicant's advocate as an 'outlier' in her evidence. If that is true, the HWAONB Unit considers that it reflects the holistic approach she takes to conserving and enhancing the HWAONB. It adds that she does not look at it with the narrow perspective of a landscape architect, who is only interested in what he can see, or a historian who is mainly concerned with what is written down, or an ecologist adding up numbers in a BNG calculation. She sees the landscape, history and ecology as all facets of the same natural beauty of the High Weald and treats them accordingly as part of an interconnected whole. Great weight should therefore be accorded to her evidence in the HWAONB Unit's view.

Design Evidence

116. The HWAONB Unit considers that the evidence of Mr Pullan, the applicant's design witness, made a great deal of the compliance of the design with detailed advice in the High Weald Housing Design Guide[45] (the Housing Design Guide) and that he and Mr Cook considered that this meant that the proposed development was in character with the HWAONB and would not cause harm.

[45] CD12.15

Richborough

117. The Housing Design Guide was produced by the HWAONB Unit to help developers, designers and planning officers to ensure that any necessary housing development conserved and enhanced the HWAONB. It is structured to ensure that the most important and longest lasting design decisions are taken first before progressing to more detailed matters. The first step is the setting of the High Weald, as it puts it at the beginning of DG1, "the relationship of new housing development to its 'parent' community, in terms of siting, scale and response to setting".

118. The HWAONB Unit considers that Mr Pullan accepted that, if this stage is not addressed adequately, then adherence to the more detailed advice in the Guide would not result in a scheme that conserves and enhances the HWAONB, but that the design team were aware of the draft allocation for this site and he considered that to be the starting point for the quantum of development, and that it was not the role of the designers to challenge this but to work creatively within these parameters.

119. On that basis, in the HWAONB Unit's view, one must look elsewhere for evidence about where the appropriate siting, scale and response to setting was considered. It adds that Mr Duckett agreed that this was in the work undertaken by his company, HDA, to inform the eLP[46].

120. The HWAONB Unit adds that Mr Pullan also confirmed that the architectural style of the scheme was driven by the local vernacular of the historic core of Cranbrook and that he considered the design to be "urban with pockets of lower density, but not rural".

121. It is clear, in the HWAONB Unit's view, that the applicant considers the scheme to be an urban extension of Cranbrook, ignoring the historic rural fieldscape of the site and contrary to the HWAONB Management Plan objectives for settlement and fields. The HWAONB Unit considers that the impact of such a scheme on the characteristics and special qualities of the HWAONB is therefore likely to be significant and adverse as Ms Marsh explained.

Landscape Evidence

The Hankinson Duckett Associates LVIA of Proposed Allocations in the AONB

122. Following the eLP Reg 18 consultation the Council commissioned HDA to undertake a LVIA of 21 potential allocation sites in the HWAONB, including the site at Turnden. The HWAONB Unit provided a critique of this work[47], which in respect to the application may be summarised as follows:

- The description and assessment of Turnden omits positive features and reinforces negative ones;
- Especially notable is the focus on derelict and disused pony paddocks, a theme Mr Duckett re-emphasised in his evidence;
- No mention is made of the perception of rural tranquillity experienced by users of the footpath through the site, or of the extensive long views from the footpath out to the Greensand ridge. The valuable relatively

[46] CD14.3.9 & 9a
[47] CD14.1.5, electronic p25-30

undisturbed nature of the soils and species diversity of the grassland appears not to merit inclusion;

- Unsubstantiated claims are made such as 'the proposals are in keeping with Cranbrook's existing settlement pattern' with no reference to the historic farmstead and fieldscape pattern that actually comprises the site;
- Benefits are claimed without a balancing view of what will be lost. For example, new woodland screening would apparently be 'beneficial' for people using the rights of way when in reality the planting would obscure views across the site and out to the Greensand ridge; and
- Similarly, new woodland and wildflower meadows are said to 'replace disused pony paddocks', even though we are told there was no specific application scheme before the authors of the assessment, and no mention is made of the existing biodiversity of these fields.

In the HWAONB Unit's words, 'unsurprisingly given this bias', the conclusion is that development would not result in significant effects on the HWAONB.

123. In addition, the HWAONB Unit considers that the assessment does not provide any analysis of whether the siting and scale of development is the most appropriate response to its setting as required in the Housing Design Guide. The HWAONB Unit maintains that if it had done this based on a robust understanding of the historic farmstead and fieldscape setting, then it could not have concluded that this scale of development in this location was an appropriate response to its context.

Separation Between Settlements

124. With regard to the separation between Hartley and Cranbrook, during the Inquiry, the HWAONB Unit felt that there was a confusion around where the current edge of Cranbrook is, varying from the War Memorial to the sign for Cranbrook at the entrance to TF, and how this would be impacted by the consented schemes and the application proposal. The HWAONB Unit leaves it to the other Rule 6 advocates to draw their conclusions on this matter. For the AONB Unit the main concern is the gap around TF itself and its separation from those other types of settlement, Hartley and Cranbrook.

125. The Management Plan is clear that the separation between settlements in the High Weald is formed by fields associated with individual farmsteads. These historic farmsteads are surrounded by their own fields resulting from Medieval farming in severalty - which is land held by individuals rather than in common. This characteristic is emphasised in the High Weald Housing Design Guide, which says that developments should not subsume farmsteads surrounded by their farmlands.

126. In the HWAONB Unit's view, the applicant's and the Council's witnesses say that TF no longer exists because there are no historic buildings remaining on the site. This, it maintains, contrasts with the position taken by the Council in the appeal the Gate Farm appeal[48] where the Council's witnesses argued strongly that the site should be treated as a farmstead even though the remaining buildings were modern. The Inspector in that case said "the site has been

[48] CD19.8

acknowledged historically to have been a farmstead and I accept the likelihood of such a previous status. Further, the planning character of the appeal site is undoubtedly consistent with a wider prevailing pattern of farmstead settlement and of similar accompanying landscape".

127. The same is true of the Turnden site in the opinion of the HWAONB Unit. There is, it says, no dispute that Turnden was a farmstead in the past, and the Inquiry heard significant evidence to that effect – not least the Singleton Report[49]. The HWAONB Unit maintains that it is also clear that it had an important role to play in the historic use of the fieldscape around it and the local landscape of the Crane Valley. It adds that to suggest that it should no longer be treated as a farmstead due to a fire which destroyed the farmhouse in 2019 is to deny over a thousand years of history. In the view of the HWAONB Unit, it is an important component of this landscape and some of that significance will still be legible once the consented scheme has been implemented due to its farmstead type design and the retention of its fields all around it.

128. However, if the proposed development proceeds, the HWAONB Unit considers that TF would no longer be legible as a farmstead because it would be subsumed into the urban sprawl of the combined BKF / TF development, becoming the eastern edge of Cranbrook. It adds that the AONB landscape history of the Crane Valley will no longer be recognisable to anyone, whatever their level of expertise, because it would have been obliterated.

The Fieldscape

129. The HWAONB Unit agrees with Dr Miele in that dispersed farmsteads and their field systems are the same, one is part of the other. The fields would not be there without the farmstead in the HWAONB Unit's view, they are in a sense part of the settlement pattern because they attest to the use people have made of the landscape down the ages. The HWAONB Unit maintains that this inter-relationship between the different elements of what made up the holdings of BKF, Hennickers and Turnden is why the Crane Valley must be seen as a whole rather than carving it up into artificial parcels and then considering impacts on those parcels in isolation. It adds that this is simply not how the High Weald landscape works.

130. The HWAONB Unit contends that, whilst Ms Farmer appreciated this and treated the Crane Valley as a whole, Mr Duckett and Mr Cook preferred to look at the 'development site' and the 'wider holding' separately as if they had no relationship to anything outside those boundaries. It adds that they were also only concerned with, in Mr Duckett's words, what "the ordinary man or woman in the street can see", that which is discernible and tangible and that mostly from public VPs. In the HWAONB Unit's view, Dr Miele accepted that this was not an adequate way to ensure the conservation and enhancement of the cultural heritage of the HWAONB and considered that the time depth of the High Weald is important because it is identified in the Management Plan, even when you cannot see it. However, when it came to the details of the fieldscape on the development site, in the HWAONB Unit's view, he too was only concerned with what can be seen now rather than the clues it provides to how the landscape was used in the past.

[49] ID22

131. The HWAONB Unit says it has never suggested that it is 'fossilised', details of the landscape evolve over the centuries. It adds that hedgerows and woodlands expand when the agricultural use is less intensive and contract or fade when a more intensive use occurs such as the equestrian use most recently on this site, but clues to the historical use of the site lie in the ground and in the landscape, sometimes as retained hedgerows and shaws, sometimes as gappy hedges or single trees and sometimes only as ephemeral ditches and hollows. The HWAONB Unit maintains, however, that to the experienced eye of a landscape historian such as Dr Bannister[50] they tell a story of the High Weald which, once explained, can be appreciated by all its residents and visitors.

132. Even to the non-historian, the fieldscape within the development site is still recognisable in the HWAONB Unit's opinion. It adds that, whether the four fields which form the top part of the development site, which Dr Bannister categorised as 'consolidated strip fields', are or are not such a field type is in a sense academic. The HWAONB Unit says, Dr Miele acknowledges, at para 5.28 of his proof of evidence, that it is possible to correlate the fields shown in 1799 with those mapped later in the 19th and 20th Centuries. Using the 1950 map and the 2020 aerial photograph these same four fields are recognisable in the view of the HWAONB Unit, albeit with some boundaries only represented by a ditch or remnant hedge. It acknowledges that those boundaries had changed in appearance over the years but maintains that they are still the same fields known in 1810 as the House Field and the Cow Field and the two fields occupied by Mr Larkin, adding that just as a person changes over time but remains recognisable, so has this fieldscape.

133. The HWAONB Unit considers that its evidence explained that what is significant about the High Weald is the extent to which the medieval landscape pattern has endured and can be recognised despite changing agricultural practices over hundreds of years. In its view, this distinctive High Weald character will be lost here if the development goes ahead. The scheme, it adds, would cause material harm to the HWAONB.

Urban Influences

134. Yet instead of recognising the time depth of this landscape, the HWAONB Unit says that the Secretary of State is being asked by the applicant and the Council to consider this site as part of an urbanised landscape, somehow part of Cranbrook which has been described by Mr Cook as the 'dominant' settlement. It adds that the Secretary of State has been asked to consider the consented development at the BKF and TF sites as part of 'the baseline' and encouraged to conclude that the 'horse has already bolted' as far as the historic character of this land is concerned, and that one more development between those already permitted would not make any difference to its character.

135. However, in the HWAONB Unit's view, it is necessary to look at the reasons why those two schemes were permitted. Regarding the BKF site the Inspector examining the Site Allocations LP, said "the proposed allocation is in a self-contained landscape area which facilitates a sustainable extension to Cranbrook with the lowest achievable impact on landscape. The selection of the allocation site, which is largely self-contained in landscape terms serves to moderate the

[50] See for instance CD6.5.1 Appendix 2, CD16.22 and CD16.31

harm that development of this scale in any alternative site would cause to both the AONB and the historic town centre"[51]. Whether one agrees with this assessment or not, the HWAONB Unit considers that it is clear that that Inspector was greatly influenced by what he saw as the 'containment' of the site and that there was no thought in his mind that this would be phase 1 of a larger scheme. It adds that, if he had considered that this scheme would exert what Mr Cook calls 'a strong urban influence' on the Crane Valley, then surely, he would not have concluded that it would have the "lowest achievable impact on landscape".

136. In respect to the TF scheme, the HWAONB Unit states that at the time the application was submitted in August 2018 the listed farmhouse still remained on the site as did the modern farm buildings and stables associated with its previous mixed equestrian and business use. The new owners, Berkeley Homes, put forward a scheme to restore the farmhouse and build a further 36 dwellings to replace the existing buildings. In the Committee report for that scheme[52] it says the design intent has been drawn from the Council's Farmstead Assessment Guidance, as follows:

- A design concept of a multi-yard farmstead with the working buildings and smaller cottages set around a series of linked yards and courtyards, subservient to the main Turnden farmhouse; and
- Each yard has a collection of buildings around it, structured to provide a hierarchy of buildings that might have previously had a defined use for example; workers cottages, barns, stable blocks, storage sheds and farmhouses …

137. The HWAONB Unit says that the clear intention was to design a scheme that respected the farmstead history of the site and the dispersed rural settlement character of its surroundings. A statement was included with the application saying that the land around the application site would be retained in equestrian or agricultural use[53]. Mr Pullan in his evidence also pointed to the applicant's vision for this site, which was "to provide a new high quality, sustainable development that is sympathetic to its rural location, designed to assimilate with the surrounding countryside, and provide in a farmstead style form which seeks to provide an attractive place for residents to live."

138. The HWAONB Unit adds that this farmstead character is also stressed in the most recent planning application on this site to replace the burnt farmhouse and add three new dwellings. The associated officer's report quotes the applicant's Heritage Statement, which says that "The proposed Replacement Farmhouse, provides a genuine attempt to reference the past with the form, scale and tile hung design approach of the original structure recreated"[54], The HWAONB Unit goes on to say that the Council's Conservation Officer agrees with this, subject to details, and that she also agrees with the conclusion that the development would not harm any of the designated or non-designated heritage assets identified in the report, as the farmstead character of the former farmstead would be maintained as proposed.

139. The HWAONB Unit contends that this same applicant is now suggesting that

[51] CD11.13 para 74
[52] CD18.2 para 2.04
[53] CD7.1 para 7.55
[54] ID58, electronic pages 7-8

that development forms part of Cranbrook and exerts, with the BKF development, a strong urbanising influence on the current application site. It maintains that, if this is true, then it means the applicant seriously misled the Council in its justification for that scheme, thereby undermining the applicant's credibility in promoting the design of its new site.

Views

140. The HWAONB Unit states that its evidence focuses on time depth, physical landscape components and settlement pattern rather than visual amenity, in part at least because it is the physical tract of land that is designated, but also because it believes that the visual aspect is over-emphasised in the LVIA submitted with the application. It adds that this visual bias was also amply demonstrated in Mr Duckett's and Mr Cook's evidence.

141. However, the HWAONB Unit touches on two visual matters, containment and views from the site to the Greensand Ridge.

142. The HWAONB Unit states that the word 'containment' was used by Mr Duckett to describe both the physical characteristic of the site, being in a valley, and in terms of woodland or topography obscuring views. It adds that he uses both to suggest that the development would not be widely seen or be seen as glimpses of settlement in a settled landscape, as if this reduces its impact on the HWAONB landscape as a resource, whereas in the HWAONB Unit's view it does not. However, in terms of visual amenity, it adds that the valley itself is within the HWAONB so even if he is right and there are no views from the wider landscape, the impact on the valley itself is still important. Whilst topography is likely to stay the same, the HWAONB Unit says that vegetation is subject to change, either through human interventions or through natural processes. It also states that neither Mr Duckett nor Mr Cook noticed Ash Dieback on site and took no account of the increasing risk from the disease on the visibility of the development, a disease which the Woodland Trust estimates will affect 90% of ash trees in England, and which is already extensive in Kent. Its implications for visual 'containment' are clear in the HWAONB Unit's opinion as trees affected have little or no foliage and would not be effective at screening views of the development, while any replacements will take many decades to become useful for screening.

143. Furthermore, the HWAONB Unit contends, this valley is not in fact topographically contained because it has ridges only on three sides, the fourth side is open to views across to the Greensand Ridge 12 miles away. The HWAONB Unit says that Mr Duckett accepted that these views from PROW WC115 are of local importance, which is evidenced by their inclusion in the views document produced for the eC&SNP[55]. It adds that they would be blocked by the proposed woodland planting adjacent to Hartley Road and in the lower field. The rarity of such views in the heavily wooded High Weald makes them all the more precious to local people in the HWAONB Unit's view.

Impacts on AONB Special Qualities

144. While it applauded Mr Cook's attempt to assess the application proposal

[55] ID11

against the HWAONB Management Plan in principle, in the HWAONB Unit's view it falls short of a genuine assessment of the effects of the scheme. It adds that even though it is EIA development, Mr Cook accepts that he has not undertaken a full LVIA, and that he has not applied this methodology of assessing impacts to his section on the Management Plan. Instead, the HWAONB Unit says that his assessment takes the form of 'comments' on how the scheme might impact on characteristics and objectives in the Management Plan. It adds that not only do these comments display a lack of understanding of what the HWAONB Management Plan is trying to achieve, the fact that he has not referred to this assessment in his summary chapter shows how little weight he gives it when considering the impact of the development on the HWAONB. Instead, in the HWAONB Unit's opinion, he chose to base his assessment on the Cranbrook Fruit Belt, a Landscape Character Assessment produced for a different purpose and which does not in our view fully represent the HWAONB qualities of this part of the High Weald.

145. The HWAONB Unit maintains that the HWAONB Management Plan articulates AONB landscape character and special qualities at an AONB scale. What is important in terms of impact on the HWAONB, in the HWAONB Unit's view, is a site's contribution to this character. The HWAONB Unit considers that neither Mr Duckett's nor Mr Cook's assessment of effects on the HWAONB is based on this understanding and so they do not accurately reflect harm to the character of historic fieldscapes or the separation between settlements. The HWAONB Unit adds that, if harm to these aspects and other key characteristics of the AONB had been properly assessed, a neutral or beneficial impact could not have been concluded, and rather, the impact would be found to be significant and adverse.

146. Mr Cook and Mr Duckett are, in the HWAONB Unit's opinion, also overly optimistic about any mitigation or benefits arising from the landscaping proposals.

Ecology and Biodiversity Evidence

147. The HWAONB Unit considers that landscaping proposals to be intrinsically linked with the ecology case, so it deals with these matters together. It says that 88% of the site is grassland, which are the fields surrounding the TF, so its evidence focused on this habitat, albeit that it also comments on the other proposals, in particular those for woodland and hedgerows.

Existing Grassland

148. The HWAONB Unit says that the fields around the farmstead, have been used for grazing livestock for hundreds of years. The Council's biodiversity witness, Mr Scully, says that "Historical mapping indicates that the site appears to have been continually used as pasture since the mid 19C with only one field put to orchard for a short period starting in the 1930s"[56]. The HWAONB Unit adds that, he agreed that the historic aerial photographs in Appendix 2 of Mr Duckett's proof of evidence show no evidence of the fields being ploughed or used for arable crops.

149. The HWAONB Unit maintains that these are not fields that have been ploughed

[56] CD23.2.4, para 4.3

and resown with a commercial grass crop so their soil biodiversity will be good and their seed bank will remain undisturbed. It adds that even Mr Goodwin, the applicant's biodiversity witness, only suggested that they might have been over sown with ryegrass, that is additional seed scattered on top of an existing pasture. Yet all of the grassland has been characterised by the applicant as the lowest possible quality in ecological terms. The HWAONB Unit states that even the adjustment from the Phase 1 survey conclusion of 'improved' grassland to the National Vegetation Classification (NVC) conclusion of 'poor semi-improved' grassland made no difference to the score inputted to the Metric, which remained as G4 Modified Grassland – the lowest score that can be attributed to this habitat. The HWAONB Unit considers that it cannot be right, as a matter of common sense, to give these pastures the same score as one that has recently been ploughed up and sown with a few fast growing species.

150. The HWAONB Unit states that, despite admitting that the baseline was critical to the BNG Metric score, Mr Goodwin did not request detailed survey data from BSG Ecology, neither detailed species lists nor abundance scores for individual fields. It adds that he acknowledged he did not undertake a detailed survey himself, and that most of the areas were mown when he visited this summer. It also says that while he 'looked at different parts' he could not confirm that he had walked all of the fence lines and edges where mowing or grazing was absent to check what species were flowering. The HWAONB Unit says that in spite of these matters, Mr Goodwin concluded that all fields were homogenous, of the lowest habitat distinctiveness and poorest condition.

151. The HWAONB Unit contends that this 'downgrading' of ecological quality by the applicant reflects downgrading of landscape quality. It adds that Mr Cook and Mr Goodwin both emphasised a negative perception of the fields as derelict and disused based on their use for horse grazing, but the HWAONB Unit maintains that by 2018 the aerial image shows that the small paddock enclosures were no longer visible. The grassland had recovered and the fields looked just like the green permanent pasture of the surrounding landscape in the HWAONB Unit's view. It maintains that Ms Marsh's ecology evidence shows that by 2021 at least 5 out of the 10 species characteristic of the Weald's distinctive MG5 grasslands were locally abundant on site. All parties agree that the grassland is semi-improved, but it is the HWAONB Unit's position that the variety of species is increasing and that those currently present justify the selection of 'other neutral grassland' as the baseline. Whatever the condition, and whether ancient woodland is excluded or not, the HWAONB Unit considers that the Metric output score will, on this basis, show a net loss of biodiversity.

Soil

152. The HWAONB Unit says, the Inquiry heard that the soil biodiversity reflected the above ground habitat and, therefore, was accounted for in the Metric, which it contends is not mentioned in the material that accompanies the Metric. Soil type, it adds, is mentioned but not soil biodiversity.

153. Whilst plant health is closely linked with soil biodiversity, it is also highly dependent on the amount of soil disturbance in the HWAONB Unit's view. It adds that the site's pastures have not been ploughed, so those soils have been undisturbed for hundreds of years. The HWAONB Unit considers that it was generally accepted by all the biodiversity witnesses that the condition of the

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pastures in 2018 was a result of intensive equestrian use, including over-grazing of above-ground vegetation and a high density of horse manure in small paddocks. Whilst these conditions may inhibit some plant species, in the HWAONB Unit's view, there is no evidence that they are detrimental to soil biodiversity. Indeed, the Soil Compatibility Report[57] shows high levels of organic matter within the soil (6.6 – 7.3%) levels, the HWAONB Unit says, any regenerative farmer would be very happy with and which also indicate a considerable loss of soil carbon to the atmosphere if they are disturbed.

154. The HWAONB Unit states that Mr Scully could not point to any consideration by himself or by the Council of the impact of the soil redistribution proposals on soil biodiversity or the likely success of the grassland creation proposals. In its view the section he was taken to in re-examination only considered the landscape impact of the soil movements. The HWAONB Unit considers that soil biodiversity is vital to above ground biodiversity and carbon storage and the effects of the scheme on it should have been considered.

Grassland Creation

155. Whilst high levels of organic matter are generally a good thing, showing healthy and biodiverse soil, high phosphorus levels are not helpful if the aim is to increase species diversity in grassland in the HWAONB Unit's view. It adds that, as Mr Goodwin rightly said, under high phosphorus conditions desirable flowering plants may be out-competed by more vigorous grasses and ruderals, such as docks.

156. The Soil Compatibility Report shows phosphorus levels on the development site, or donor site, of 132 milligrams per litre, an index of between 5 and 8. The HWAONB Unit adds that on the field where it is proposed to create a 'wildflower meadow', the receptor site, these phosphorus levels are lower – 57.9 milligrams per litre – an index of between 3 and 5. However, the HWAONB Unit says, these are still much higher than the levels recommended by NE when assessing the suitability of grasslands for enhancement under the Higher Stewardship programme[58] where the recommended levels are index 0-1, or 2 in exceptional circumstances.

157. Instead of using the expert guidance on the High Weald's website to formulate a plan to gradually reduce the phosphorus levels, the HWAONB Unit states that the applicant proposes to strip soils and subsoils off the development site, mix them and then 'smother' the existing grassland and its invertebrates on the receptor site with the spoil to a depth of 45cm.

158. The HWAONB Unit states that the suggestion in the Soil Compatibility Report is that this would reduce phosphorus levels on the receptor site, but as established with Mr Goodwin in cross examination, the proposed mix of 1/3 subsoil with 2/3 top soil would not achieve this. It adds that, mixing 2 litres of top soil at 132 milligrams per litre with one litre of sub soil would result in material with an average of 88 milligrams per litre, still about 50% higher in phosphorus than the existing soils on the receptor site.

159. The HWAONB Unit maintains that while Mr Goodwin suggested other

[57] CD5.6.17
[58] CD16.21

measures, such as deep ploughing the receptor site and sowing yellow rattle to inhibit grass growth, these measures do not require the addition of soil from elsewhere. The proposals for depositing soil from the development site are, in the HWAONB Unit's view, not driven by the wish to decrease nutrient levels in the receptor site, but a convenient and cheap way to get rid of spoil.

160. Regarding the proposed seed mix for the new and enhanced grassland, the HWAONB Unit states that Kate Ryland of Dolphin Ecological Surveys' comments on the original planning application include that "There appears to be no consideration of using locally sourced, native origin plants or seed of appropriate provenance. The HWAONB Unit provides comprehensive and freely available information about where to obtain Weald Native Origin Seed that can be used in grassland creation schemes along with plenty of other locally appropriate habitat creation and management advice."[59]

161. This was part of her lengthy and detailed response on the HWAONB Unit's behalf suggesting improvements to the Landscape Statement and the LEMP. The HWAONB Unit adds that on the face of it this appeared to be a suggestion that the applicant had taken on board, yet the seed lists included in the updated landscaping proposals and LEMP, whilst headed 'Weald Native Origin Seed', are actually a commercial seed mix containing plants such as poppies and cornflowers that are specifically discouraged by the providers of Weald Native Origin Seed.

162. The HWAONB Unit acknowledges that this could be addressed through conditions but adds that that is not the point; the point, in its view, is that the application documentation is at best incompetent and at worst deliberately misleading. On this basis it questions how this can give confidence that the landscaping and ecological proposals are carefully thought out and appropriate to the nationally designated landscape of the High Weald.

163. Overall, the HWAONB Unit contends that there has been an undervaluing of existing grassland and an overly optimistic approach to creating and enhancing future grassland. In its view, the use of such evocative terms as 'wildflower meadow' and 'species-rich grassland' implies a much higher quality end product than is proposed. The HWAONB Unit adds that, while Mr Goodwin accepted that what is being aimed at is neutral grassland in moderate condition, even that modest aspiration would be difficult to achieve given the very high phosphorus levels on the site and would be further impeded by the proposals for relocating spoil. In any event, it adds that, it is unlikely to be better than what is there already and is certainly not going to result in exceptional benefits to the HWAONB.

Other Habitats

164. The HWAONB Unit noted that Mr Goodwin expressed surprise that the landscape proposals for woodland and hedgerows were not supported by the HWAONB Unit as he considered that they met many of the objectives and actions in the HWAONB Management Plan. It adds, however, that the Management Plan covers a wide area and not every action is appropriate for every circumstance. As an example, habitat connectivity is supported in general in the Management

[59] CD6.5.1, page p4

Plan and is particularly appropriate on farm holdings where hedge and woodland restoration can help native species move around the landscape. It is less helpful, the HWAONB Unit contends, on a site where it is proposed to build 165 houses, with about 500 people, 300 cars and about 60 additional cats. It adds that connecting these urban influences and domestic predators with sensitive wildlife habitats, particularly ancient gill woodland, can have a detrimental impact on the natural environment. This would not be supported by the HWAONB Unit or the Management Plan.

165. The proposals for other habitats included woodland creation in the form of a new block adjacent to Hartley Road and the reinstatement of a shaw nearer to the Crane Brook. In both cases it is intended to plant new stock imported onto the site. The HWAONB Unit contends that while planting trees may be necessary in other parts of the country where the existing levels of woodland are very low and soils less suited to growing trees, the High Weald is an area that has been heavily wooded since the last ice age, continues to have one of the highest levels of woodland cover in England and grows trees really well.

166. The HWAONB Unit says that on this site there is the Ancient Woodland along the Crane Valley and Hennickers Pit and woods running through the centre of the site, as well as mature oaks in the hedgerows, and all are easy sources of tree seeds. It adds that natural regeneration can happen at no cost wherever management is withdrawn and can be used to create hedges, scrub or woodland and maintains that it can already be seen along the field edges and fence lines where the mower has not reached, and tree saplings are springing up on their own.

167. In HWAONB Unit's opinion, woodland and hedges created through natural regeneration will be genetically suitable and result in a more natural and gradual mosaic of different types of habitat, all appropriate to the soils and conditions of the site. It adds that they do not need weeding, watering or plastic tree guards, and most importantly there is no risk of importing diseases from infected root stock or soil brought in with new plants. This method of woodland creation is not just supported by the HWAONB Unit but by most nature organisations, including Kent Wildlife Trust. The HWAONB Unit also states that, given that the applicant has repeatedly justified the landscape and ecology proposals on the basis of the involvement of the Consultancy arm of this Trust, it is surprising that the natural regeneration approach was not embedded into the Landscape Statement or the LEMP.

168. The HWAONB Unit goes on to say that Mr Scully called woodland and hedge planting 'bread and butter' landscaping proposals, so even in non-wooded landscapes these proposals are not exceptional. In the heavily wooded High Weald they do not, in the HWAONB Unit's view, even merit inclusion in a basket of benefits.

The Metric

169. The Committee Report for the application proposals says, "The details of the proposal, as a major development within the AONB, is considered to amount to exceptional circumstances, and demonstrates that the development is in the public interest to override the presumption against major development in such areas" and that "This includes the provision of 21.6% Biodiversity Net Gain". In the appraisal, the Report states that "the scheme will result in a net gain of area

habitats of 21.60% and linear habitats of 12.54%. This figure includes the Ancient Woodland in the baseline but with no allowance for betterment. Ancient woodland should be excluded from Metric calculations and treated separately but in this case doing that would merely inflate the area net gain figure to around 50%. It is possible to challenge some values attributed to existing habitats and the likely outcomes for new/enhanced habitats but as can be seen the proposal exceeds the proposed mandatory net gain of 10% by a further 10 to 40%".

170. These figures are based on the Defra Metric, which the HWAONB Unit says is still evolving, has not been tested in the real world and even Mr Goodwin admits still has things wrong with it.

171. The HWAONB Unit maintains that the area habitats figure of 21.6% is highly dependent on the accuracy of the assumptions made about the existing grassland and the proposed grassland enhancement and creation. It adds that the applicant has chosen to allocate the existing grassland the lowest possible score, even though it is clearly not the lowest quality of grassland habitat possible on this site. The HWAONB Unit says that the applicant has also assumed that the measures proposed to create and enhance the grassland on site would be successful, in spite of the high nutrient levels in the soil and the amount of soil disturbance proposed. The HWAONB Unit considers that this is unlikely and that the score of 21.6% can only be achieved if the applicant's assumptions are correct. It adds that any increase in the score given to the existing grassland or decrease in the score given to the created or enhanced grassland, will result in a net loss of biodiversity.

172. Changes in measurements of the different habitats also have a big impact, in HWAONB Unit's view, as demonstrated by Mr Goodwin in the gain of 10 biodiversity units just by re-measuring the amount of scrub proposed on the site. It considers that this demonstrates how sensitive the Metric is to very minor differences in inputs and means that no weight should be given to its outcomes.

173. The HWAONB Unit says that Mr Scully confirmed that he provided the 50% figure quoted in the Committee Report based on his calculation if ancient woodland is excluded, although he was unable to share that calculation with the Inquiry. The HWAONB Unit maintains that the calculation is actually closer to 40% per as Ms Marsh's oral evidence. It adds that the Council's Planning witness, Mr Hazelgrove, clarified orally that he did not 'endorse' the figure of 50% quoted in his Committee Report and considered that it 'artificially inflated' the BNG, contrary to Mr Goodwin's evidence and the Metric guidance, which the HWAONB Unit states, says that ancient woodland should be excluded from the calculation. The HWAONB Unit contends that this indicates three things:

- The figure of 50% was incorrectly calculated by the Council's Landscape and Biodiversity Officer and then misunderstood by its Planning Officer so that Members were given misleading information;
- The fact that the inclusion or exclusion of land where nothing is being proposed can make such a huge difference to the output is another example of the unreliability of the Metric – nothing is changing on the ground and yet the BNG figure can double; and
- The 50% figure is treated by the Council case officer as if it is a buffer to uncertainty, that minor variations in the inputs do not matter because the BNG

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would be so greatly exceeded. But if the score can vary by 10-40 above the BNG figure, then it can also vary by the same amount below; if the inputs for grassland were wrong then the exclusion of ancient woodland from the calculation magnifies the net loss to minus 35%[60].

174. Overall, the HWAONB Unit considers that the Metric cannot be relied upon to demonstrate measurable net gain as required by the Framework. It has a long way to go before it is fit for purpose to support the Environment Bill, and even then, it will just remain one tool in the ecologist's toolbox and should never be considered on its own without the application of professional judgement and common sense, a fact accepted by all the ecology witnesses. Unfortunately, in the HWAONB Unit's view, it is human nature for non-specialists to latch on to a number and assume they know what it means, without understanding all the caveats and subtleties. The frequent quoting of BNG figures in the Committee Report, the applicant's promotion material and the letters of support submitted[61] suggest that it is being used in this simplistic way when the reality on the ground is likely to be very different, and in the HWAONB Unit's view would represent a net loss to biodiversity.

175. The HWAONB Unit states that the applicant and the Council have both suggested that securing a particular form of management on this Wider Land Holding through the LEMP and S106 Agreement would be a benefit and would protect the remainder of the site from excessive horse grazing in the future. It adds that Ms Marsh's oral evidence explained that the fields and permanent pasture had survived centuries of changing agricultural practice, and recovery from the recent horse grazing was relatively fast. She also explained that, if the development were not to go ahead, the site could be managed through a range of options at near zero cost to the owners, all of which could include some element of natural regeneration and re-wilding, which would increase tree cover and enhance biodiversity naturally. The HWAONB Unit contends that the generic, and in some cases damaging management proposals for the site should not be included in any basket of benefits.

Conclusions on Ecology and Landscape Proposals

176. Overall, the HWAONB Unit's case is that the applicant's claims for landscape and ecology enhancements cannot be relied upon and should not be given any weight in the decision-making process. At best they are generic responses which do not take into account the special character of the HWAONB. It adds that, most of what is being proposed is very similar to that proposed for a 2,000 home development near Rugby, as referred to by Mr Goodwin in oral evidence, which is a very different and undesignated Midland landscape. At worst, in the HWAONB Unit's view, the proposals could result in a net loss to biodiversity contrary to adopted development plan policy and Framework para 180.

177. The HWAONB Unit contends that the proposed development would certainly result in harm to the landscape quality and cultural heritage of the HWAONB and this harm would not be moderated by the proposals set out in the Landscape Statement or the proposed management in the LEMP. Indeed, it adds, these proposals may be harmful in themselves to the High Weald landscape and

[60] ID43, page 12
[61] ID28

certainly should not be considered as benefits, even ordinary ones.

Conclusion

178. The HWAONB Unit states that to make best use of Inquiry time the Rule 6 parties agreed to avoid duplicating evidence, such that it only gave evidence on landscape and ecology. Nonetheless, it adds, as a planning Inquiry, ultimately the evidence must be viewed through the prism of the planning system.

179. The HWAONB Unit says, accordingly, it listened with interest to the planning evidence and in particular to the various interpretations of what Mr Slatford agreed to be the main planning policy, Framework para 177, which says that, when considering applications for development in AONBs, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest.

180. The HWAONB Unit adds that it was put to the Inquiry on behalf of the applicant that none of the circumstances needed to be exceptional in themselves but that a collection of very ordinary circumstances can be bundled up and a conclusion made that the sum total of those is exceptional. The HWAONB Unit presumes this case was made because it is accepted that it may be concluded that none of the so called 'benefits' of this scheme are in themselves exceptional.

181. The HWAONB Unit contends that that approach cannot possibly have been the intention of Government in drafting Framework para 177 or its predecessors. In its view this interpretation of the policy would lend weight to the conclusions of the Glover Review that the policy and / or guidance on major developments in AONBs needs to be strengthened. AONBs are nationally important landscapes, equivalent in value to National Parks, that we hold in trust for future generations to enjoy. The HWAONB Unit maintains that where we have to sacrifice parts of them it should be worth the cost to those future generations, for truly exceptional reasons, not due to a collection of generic and commonplace benefits that could be achieved anywhere in the country.

182. On the subject of housing need, the HWAONB Unit's representation on eLP Policy STR1 points to Framework para 11b (i) which says that strategic policies should as a minimum, provide for OAN unless "the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area". The Planning Practice Guidance (PPG) for AONBs states that "The National Planning Policy Framework makes clear that the scale and extent of development in these areas should be limited, in view of the importance of conserving and enhancing their landscapes and scenic beauty. Its policies for protecting these areas may mean that it is not possible to meet objectively assessed needs for development in full through the plan-making process". The HWAONB Unit states that, if the eLP Inspector accepts its case that the housing provision number should be reduced to reflect the fact that nearly 70% of the Borough is in the HWAONB then the argument for allowing such major developments as proposed at Turnden would fall away.

183. The HWAONB Unit considers that we are not in normal times, we are in a climate and biodiversity emergency and our decisions should reflect this. AONBs are key to meeting these challenges, it adds but they cannot do this if the pressure for more housing trumps all the benefits that protected landscapes

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provide to biodiversity, to carbon sequestration, and to the natural beauty of a historic landscape that future generations deserve to enjoy. For these reasons the HWAONB Unit asks the Secretary of State to refuse planning permission.

The Case for CPRE Kent

Matters of Uncommon Ground[62]

184. CPRE Kent disagrees with the applicant and the Council in respect to:

- Whether sufficient weight has been given to the eC&SNP, or to the analysis of potential residential development sites undertaken as part of the Neighbourhood Plan process;
- Whether sufficient weight has been afforded to alternative sites identified within the Local Plan Process, both within and outside the designated area;
- The appropriate weight to be given to the need to increase the housing land supply, including affordable housing;
- The extent to which the five-year housing supply position is improving within the Borough and the extent to which the eLP impacts this position;
- The degree to which the proposed development would be reliant upon the private vehicle;
- The degree to which the proposed development causes landscape and visual harm to the HWAONB;
- The impacts from the development on the transport network in terms of capacity and congestion at the Hawkhurst junction, Goudhurst and Staplehurst;
- The appropriate weight to be afforded to the economic and the social benefits of the proposed development;
- The degree of harm caused by the proposed development to heritage assets; and
- Whether the air quality impacts of the development have been sufficiently accounted for.

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Introduction

185. The case against the proposed development is a convincing one in the view of CPRE Kent such that planning permission should be refused.

186. It adds that the applicant fielded a raft of new experts who, in lengthy and glossily presented proofs of evidence and presentations to the Inquiry, sought to demonstrate that, far from causing limited harm to the HWAONB landscape and the historic environment, no harm at all would be caused by it and it would bring nothing but benefits to the community, but this evidence was not persuasive.

187. CPRE Kent considers that Cranbrook is a very special place, and its setting is a very special area, both are worthy of protection and applicable planning policy requires that they should be protected. In its view, it is abundantly clear from the evidence that the local community values highly the historic character of the town and the natural beauty and historic character of its setting in the HWAONB. It adds that it is also abundantly clear that the community shares the Council's

[62] Adapted from Section 8.0 of the main SoCG and Air Quality SoCG - CD9.18 and CD9.8

objective of providing adequate housing in Cranbrook & Sissinghurst Parish, especially sufficient, genuinely affordable new homes, on sustainable sites. CPRE Kent says that the difference of view is a simple one, the Council believes that Turnden is the most suitable site for housing to add to those already allocated, while the community believes, on the available evidence, that it is one of the worst of the sites potentially available.

Urban Design

188. Mr Pullan, the applicant's design witness, invited us to conclude that Turnden would be better designed than the existing post-War housing estates in Cranbrook. CPRE Kent says it would hope so on the basis that those estates are not shining examples of urban design and expected standards have risen since the 1960s.

189. Mr Pullan suggested that there was currently the impression of continuous development along the route by road from Cranbrook to Hartley, but in CPRE Kent's opinion, this was shown not to be the case by presenting him with photographs of the A229 in the vicinity of the proposed site entrance.

190. CPRE Kent considers a clear design fault with the proposed development to be the inclusion of a dedicated access road additional to the access road for the TF development. Two access roads are, in its view, unnecessary for 205 dwellings and would cause entirely avoidable harm to the landscape and historic environment. CPRE Kent believes that, had the applicant produced at the outset a master plan for the development of the land in its ownership at Turnden, it is inconceivable that two access roads would have been included, such that the situation faced results from what it sees as the opportunistic approach, first seeking and obtaining permission for the arguably less controversial Phase 1 development and then applying for permission for Phase 2, following the destruction by fire of the listed building and its de-listing, which CPRE Kent says removed at least one obstacle to this development, namely the need to protect the significance of that building. It adds that as a commercial risk management strategy, that approach is entirely understandable, yet as a means of optimising development design at Turnden and minimising its impact on the landscape, it is deficient.

Landscape

191. CPRE Kent states that Ms Farmer for NE and Ms Marsh for the HWAONB Unit provided detailed evidence of the harm to the HWAONB that would be caused by the development, in terms of impact on the natural beauty of the HWAONB, historic landscape features and settlement patterns, etc, and the lack of countervailing benefits. In its view great weight should be attached to their evidence. CPRE Kent adds that Ms Farmer was unduly criticised for not engaging in fine detail of the precise design and landscaping of the development. It adds that, while these matters are relevant, the majority of the harms she identified were the inevitable result of the location, scale and development footprint of the proposals.

192. In CPRE Kent's view, Ms Marsh's detailed knowledge and understanding of the key features of the AHWONB landscape, as they apply to this site, and the impact the development would have, shone through her evidence. CPRE Kent adds that the attacks made on her professional competence and integrity, and the

suggestions that she was swayed by personal considerations, were unedifying. It goes on to say that she is a public servant, doing her job as co-director of the HWAONB Unit, to protect the HWAONB and see that the adopted management plan is followed. It adds that she has lived and worked in the HWAONB for 30 years and knows it intimately, the fact that this site is a mile or more from her home, on the other side of a hill, is irrelevant and raised by the applicant to attempt to discredit her evidence.

193. CPRE Kent states that the applicant's witness, Mr Cook, on the other hand invited us to conclude that the development would cause no harm at all to the HWAONB, despite its converting almost 7ha of agricultural land into a housing estate, spreading spoil over several more hectares, removing existing hedgerows beside the road and creating yet another access road to the A229. In CPRE's view this is an absurd position, as 165 homes and their associated hard landscaping cannot be hidden in this landscape; they would be in plain sight, visible from the A229, from the PROW WC115, across the site, from the BKF site, before and after it is developed and from the PROW WC116, on the opposite side of the Crane Valley. CPRE Kent adds that Mr Cook sought to show that the development would be barely visible from some of these locations or would sit in front of existing or baseline development, which is not the same thing, but in its view, this is not convincing. CPRE Kent considers that much of the existing settlement of Cranbrook is well-hidden in the landscape, whereas the proposed development would not be hidden and nor would the BKF development, any more than Greenway / Goddards Close is now. In CPRE Kent's consideration, a rural landscape, as viewed, for example from WC116, would be transformed into an urban one.

194. The CPRE Kent states that much of Mr Cook's case turned on alleged urbanisation of the landscape in the baseline, relying on three developments, that existing at Goddards Close / Greenway and the planned development at the TF and BKF sites. The first, dating back 50 years or more, is something of an eyesore in CPRE Kent's view, particularly when viewed from the PROWs, but it is reasonably well hidden from the A229 and High Street and so impacts little on the approach to Cranbrook. It is several hundred metres from Turnden, across what are now green fields. The TF scheme is a small development of 36 new homes on what was, at the time the initial planning permission was granted, a farmstead, where development is confined to the footprint of the buildings at the farmstead. The loss of Turnden farmhouse to fire and its subsequent de-listing may, CPRE Kent adds, mean that it is now a former farmstead. The more recent planning permission to build a new "farmhouse" and three more new homes extends the footprint of new development on this site slightly, but in CPRE Kent's view it remains firmly anchored in the farmstead site. In that sense it respects existing settlement patterns. While the applicant suggests that a development of that scale / type could not be a farmstead development, CPRE Kent contends that if the footprint of farm buildings can be developed into 36 homes, why not? They were quite big sheds in its view, as is the case on many farms nowadays.

195. CPRE Kent states that during the Inquiry there was much discussion of whether Turnden was an "isolated" farmstead at the time permission was granted. It adds that the applicant accepts that it is not part of Hartley, from which it is separated by the "green gap". CPRE Kent says that it is certainly now separated from Cranbrook by the greenfield site of this development. CPRE Kent also asks, how isolated does an "isolated farmstead" have to be? Isolated or not,

without this development, it considers that the site is not part of Hartley or Cranbrook. CPRE Kent go on to say that that would change if this development were to go ahead, as the applicant agrees, and the urban area of Cranbrook would extend to the south-western edge of the TF development.

196. CPRE Kent says that the BKF development was held to satisfy the requirements of what is now Framework para 177 in the circumstances in which outline permission was granted in February 2020, notwithstanding that it was a major development in the HWAONB, which would alter the character of the landscape. It would undoubtedly, in CPRE Kent's view, impinge upon the rural character of the Crane Valley, extending to the north-east boundary of the TF site, a consideration to which Mr Cook, Mr Duckett and, in a different context, Dr Miele, attached considerable weight in their analysis.

197. Essentially, in CPRE Kent's opinion, those witnesses' argument is that the landscape of the Crane Valley has already been partially urbanised and any incremental impact on the landscape caused by this development is therefore less than it would have been in the absence of the BKF development. It adds that this approach to assessing harm is incompatible with the protection of the natural beauty of the HWAONB, in accordance with the legislation and the Framework. CPRE Kent maintains that, when the natural beauty and character of some part of a distinct area of AONB landscape is sacrificed to development, in exceptional circumstances, what remains of that landscape should be regarded as *more* precious and worthy of protection, not less so. The approach advocated by the applicant's and the Council's witnesses leads, in CPRE Kent's view, inevitably to a progressive lowering of the threshold for urban expansion in the HWAONB, as a settlement expands, such that it should be emphatically rejected.

198. CPRE Kent states that Mr Cook suggested that only a landscape historian would notice the harm to the medieval landscape caused by the development. It adds that the evidence of its witness Ms Daley[63] on landscape shows that she, at least, appreciates the history of the countryside she enjoys as a Cranbrook resident and this is supported by the evidence of Ms Gill and Ms Bell, local residents who addressed the Inquiry. Indeed, the level of support for eC&SNP policies protecting the Crane Valley, existing settlement patterns and green gaps and historic landscape character, recorded in Ms Warne's planning evidence[64], shows in CPRE Kent's view how highly these landscape characteristics are valued by the Cranbrook community.

199. Regarding the 'green gap' between Cranbrook and Hartley, CPRE Kent says it has consistently argued that it would be effectively eliminated by the development. It adds that Mr Cook's oral evidence was that, to the north-west of the A229, the gap represents the fields between Goddards Green farmstead and Turnden Road, "washing over" the short row of houses which is Orchard Way. All the landscape experts accept this. It is also uncontroversial in CPRE Kent's view that, on that side of the A229, Hartley continues as far as Turnden Road, but no further, while Orchard Way is not to be regarded as part of Hartley or Cranbrook. CPRE Kent goes on to say that, on the south-east side of the A229, it is common ground that the gap is currently the fields between the War Memorial and the start of the "ribbon development", which is where Hartley starts. It adds that,

[63] NB while primarily a transport witness, Ms Daley's Proof also refers to landscape matters
[64] CD23.3.3, ID49 and ID50

once the BKF development is built, that gap would be reduced by the built footprint of that development.

200. CPRE Kent states that once the TF development is built, however, development would be continuous along the south-east side of the A229 all the way to the western edge of that site. It adds that all that would remain "green" is the narrow corridor of field before the ribbon development starts, which is to be planted with trees. Leaving aside the argument that this "green gap" is too narrow to represent a true separation of the two settlements along that side of the road, in CPRE Kent's opinion, there would be a discontinuity between that gap and the gap on the north-west side of the A229.

201. Consequently, CPRE Kent considers that there would be a short, narrow isthmus of development linking Cranbrook and Hartley on the north-west side of the A229 between Turnden Road and the entrance to the TF site. The applicant's evidence is that the green gap also includes the narrow strip of land, of varying widths between 50-80 metres, not much more than a generous front garden in CPRE Kent's view, that would run along the road frontage of the developed BKF site, TF site and the application site. CPRE Kent adds that the additional three houses recently permitted at the TF site would nibble slightly into this strip. In its view, that would be an artificial construction of settlement and landscape that could be understood only by an expert, whereas the general public would see almost continuous development on one side of the road and the field and orchard of Goddards Green on the other side.

Historic Environment

202. In CPRE Kent's opinion Ms Salter, the Council's heritage witness, gave clear evidence of the harm that would be caused to the character of the Cranbrook Conservation Area and certain listed buildings closer to the development, namely The Cottage, Goddards Green and Goddards Green Barn. It adds that she was firm in her view that the degree of harm was at the higher end of less than substantial harm in the case of the Conservation Area and towards the lower end in the case of the listed buildings, and she considered that the green wedge of the Crane Valley, reaching to the Conservation Area, was an element of its setting which was important to the significance of the Conservation Area.

203. CPRE Kent submits that Ms Salter's evidence should be accepted. In its view she is an experienced conservation officer and her view on the effect of the development has been consistent throughout. Furthermore, it adds that she has had to consider many other proposed developments in the setting of the Conservation Area, including those at the BKF and TF sites, and the approach she has taken has been a careful and consistent one. CPRE Kent maintains that one of the features of the proposed development which Ms Salter identified as harmful to the Conservation Area was the addition of yet another access road to the A229, an entirely avoidable harm which could be mitigated by combining the access with that to the TF site.

204. Ms Salter considered that the harm to the significance of Goddards Green and its associated barn was less severe, chiefly due to them being separated from the site by the road. CPRE Kent says that this may seem surprising, as the road has been there, as a feature of the landscape, since Jutish times. It adds that livestock may not often be driven along or across it these days, but that hardly seems sufficient to discount half the rural setting of this farmstead.

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205. Mr Page, CPRE Kent's heritage witness, gave evidence supporting the Conservation Officer's comments on the planning application concerning the harm to heritage assets, specifically in relation to the Conservation Area. Referring to the Conservation Area Appraisal he pointed out that the character of the Conservation Area is defined by its relationship to the landscape and the degree to which the landscape reaches the town. CPRE Kent considers that relationship to setting is the first distinctive feature of the Conservation Area, the first element listed in Chapter 3 of the Conservation Area Appraisal, a point Mr Page maintained on cross-examination. He accepted that this development would not lead to substantial harm to, or total loss of a designated heritage asset, a view which he also maintained on cross-examination. Ms Salter identified in re-examination those matters in Mr Page's evidence with which she disagreed. They are not, in CPRE Kent's submission, material. It considers that the important point is that both Mr Page and Ms Salter agree that the harm to the significance of the Conservation Area is serious and should be given weight.

206. Dr Miele took a different view. CPRE Kent says that his approach focussed heavily on the impact of the BKF development, interposed between the Conservation Area and the development such that it would prevent harm arising, or in other words if you could not see the development from the Conservation Area, how could its setting be harmed? CPRE Kent contends, however, that this is to take an entirely static view of the issue, which in its opinion does not accord with Historic England guidance. It adds, if the experience of entering or leaving the Conservation Area is affected by urbanisation, harm to its significance can arise, and does arise in this case.

207. Dr Miele also suggests that seeing something is not enough to create a meaningful and material setting relationship, which CPRE Kent considers is an opinion that appears to negate the principles of LVIA. It adds that there are four types of heritage value that an asset may hold: aesthetic, communal, historic and evidential value, which are all adversely affected by the proposed development; visual, that is aesthetic appreciation, is a major contributor to understanding this setting.

208. CPRE Kent also states that Dr Miele suggested that there was no economic connection between Turnden and Cranbrook, but did not offer any evidence that Turnden was less connected with the town, economically, than any of the other farmsteads surrounding Cranbrook.

Transport

209. CPRE Kent acknowledge that its witness, Ms Daley, made no pretence of being an expert on transport, but adds that her clear and straightforward evidence, based on 30 years of living and bringing up a family in Cranbrook, showed how little use of public transport residents of the development could be expected to make. It contends that commuting to work by bus is simply not feasible and cycling is for the foolhardy only on these roads. CPRE Kent maintains that Ms Daley also showed how likely it was that Turnden residents would make most of their local journeys by car, adding that it is a stiff walk to and from the town centre from the site, with a hill to climb on the way back, not much reduced in length by the proposed route through the BKF development, along busy roads with narrow pavements. She also submitted that the prospective closure of The Weald Academy in 2022 would lead to all children in Cranbrook requiring non-selective secondary education, including residents at Turnden, to travel to

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another town for their schooling. CPRE Kent says that even if a dedicated bus service were to be provided for them, many additional car journeys would be generated by this change and that the closure of the Weald Academy would make Turnden an even less sustainable development than it would otherwise have been.

210. CPRE Kent says that Mr Bird, the applicant's transport witness, considers a development to be sustainable if it is *possible* for residents to make some local journeys on foot or by bike. In CPRE Kent's view, this is a very low threshold and tends to demonstrate that, for transport purposes, "sustainability" is a tick-box exercise, saying little if anything about the environmental impact of a development. It adds that Mr Hazelgrove made a similar point when he said that it was sufficient for the development to be sustainable that residents were not reliant on their private cars, even if it could be expected that most of their journeys would be made by car. CPRE Kent considers that it is all too clear from the Travel Plan that this would indeed be the pattern of transport use by Turnden residents. It adds that, even if the Plan is fully achieved, after five years 62.34% of all trips would still be made by private car[65], improving by as little as 1% per annum from the baseline. These projections, CPRE Kent presumes, take into account the willingness of country dwellers to walk further than town dwellers to access their local services. If this development is "sustainable", in CPRE Kent's view, it is at the lowest level of sustainability to pass the test.

211. CPRE Kent goes on to say that at least one point of connectivity between the proposed development and that at the BKF site may be problematic owing to a strip of unregistered land, the owner of which is unknown. Mr Hazelgrove suggested that this may be resolved through the use of compulsory purchase powers, whereas Mr Slatford said the loss of one point of connectivity would not be material. CPRE Kent comments that, whilst the details regarding this issue are still emerging, there must be a degree of uncertainty with respect to providing all the required pedestrian and cycle links between the two developments.

212. CPRE Kent refers to Mr Bird's written evidence identifying a "solution" to the increased traffic the development would cause through Hawkhurst crossroads, in the form of improved traffic signalling, which would reduce queuing times by at least as much as the development would increase them. While CPRE Kent welcomes this, it adds that it would be paid for by money that would otherwise have paid to improve local bus services, so it would not in CPRE Kent's view contribute to the sustainability of the development. It adds that Mr Bird's suggestion that the improved signalling would reduce bus journey times and improve service reliability had not, it appeared, been tested with KCC or local bus operators.

213. CPRE Kent further comments that, should the Hawkhurst Golf Club development of 374 new C2 and C3 homes, a community building and a new relief road[66], be permitted on appeal, the case for the improved signalling may fall away. It adds that while it is certainly the case that traffic flows through the crossroads would be radically altered, in that event, either the money spent on new signalling would be wasted, producing no lasting public benefit, or the

[65] CD5.4.3, Table 1
[66] CD22.1 and CD22.2

applicant would be relieved of its financial obligation by the fortuitous circumstance of permission being granted for another, unconnected development.

Air Quality

214. CPRE Kent considers that air quality is a subject of great technical complexity and that the assessment of it provided by the applicant is clearly inadequate. It adds that for the position to become clear the applicant had to provide two additional reports, Dr Marner's of evidence and rebuttal evidence, which enabled CPRE Kent's air quality witness, Dr Holman, to provide a clear view on the effect of the proposed development on air quality in Hawkhurst.

215. CPRE Kent adds that the air quality objective of relevance for nitrogen dioxide (NO_2) is 40 µg/m^3. The Air Quality Assessment (AQA)[67] predicts that this objective was exceeded at five locations on Cranbrook Road, Hawkhurst in 2019 and this target will not be achieved until 2025. CPRE Kent states that with the development the number of exceedances would remain the same, but concentrations would increase, albeit by a small amount. The impacts are described as moderate or slight but are judged not to be significant.

216. CPRE Kent says that the background concentrations of NO_2 in Hawkhurst are very low. Road traffic on Cranbrook Road it adds is also relatively low, yet NO_2 concentrations in 2019 were approximately 30% above the objective. The traffic is responsible for the majority of the measured NO_2 and therefore, the assessment is very sensitive to any errors in the traffic data in CPRE Kent's view.

217. It contends that health evidence shows that adverse effects occur well below the objective. In 2020 a Coroner concluded, for the first time, that air pollution exposure was a contributory factor in the death of Ella Adoo Kissi-Debrah, a nine year old girl. In September this year, the World Health Organization revised its air quality guideline from 40 µg/m3 down to 10 µg/m3.

218. The Framework states that planning decisions should:

- Prevent development from contributing to unacceptable levels of air quality, para 174;
- Development wherever possible should help to improve air quality, paras 174, 185 and 186;
- New development should be appropriate for its location considering the likely effects including cumulative impacts from individual sites and the effects of pollution on health, paras 185 and 186;
- Planning decisions should sustain and contribute towards compliance with the national objectives for pollutants, taking into account the presence of Air Quality Management Areas, para 186; and
- Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan, para 186.

219. Core Policy 5 expects all development to manage, and seek to reduce, air pollution levels. The eLP contains two air quality policies, Policies EN 21 and

[67] CD2.6, including Tables A3.1, 3, 4, 5 and 8

EN 22. CPRE Kent states that, the overall aim is to improve and maintain levels of air pollutants to reduce exposure to poor air quality. In CPRE Kent's view it requires sensitive receptors to be safeguarded at all times. The Council's Hawkhurst air quality Planning Position Statement states that if there are "only moderate, slight or negligible air quality impacts, applications will be assessed based on the numbers of properties affected, and extent of proposed mitigation".

220. CPRE Kent considers that the areas of dispute between Dr Holman and the applicant's witness, Dr Marner, were uncertainty, cumulative impacts, significance of predicted effects and the need for mitigation measures.

221. Regarding 'uncertainty', CPRE Kent states that the AQA does not adequately consider the uncertainty when concluding that the effects are not significant. It adds that it fails to consider the impacts of the COVID 19 pandemic, which it says is likely to be the most significant uncertainty facing the prediction of air quality for the next few years. For example, it says, there has been a 30% reduction in new car registrations between 2019 and 2020, which will impact on vehicle turnover and hence traffic emissions. Another example, it adds, is whether public transport patronage will return to pre-pandemic levels. In its view, there currently remains a significant number of people working from home, yet traffic levels, at least on average, appear to be close to or above pre-pandemic levels.

222. CPRE Kent also states that another source of unacknowledged uncertainty is the meteorological data used. Data from an observation site 21 km from Hawkhurst was used. Dr Holman and Dr Marner disagreed over the use of numerical weather prediction data. Dr Holman's firm's data is at a 3km by 3km resolution across the UK and shows, in CPRE Kent's opinion, that there can be significant variation in wind speed and direction from one 3km grid to the next.

223. Regarding 'cumulative impacts', CPRE Kent refers to Dr Marner's submissions regarding the cumulative impacts raised by Dr Holman, which show that, without cumulative traffic growth or the proposed development, the objective would be achieved approximately one year earlier. It adds that Dr Marner also showed that the cumulative impact was an additional 2-3 $\mu g/m^3$ of NO_2, such that the residents effected would be exposed to higher concentrations for longer than if the developments did not take place. Framework para 185 and the PPG requires the cumulative effects to be considered.

224. Regarding 'significance of effects', CPRE Kent says that EPUK/IAQM guidance[68] was used to reach the conclusion that the effects are not significant. This guidance states that it is likely that a 'moderate' or 'substantial' impact will give rise to a significant effect. CPRE Kent states that no explicit consideration appears to have been given in the AQA, in coming to its conclusion, to the uncertainty of the future traffic data, particularly the indirect impacts of the pandemic. In its view, these should have been addressed more fully to provide transparency.

225. Regarding 'mitigation measures', CPRE Kent says that those included in the AQA are standard measures and would not improve air quality impacts in Hawkhurst. It contends that no evidence has been provided that the proposed change to the signalling at the Hawkhurst traffic lights would mitigate the

[68] CD22.3

impacts. Dr Holman did not agree with Dr Marner that it is highly likely that these changes would improve air quality within the Hawkhurst Air Quality Management Area (AQMA), and she thought it impossible to predict or guess the impacts. National planning policy requires adverse impacts to be mitigated.

226. Framework para 186, CPRE Kent says, requires planning decisions to provide opportunities to improve air quality and the development plan, via Core Strategy Policy 5, requires all new development to seek to reduce air pollution levels. The development would, it contents, result in a deterioration, albeit small, in air quality in Hawkhurst and is not consistent with national and local planning policy because the moderate impacts on air quality could cause significant effects on human health and no measures have been shown to mitigate these impacts. In addition, CPRE Kent states that planning policy requires development to seek opportunities to improve air quality but adds that this has not been done. In determining whether or not there would be a significant effect, in CPRE Kent's view, the applicant has failed to consider the uncertainties in the assessment, especially those resulting from the COVID-19 pandemic. The eLP explicitly states that sensitive receptors will be safeguarded at all times.

227. CPRE Kent considers that Dr Marner said in cross-examination that the staff and customers of the several retail and business premises in close proximity to the relevant receptors could be ignored, as the relevant air quality regulations did not apply to them. It adds that when the coroner considered the death of Ella Adoo Kissi-Debrah, he considered the WHO guidelines not whether the regulations apply or not. CPRE Kent contends that more individuals than the residents of the two identified homes would suffer a health risk due to the development.

Planning

228. CPRE Kent supports NE's objection to this development on planning grounds. It does not accept that the requirements of Framework para 177 have been satisfied such that permission should be refused. In its view, neither the applicant nor the Council have demonstrated that circumstances are exceptional or that the development would be in the public interest.

229. CPRE Kent contends that it pointed out throughout the Inquiry that the use of the word "exceptional" in para 177 is deliberate and should be given its ordinary meaning. The need for new housing in Tunbridge Wells, and more locally in Cranbrook, is not in its view exceptional, nor are the alleged benefits of the development. Rather, it adds, where benefits have been identified, these have been the exact opposite of exceptional, they are ordinary and routine and, in many cases, amount to little more than necessary mitigation. There are, it says, reasonable alternative and less harmful ways of meeting the local housing need in Cranbrook.

230. For these reasons, CPRE Kent says that it remains firmly of the view that the harmful impacts of the development significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the adopted development plan and the Framework.

231. In CPRE Kent's view, NE's planning witness, Ms Kent, provided in her proof of Evidence a very clear and comprehensive demonstration of the reasons why planning law and policy require that permission for this development should be

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refused. With reference to Ms Kent's cross exanimation, CPRE Kent adds that it is not for it to say what NE's policy is, or should be, but observes that there is nothing to suggest that NE has a rigid policy on the subject of major development in AONBs in general, or the HWAONB in particular. Indeed, CPRE Kent says that it is clear from NE's statements and evidence that it was fully aware of the legal context on which their policies on development in the AONB are to be applied. It adds that it is equally clear that, in choosing to object to this development, NE carefully considered the features of the development which they considered most material, namely its location and scale and the inevitable harm that such a development would cause to the HWAONB.

232. Furthermore, in CPRE Kent's opinion, there is a body of evidence to show that NE should be sceptical about claims by developers or local planning authorities that the requirements of Framework para 177 are met to justify major developments in AONBs. CPRE's periodic reports on the amount of development in AONBs, most recently Beauty Still Betrayed: The State of Our AONBs[69], show a persistently high level of development in AONBs, especially on greenfield sites.

233. In this regard CPRE Kent quote from the 2021 report's conclusion: *"The case is clear: our Areas of Outstanding Natural Beauty are facing needless and increasing pressure from housing developments. This pressure is being seen predominantly in the south east and south west of England where local authorities struggle to balance to meet the required housing targets imposed on them by central government, and the protection of AONBs under their care. However, it is evident from this report that reaching numerical housing targets is prioritised over protecting these precious landscapes. Developers are also applying sustained pressure on local authorities through an increasing number of planning applications being submitted on greenfield AONB land and local authorities continue to grant a high proportion of these applications in pursuit of housing numbers. However, the developments are land hungry, and are not helpful in reducing the impact of the affordable housing crisis. These results are a far cry from the 'highest planning protections' that AONBs are meant to enjoy".*

234. CPRE Kent says that more and more development is being permitted in AONBs throughout the country and the HWAONB is one of those worst affected. The report covers the period April 2017-August 2020. Tables A1 and A2 show that, during that period, of all AONBs the High Weald has had the highest number, 932, of permitted housing units on greenfield sites over 10 dwellings, and the second highest number, 1012, of housing units on greenfield and brownfield sites over 10 dwellings. While CPRE has not separately measured major development in AONBs, CPRE Kent considers that it seems clear that what should be exceptional is becoming commonplace.

235. CPRE Kent's planning witness, Ms Warne, is not a professional planner, she is a Parish Councillor who for the past four years has chaired the Cranbrook & Sissinghurst Neighbourhood Plan Steering Group. In her evidence, CPRE Kent says, she explained the detailed and painstaking work the Steering Group has undertaken and commissioned to produce a Neighbourhood Development Plan that would reflect the needs and expressed wishes of the local community and therefore be supported in a referendum and be consistent with the strategic

[69] CD16.7

planning policies of the Council. She explained the many ways in which the Steering Group had sought to inform and engage with the community in the neighbourhood planning process.

236. CPRE Kent states that Ms Warne described in some detail the dialogue with the Council's Planning officers and other circumstances which led the Steering Group and Parish Council to conclude that it would be expedient to consult on a draft Neighbourhood Plan which did not include site allocations, despite the detailed work they had undertaken, with the professional advice and support of AECOM, to identify more than 50 potential sites for development in the Parish. They had selected a shortlist of 20 of those sites for further consideration, based on their assessment of their suitability, and the application site did not even meet the criteria for shortlisting. CPRE Kent says that it was rejected, in particular, on the grounds of its harmful impact on the landscape.

237. CPRE Kent goes on to state with reference to Ms Warne's oral evidence that, from this shortlist of 20 sites, three options for site selection were identified, all of which would have more than met the housing allocation now proposed for the Parish by the Council in the eLP. It adds that the application site was included amongst those sites on the basis that it was known that the Council intended to propose the site for allocation in the Reg 18 eLP. Ms Warne told the Inquiry that *with a fair wind* a Neighbourhood Plan for Cranbrook & Sissinghurst, incorporating site allocations based on one of those options, which more closely aligned with the community's preferences and which did not include the application site, could by now have been adopted.

238. Ms Warne's evidence, CPRE Kent contends, shows that reasonable alternatives to the development were identified and that while most of them may be in the HWAONB, none would be so harmful to the landscape and several might be thought to be more sustainable. In its view she also demonstrated that the work undertaken by the Steering Group and AECOM, which included site visits to all sites considered, was no less thorough than the site assessments undertaken by the Council for the purposes of the eLP.

239. CPRE Kent accepts that the site assessment work by the Steering Group and AECOM was incomplete when it was discontinued in summer 2019 and note that circumstances have changed since then. It adds that some of the alternative sites are not available, while others have been the subject of planning applications which have been refused. However, CPRE Kent maintains that in detailed cross-examination Ms Warne maintained, based on her close knowledge of each site, that there was sufficient potential for development on alternative sites to substitute for the proposed development. Due weight, it adds, should be given to her evidence and the work it is based on.

240. CPRE Kent says that Mr Hazelgrove takes the view that the correct place to consider alternative sites is within a local plan process. It adds that it wholeheartedly agrees and submits that this is exactly why Framework para 177 states that permission for major development should be refused except in exceptional circumstances. In CPRE Kent's view, this recognises that the local plan process is the correct way to grapple with complex issues such as borough-wide site alternatives. It adds that there needs to be truly exceptional circumstances if any area of AONB is released to major development, without the in-depth and transparent scrutiny of an examination in public.

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241. CPRE Kent considers that Mr Hazelgrove's evidence appear to take the view that a full and detailed review of alternatives was not possible in the context of a planning application, despite the clear requirements of Framework para 177(b). CPRE Kent maintains that, in the context of its own view that to rely on the eLP evidence base and proposed strategy to meet the para 177(b) would be flawed, given it has yet to be examined or found to be sound, Mr Hazelgrove offered the view that the eLP sites and strategy should be preferred, as they had been prepared by professional planners. CPRE Kent adds that Mr Hazelgrove accepted that AECOM, who had undertaken the eC&SNP site assessment, were also professional planners, yet both he and Mr Slatford, the applicant's planning witness, agreed that the review of alternative sites could be no less thorough than for a Local Plan, if it was to satisfy para 177(b).

242. CPRE Kent adds that, Ms Warne also explained that, following thorough consideration of the many responses to the Reg 14 eC&SNP, the Steering Group intend to proceed with a Reg 16 consultation on an amended draft Plan. The policies in this Plan concerning the protection of the Crane Valley from further development, the protection of the historic landscape and the protection of the historic settlement pattern and green gaps between settlements, which were contained in the Regulation 14 draft, will, CPRE Kent says, be carried forward, unaltered in their essentials, to the Reg 16 draft. In its view, this development is consistent with none of these policies. It adds that weight should be given to the eC&SNP, because in all relevant respects it reflects the considered view of the community, obtained through a very thorough consultation, that this development is wrong for Cranbrook.

243. CPRE Kent maintains that, underpinning both the Council's and applicant's case that there are exceptional circumstances in the context of Framework para 177(a) is the requirement to meet the local housing need. It is common ground that, in the eLP, this is currently informed by the standard method. However, CPRE Kent submits that it will contest this at the eLP examination[70] on the basis that the constrained nature of the Borough provides compelling justification to depart from this starting point.

244. CPRE Kent says that it is also common ground that the current five-year supply deficit is just 0.11 years against the standard method target. It maintains that Mr Hazelgrove and Mr Slatford agreed that this figure reflects a continued improvement in the supply over previous years. CPRE Kent also states that it amounts to the highest annual rate of delivery within the Borough on record, which it sees as a particularly impressive feat against a background of the pandemic and national lockdowns.

245. CPRE Kent queries the proposed affordable housing tenure split which would deliver an affordable rent offering that is below the Council's Affordable housing SPD requirement. Mr Hazelgrove's view, as set out at para 5.24 of his proof of evidence, was that this tempered the weight that should be given to the applicant's stated benefit arising from the over-provision of affordable housing.

246. Overall on the need for both market housing and affordable housing, CPRE Kent states that Mr Hazelgrove and Mr Slatford agreed that this was a pressing need across the country. When suggested that this meant a localised need was,

[70] CD9.7.3, p2

therefore, not exceptional in itself, CPRE Kent maintains that Mr Slatford agreed that it was not the need for housing in itself that equated to exceptional circumstances, rather it was a contributory factor, alongside other benefits.

247. With respect to those wider benefits, it remains CPRE Kent's position that these are normal, rather than exceptional. Elements such as construction workers generating additional expenditure in the local economy and children's play areas do not really amount to significant benefits in its view.

248. CPRE Kent accepts that the provision of market and affordable housing is clearly a benefit of the proposal and that there are certain other benefits to the scheme. However, the case being advanced is that any number of these unexceptional benefits can be added together until the package being offered is deemed exceptional, but in CPRE Kent's view, it is not. It adds that if the benefits of this unremarkable development were to be considered exceptional, this would simply erode the safeguards to the HWAONB secured by Framework para 177 allowing what should be the exceptional loss of AONB to major development to become commonplace.

Hawkhurst Golf Club

249. The Golf Club site is located in the HWAONB, some 5km from Turnden. The planning application for that site is opposed by the Council, rightly in CPRE Kent's view. It is the subject of an appeal the Inquiry for which recently concluded. That site is not allocated in the eLP. It does not appear to CPRE Kent that there are any outstanding highways issues associated with that proposal. Should permission be granted for that development, the consequences would, in CPRE Kent's view, be highly material to the decision to be taken in this case.

250. CPRE Kent considers that the Hawkhurst Golf Club development would dwarf all other proposed development sites in the eastern part of the Borough and in terms of new homes, it would make up, several times over, the current shortfall in five-year housing land supply in the area. It adds that it would equate to more than double the housing allocation for Hawkhurst and more than 45% of all housing allocations for the eastern part of the Borough in the eLP and it would provide almost as many new homes as the application site and the BKF and TF sites combined.

251. CPRE Kent maintains that, if the Hawkhurst Golf Club development were to be permitted, its size and proximity to Turnden and Cranbrook would, amongst other things, call into question the weight to be attached to the benefit of the housing to be provided at Turnden, a factor which has been highly material to the Council's support for the present application. In that event, CPRE Kent suggests that the Council would need to reconsider the housing site allocations in the eLP, at least for the eastern part of the Borough. CPRE Kent states that Mr Hazelgrove accepted that, if permission were to be granted, it would be taken into account by the Inspector examining the eLP. It adds that he thought that, at most, it might affect allocations in Hawkhurst, but CPRE Kent disagrees.

252. In CPRE Kent's submission, this eventuality should be born in mind when deciding the current planning application and a way found to take into account the possibility of such a material change in circumstances. CPRE Kent contends

that it has identified a solution as set out in its submissions on these proposals[71].

Conclusion

253. In conclusion CPRE Kent offers a headline summary of each of the five matters about which the Secretary of State particularly wished to be informed.

254. *Government policies for conserving and enhancing the natural environment* - CPRE Kent considers that this development would be inconsistent with the applicable provisions of Framework Chapter 15, in particular for the reasons given by NE and the HWAONB in their submissions and the evidence of their witnesses. It contends that Considerable weight should be given to this consideration.

255. *Government policies for delivering a sufficient supply of homes* - CPRE Kent states that the provision of 165 new homes in a suitable and sustainable location in the eastern part of the Borough is consistent with Framework Chapter 5. It adds, however, that Turnden, is neither suitable nor sustainable in any meaningful sense. It also considers that there are alternative ways of providing a similar number of homes in the area, more sustainably and at the expense of less harm to the natural and historic environment, such that little weight should be given to the benefit of the housing that would be provided on this site.

256. *Government policies for conserving and enhancing the historic environment* - This development would, in CPRE Kent's view, be inconsistent with Framework Chapter 16, for the reasons given in its own submissions and those of the HWAONB Unit and by their witnesses, as well as by the Council's Conservation Officer, Ms Salter. CPRE Kent contends that considerable weight should be given to the harm to the historic landscape, the Cranbrook Conservation Area and the listed buildings identified in the evidence.

257. *Government policies promoting sustainable transport* - CPRE Kent states that Mr Bird's evidence was that the site is "sustainable", but the practical evidence of Ms Daley shows that the development would have little impact on the use of sustainable transport, even if all the proposed links through the BKF site can be provided. Accordingly, in its view, negligible weight should be given to this consideration.

258. *Consistency with the development plan and the weight to be attributed to the policies in the emerging development plan* - CPRE Kent considers that the proposed development is inconsistent with the development plan and that little weight should be given to the inclusion of the site in the eLP, in view of the stage it has reached and the objections voiced to such allocation.

259. CPRE Kent also requests that air quality is taken into account in the determination of the planning application. In its assessment the proposed development would increase air pollution in what is soon to be designated an AQMA, with the result that permitted limits to NO_2 concentrations would be exceeded for longer than would otherwise have been the case. This, in CPRE Kent's view, would be inconsistent with national and local planning policies. It adds that both future uncertainties and developing understanding of risks to human health point to a precautionary approach to this matter and considerable

[71] ID56

weight should be given to it.

260. CPRE Kent concludes that permission for this development should be refused for the reasons summarised here, as set out more fully in the submitted evidence.

The Case for Tunbridge Wells Borough Council

Introduction

261. The Council considers that this is a rare scheme delivering a package of exceptional benefits on a site located adjacent to the settlement boundary of a tier 2 settlement which would deliver much needed housing and above policy compliant affordable housing in the town of Cranbrook, an area that suffers from an ageing population and declining affordability[72], and which delivers landscape enhancements which Mr Duckett says would breathe life into the site, biodiversity enhancements, develops only 20% of the overall land area and, ultimately, provides a robust and defensible settlement edge in perpetuity.

Starting Point for Determination

262. The Council states that the decision-maker must:

a) Have regard to the statutory development plan (section 70(2)) of the Town and Country Planning Act 1990 (the 1990 Act);

b) Have regard to material considerations (section 70(2)); and

c) Determine the appeal in accordance with the development plan unless material considerations indicate otherwise (section 38(6) of the Planning and Compulsory Purchase Act 2004).

Development Plan & Policy Weight

263. The judgment of the Supreme Court, in *Suffolk Coastal DC v Hopkins Homes Ltd*; *Richborough Estates Partnership LLP v Cheshire East Council*[73] confirms that legislation gives primacy to the development plan. However, the Council does not have a 5-year housing land supply and its policies are, therefore, deemed to be out of date. There is no challenge from any party to the current published position of a supply of 4.89 years. The Council is not delivering a sufficient supply of homes and does not have a Framework compliant supply of deliverable housing sites. It has taken action to address this in the form of the work to prepare its draft local plan[74] which seeks to meet its housing needs in full.

264. However, the Council adds, an analysis of weight to policy still needs to be undertaken and Mr Hazelgrove carefully considered this in his written evidence, assessed the policies for consistency with the Framework[75] and was mindful of the findings of the Inspector in the Gate Farm, Hartley appeal[76], which in the Council's view is a highly relevant decision letter.

265. In short, whilst the strategy of the Core Strategy is consistent with the Framework in directing development to the most sustainable locations and

[72] CD9.7.1, para 150
[73] CD20.11
[74] ID64
[75] CD23.2.1, p117-127
[76] CD19.8

protecting natural and built assets, the Council states that many of the policies are based on, or link back to, the out-of-date housing requirement and the too tightly drawn LBDs.

Emerging Local Plan

266. The Council is committed to plan led development. It says that it has invested significant resources into its Local Plan and made substantial progress with several important stages completed, including the submission of the Reg 19 version of the eLP to the Planning Inspectorate on 1 November 2021.

267. The Council says that it has taken its time, despite the pressure, because it wants to get this right, and that it has consulted properly, considered representations properly, worked with objectors and statutory consultees. In a constrained Borough, in its view, it should be commended for the significant effort that has been required to find the land it has that would provide the supply it needs in full. The new Local Plan, the Council says, would allocate sites in the best possible locations with the right infrastructure to support them and which cause the least harm in an area which is acknowledged to be constrained.

268. Mr Hazelgrove's position is that the eLP now carries moderate weight as it is at an advanced stage.

Draft Neighbourhood Plan

269. Evidence about the eC&SNP was given by Cllr Warne who is a Parish and a Borough Councillor. She was on the Board of the Crane Valley Land Trust (CVLT) which, as the Inquiry heard on Day 1 from Mr Kemp, attempted to purchase the application site at approximately the same time as the applicant. She has resigned from the Board but is still a member of the CVLT, as is Philippa Gill who spoke against the application at the Inquiry. The Council's states that she did not accept that the "appearance of bias" which prompted her to resign from the Board also applied to her membership. It adds, however, she did accept that, as she had been on the Board, and part of the decision-making body seeking to buy the application site, her views about the site could be influenced by that background. She spoke against the application at the Planning Committee[77].

270. The eC&SNP has reached Reg 14 stage. Whilst a draft Reg 16 version was submitted to the Inquiry, the Council states that it does not exist in the public domain and that it has provided the Steering Group with detailed notes as to its continued concerns, heavily based on feedback received from Examinations of other Neighbourhood Plans in the area[78].

271. The Council maintains that the eC&SNP has made slow progress compared to other Neighbourhood Plans. Lamberhurst, Goudhurst and Benenden all started at around the same time as Cranbrook and Sissinghurst but have all progressed faster. The Benenden Neighbourhood Plan allocates sites and has been through Examination.

272. The Council says that there is a spectrum of opinion as to what happened when, why and how in relation to the progress of the eC&SNP and its failure to

[77] CD9.7.6, p2
[78] ID54

allocate sites[79]. It sees this is a distraction for the decision-maker and is not relevant. It adds, however, that it is important to note that, in its view, it has a record of working with local groups to assist and support them with Neighbourhood Plans and this is reflected in the fact that four have now been made. The Council maintains that with the background and experience of dealing with other steering groups to inform judgement, it considered that the eC&SNP Steering Group were wavering and struggling with the process, and the lack of progress which could have seriously impacted the much needed local plan, the Council lost confidence in the Neighbourhood Plan allocating appropriate sites within the relevant timeframe.

273. The Council contends that had the draft eC&SNP allocations the Inquiry was told about, for the first time, during Ms Warne's oral evidence been progressed, most would have failed. The Council maintains that Mr Hazelgrove's evidence shows[80] they were either unsafe in highways/pedestrian terms, had been refused planning permission, had received poor feedback at pre-application stage, had been refused on appeal, had been recommended not to be developed in the HDA LVIA[81], were poorly located in sustainability terms, and / or were identified as not suitable, available, achievable in the Strategic Housing and Economic Land Availability Assessment (SHELAA)[82]. It adds that the list of draft proposed sites also failed to include a current and future allocation, Corn Hall.

274. The Council contends that the sites that Ms Warne claimed could have been allocated to meet Cranbrook's need would not have been allocated. Mr Hazelgrove's consideration of the yields identified in the AECOM report produced for the eC&SNP assessed against more recent information than AECOM had in June 2019 was that the sites being proposed, without the application site, could have yielded only 21 dwellings[83]. The Council add that, in any event, the application site was found by AECOM not to lead to any significant negative effects[84]. Contrary to CPRE Kent's Closing Submissions, the Council considers that Ms Warne got nowhere near to demonstrating that there was sufficient potential for development on alternative sites to substitute for the proposed development.

275. Her comments were, in the Council's view, generalised and all disposed of by Mr Hazelgrove in his oral evidence. For example, it adds that, he was clear that he could see no way of accommodating 30 dwellings at site 125, there was no way of accommodating an access at site 133/71 without removing the important wooded island and site 409 is not available. Furthermore, it says, responses like "there is a farmgate access" at site 32 does not overcome an objection regarding safe site access for 70 dwellings and statements relating to her grandparents cycling on Hartley Road in the 1950s are not relevant to safe accessibility today.

276. The Council contends that what Mr Hazelgrove actually said was that alternatives to the allocation of the Turnden site were best addressed through the Local Plan process, whereas he did not state that a full and detailed review of alternatives was not possible. It adds that he stated that a Borough-wide review

[79] CD23.6.5, See Appendix 1
[80] ID52 and ID53
[81] CD14.3.9 and CD14.3.9a
[82] CD14.2.8
[83] ID52
[84] ID47, p27

would not be reasonable and relied on case law to support his approach at the planning application stage. In any event, the Council says that the evidence of a Borough-wide review exists in the form of the SHELAA, while Ms Warne had not even considered / put forward an alternative number. It adds that the highest she could put it was that there were still sites that could "contribute". The Council considers that this is not the same as meeting needs without the site at Turnden and that she accepted that "things had moved on" since AECOM did its draft analysis.

277. The Council states that the timing of the publication of eC&SNP VPs[85] appears to coincide with the draft allocation of the application site. In any event, they form part only of a Reg 14 version of the eC&SNP. The Council adds that the draft eC&SNP policies relied upon by CPRE Kent have received significant comment from the Council. Whilst it is claimed that these policies have overwhelming support from the community, the Council notes that the consultation response rate actually represented approximately 2.6% of the population of Cranbrook.

278. In the Council's view, the eC&SNP carries "very minimal" weight in the determination of this decision.

Government Policies for Conserving & Enhancing the Natural Environment

Effect on the HWAONB

NE's Position

279. The Council says it has liaised closely with NE throughout the eLP preparation process. It considers that it has done more than liaise – when advised that it should commission an LVIA of the sites it was considering allocating for major development through its eLP, the Council did so.

280. By commissioning the LUC Landscape Character Assessment, the LUC Sensitivity Study and then commissioning the HDA LVIA[86] and assessing the site specific LVIA for this application, the Council considers that it has not ignored a single step in the PPG[87].

281. HDA were commissioned in November 2019, so the study had already started before the application site LVIAs were completed. The Council states that it could not have been influenced or informed by any LVIA work done by the applicant. It adds that this was an entirely independent piece of work by landscape professionals for a specific purpose as required by NE. The work was not, in its view, tainted by knowledge of any planning application or any strategy of the Council as Mr Duckett confirmed in oral evidence. This was a high-level LVIA and the Council considers that NE and the HWAONB Unit were aware of this having been consulted. The aim of the study was to provide "*clear and concise advice*".

282. The original project brief and the subsequent proposed methodology were shared with NE and the HWAONB Unit for comment. The Council says that if NE had considered the methodology flawed in any way or the study not detailed enough for the purposes for which it had advised it was commissioned, it was

[85] ID11
[86] CD12.8, CD12.22, and CD14.3.9 & 14.3.9a respectively
[87] Paragraph: 037 Reference ID: 8-037-20190721

given every opportunity to say so. It adds that, survey sheets for the field work and proposed site assessment templates were also shared with NE and the HWAONB Unit and, again, had there been concerns with the approach or the way key components were being assessed, there were opportunities to intervene. The Council states that the project took as long as it did because NE was so involved in the process, so it found it surprising and unreasonable to hear NE's witness criticise the report at the Inquiry.

283. NE's comments on the Reg 19 pre-submission eLP, dated 4 June 2021[88], recognise and "welcomes" the level of effort and consideration to address its previous concerns using the HDA LVIA[89]. NE also state that it is "pleased" that the work fed into the process to delete a number of major development site allocations including the Hawkhurst Golf Course site. This, in the Council's view, endorses the effect of the HDA LVIA.

284. The Council considers that the criticisms of the report mostly relate to Ms Farmer's professional disagreement. For example, she disagrees in relation to noise being a detracting feature or the detracting features associated with equestrian use. It adds that she accepted in cross examination that a high-level report, as signed off by NE, would not mention every aspect of every site and that she accepted that certain criticisms[90] are not substantiated when the report is read properly in context. The Council also considers that she maintained an inexplicable position with regard to the "perceived gap between Cranbrook and Hartley". In the Council's opinion Figure C2[91] of the report shows the "essential separation to settlement" and the position of the report, and Mr Duckett, is that the site can be developed without compromising any perceived gap.

285. Lastly, the Council states that Ms Farmer misinterpreted the conclusions of the Inspector in the Gate Farm appeal[92]. This is an important appeal decision in the Council's view because it relates to the same local planning authority, is fairly recent and considers the same LVIA. Once the details of that particular scheme were explained to her in cross examination, together with the recommendations of the HDA report, in the Council's opinion it was clear that the proposed mitigation measures, which included retaining the northern field parcel as open space, were not secured. It was also clear in its view that the quantum of housing recommended in the report had been significantly exceeded. Furthermore, contrary to the report's recommendations, the design was not farmstead-led. The Council states that Ms Farmer accepted that not all the recommendations of HDA were part of that planning application appealed and therefore, in its view, her conclusion that Inspector Rose called "into question the reliability of the judgements within the HDA assessment" was wrong. As a matter of fact, the Council contend, that that Inspector could see the key headline recommendations of that assessment were not part of the proposals and his overall conclusions show that he did not question the reliability of the judgements within the HDA assessment at all.

286. With regard to weight ascribed to the HDA LVIA, the Council quote the Gate Farm decision letter *… the CLVIA still retains some significance to the appeal and*

[88] CD14.1.4
[89] Page 3 "Overarching Comments"
[90] For example, para 84 of her proof of evidence
[91] CD14.3.9a, electronic page 3
[92] CD19.8

cannot be unduly discounted. The context is of an up-to-date, professional assessment of the potential to accommodate major development in Cranbrook and elsewhere …[93]

287. The Council also state that the effect of that LVIA work is reflected in its Development Strategy Topic Paper[94] which is part of the evidence base for the Reg 19 Plan. It sets out that the net effect of further work post the Draft Local Plan has been to "*substantially reduce the extent and quantum of sites in the AONB ... the number of allocations in the AONB has reduced from 49 to 32, while the total number of dwellings proposed for allocation is now…a reduction of 47%*". It also sets out that the "*number of major developments is reduced … to 11*" (from 21). The Council adds that, the amount of developable land allocated is about a third of 1% of the total AONB area within the Borough.

288. The Council considers that there was a suggestion put to Mr Hazelgrove in cross examination that if NE agreed with the HDA report they would not continue to object to the planning application and to the allocations, which the Council sees as disingenuous. It adds, for NE to advise the LVIA approach but then write on 4 June 2021 that "*Natural England has an in-principle objection to major development within the High Weald AONB ...*" suggests that 'NE's U-turn' on the usefulness of such LVIAs was because it simply did not like the results. In the Council's opinion, NE would never have agreed with the HDA assessment unless that assessment recommended no sites could accommodate major development. Indeed, the Council states that, Ms Kent accepted the same in cross-examination when she agreed that "whatever HDA had said", the position of NE and her position would still be to object.

289. In the Council's view, if, as NE wrote on 4 June 2019 "*LVIAs do not provide adequate assurance that the effects of the development on the landscape and scenic beauty of the nationally designated and sensitive landscape of the High Weald could be sufficiently mitigated*", it is perplexing as to why it advised that approach and why NE agreed the methodology of the report. NE did not require an LVIA for any of the non-major allocations in the eLP, which the Council considers demonstrates the HDA LVIA's purpose.

290. The Council commends the HDA LVIA to the Secretary of State as an independent piece of work produced outside the remit of an Inquiry, requested by NE and informed by NE. It adds that it is a document to which significant weight can be given.

291. The Council considers that NE has an in-principle objection to major development in the HWAONB but communicated its final position after the HDA LVIA had been completed. It did not undertake its own LVIA and objected to this proposal before seeing the applicant's LVIA. It adds that such a blanket approach to responding as a statutory consultee is unreasonable particularly in light of the background to the HDA LVIA. The Council maintain that the confused position of NE was accepted by Ms Farmer who said, "*I can see why you would come to that conclusion*".

292. Ms Kent's oral evidence included that major development in the AONB should

[93] CD19.8, para 98
[94] CD14.2.2, including para 6.159 and 6.167

be dealt with through the local plan process and not through planning applications. However, the Council says that Framework para 177 provides the tests for planning applications and its development plan policies allow for consideration of major development in the HWAONB.

293. The Council considers the position of NE in this case is one of principle not substance. It adds that NE's position is more confused given that it withdrew its objection to the BKF planning application apparently because the site had been allocated. Allocation is not, as Ms Kent accepted, a reason for a statutory advisor not to object. If harm to landscape was significant, NE could continue to object. The Council adds that the evidence of Ms Farmer has been produced to back up the objection to the proposed development now under consideration which was not warranted based on the Council's evidence base and the detailed LVIAs produced for this application. Furthermore, in the Council's opinion, NE's in-principle objection is contrary to government policy.

Prematurity

294. The prematurity argument raised by NE is not sustainable in the Council's view. NE's approach, it adds, is that not meeting both elements of Framework para 49 is not fatal because of the word "unlikely". The Council considers that, whilst that may be correct technically, it is still "unlikely". The Council says that NE's argument does not meet both parts of the test and there is no reason why its case as put during the Inquiry should overcome the "unlikely" hurdle.

295. The position taken by NE, in the Council's opinion, is that granting planning permission for this application would have a "domino effect" on the other major development allocations objected to by NE. The Council says this is wrong for a number of reasons:

(a) As Mr Hazelgrove stated, each allocation will consider the site-specific aspects as did the Council in assessing each site separately;

(b) Table 3[95] makes clear that in considering detrimental effects and the extent to which that could be moderated, the "*merits of each proposed allocation are considered as part of the site-specific assessments*" and that these had "*particular regard to the impacts on key components of the AONB and the extent to which these are proposed to be moderated or enhanced*". Whether or not impacts on key components have been moderated or enhanced can only be achieved at a site-specific level: for instance, whether or not detrimental effects at Turnden are moderated does not have a bearing on whether the detrimental effects on a site in Hawkhurst are;

(c) Table 3 also makes clear that the cumulative effect on individual settlements has been considered. Again, granting permission for 165 houses in Cranbrook cannot possibly provide a precedent for the consideration of whether there is a cumulative effect on Hawkhurst or Pembury for example;

(d) Lastly, of the sites that NE objects to[96] (9 in total although 3 only amount to major development if considered together in the Council's view), AL/RTW 17 (Longfield Road) has planning permission, AL/CRS 1 (BKF) has planning permission, AL/CRS 2 (Corn Hall) is already allocated and the principle of the

[95] CD14.2.2, p51
[96] CD 14.1.4, p2

acceptability of allocation was determined against a lower housing needs figure 5 years ago; AL/HA 4 was refused planning permission and has been appealed with the appeal due to be heard in early 2022 and a decision due long before this site could be allocated, AL/BM 1 has planning permission and is being built out. Therefore, what is left is the consideration of this site at Turnden and 220 dwellings at three sites in Pembury, AL/PE 1-3, which individually are not considered by the Council to be major development. Mr Hazelgrove explained to the Inquiry that the grant of planning permission for 165 houses at Turnden cannot possibly impact on the site at Hawkhurst, AL/HA 4, or the 220 homes at Pembury which is the opposite side of the Borough[97]; and

(e) The grant of planning permission would be in accordance with the strategy of the submitted eLP and not contrary to it[98].

296. The Council contends that there is no impact on the Local Plan as a result of 165 homes in Turnden and the Prematurity argument is not made out.

HWAONB Unit's Position

297. The HWAONB Unit has, in the Council's opinion, taken an extreme approach to this application from the outset. Despite having knowledge of the application and despite being given 7 days' notice of the Officer's Report recommending the grant of planning permission, the HWAONB Unit formally complained the day before the Council's Planning Committee was due to determine the application. The Council adds that, due to the formal complaint of a "compliance breach", NE was required to consider whether to investigate the matter but declined to do so. The Council sought external legal advice to confirm that it had not breached any statutory duty in determining the application and responded robustly. The complaint was eventually withdrawn but email correspondence continued to criticise the Council regarding "quality of decision making" but refused to properly engage with Mr Scully[99] in the Council's view.

298. The Council adds that the extraordinary chain of events has never happened before at the Council. Mr Scully has worked at the Council for over 20 years and has worked with Ms Marsh at the HWAONB Unit for a considerable time. It adds that Ms Marsh did not forewarn Mr Scully or any planning officer at Tunbridge Wells of the complaint. It was deeply concerning for officers and Members and the Council can think of no other reason for the complaint other than to de-rail the planning application determination process which it says is driven by Ms Marsh's conscious or subconscious position because she lives within 1 mile of the appeal site.

299. In the Council's view, it is highly unusual for a professional witness to give such evidence. Whether aware of it or not, it adds that it is highly likely that evidence will be influenced. The following matters contribute to this contention:

(a) Ms Marsh has appeared at hearings / Inquiries concerning sites near where she lives previously. Mr Scully gave evidence that she appeared at the Site

[97] CD 14.2.2, the map on p3 shows the relative locations of Pembury and Cranbrook
[98] CD 19.3 para 15.52 of the Inspector's Report
[99] ID17-ID19

Allocations LP hearing in relation to the BKF, she appeared at the Gate Farm Inquiry[100] and she appeared at this Inquiry;

(b) Ms Marsh did not appear at the Hawkhurst Golf Club planning inquiry[101], a development of 374 homes and a major relief road, despite the HWAONB Unit objecting;

(c) Ms Marsh confirmed that she personally contacted Historic England after they had issued their consultation response (no objection) on 17 April 2020. It is telling, in the Council's view, that the email from Historic England dated 27 May 2020 states "*Please also be aware that I have been contacted on a couple of occasions about my letter of 17 April 2020 and will share my response with those who contacted me*"[102].

300. The Council contends that Ms Marsh's approach to the application and to evidence at the Inquiry, both landscape and ecology, has been tainted by a personal conflict of interest. The Council adds, that CPRE Kent label this contention "unedifying" but the Council's position that the complaint and the failure to engage in properly advising the Council is actually the unedifying behaviour.

Landscape & Visual Effects

Context & Baseline

301. The site is formed of grazing paddocks associated with the former riding stables and equestrian facilities at Turnden Farm. The Council adds that dilapidated timber rail fencing remains, and the removal of the sand school has taken place and it is to be grassed over but with nothing in place to reinstate the topography or wider land. As Mr Duckett stated, there will always be an artificially flat area in that location which is evidence of manipulation of the levels in the Development Area. There is, the Council maintain, no improvement to the quality of the grassland as claimed by NE. Mr Duckett was, it says, clear in oral evidence that there was no "recovery", no "improvement" and that this was an "interim state".

302. The Council also considers that Mr Duckett was clear in his oral evidence that the majority of the town of Cranbrook is on the valley floor on the slopes to the west or east of Crane Brook but that it is important to look closely at the settlement pattern. His rebuttal plan[103] shows the relationship of the town to the valley sides and demonstrates that there is existing settlement above the 100m contour, and that the quantum of development proposed is, in the Council's view, very similar to that which already exists above the contour.

303. The Council says that the site is well-contained and that Ms Farmer agreed. It adds that the majority of the site is contained by mature woodland, tree belts and boundary hedgerows. The Council says that the suggestion about Ash die-back from the HWAONB Unit was not properly evidenced or assessed and even if it is correct, this makes the proposed management even more important.

304. The Council also says that there are a limited number of views out across the

[100] CD19.8, p25
[101] APP/M2270/W/21/3273022
[102] CD6.6.1 and CD6.6.2
[103] CD23.6.6, p3

Crane Brook valley, while views from the wider HWAONB are contained by the high ground to the site's east, south and west. The Council adds that woodland on low-lying ground contains the site to the north and east, and that this was one of the reasons why the Site Allocations LP Inspector found the BKF site appropriate for allocation[104]. Mr Duckett stated in cross examination that this containment is relevant on the application site because it is "part of the character of the site".

305. In the Council's view, the baseline for landscape assessment purposes, as agreed by Ms Farmer, includes the BKF development and the TF development. Mr Hazelgrove confirmed in his oral evidence that, as case officer for the TF application, there was no expectation from the Council that the land around that development would remain free from development The Council adds, also part of the baseline is linear development on both sides of Hartley Road and beyond TF, and the Orchard Way housing. It adds that once BKF is developed, there would be housing, and the perception of housing, from Turnden to Cranbrook and the developed site would be "*closely associated with built development on two sides of the site and will lie adjacent to the settlement boundary of Cranbrook*"[105]. In cross examination Mr Duckett stated there was an "urban influence".

306. There are a number of further detracting features, the Council says, such as noise from the nearby A229, the prominence of paddock fencing and disused stable buildings and modification of site levels.

Sensitivity

307. The Council state that the 2009 Landscape Character Assessment and Capacity Study[106] uses an out-of-date GLVIA methodology, as recognised by Ms Farmer[107], and has been updated by the LUC Sensitivity Study, which was done recently, July 2018[108]. The methodology, it adds, makes a real difference; it changes the baseline, and it is odd that NE attempted to rely on such an aged document when it had clearly been replaced. The Council goes on to say that, in any event, notwithstanding the conclusions of a 2009 capacity study using an out-of-date methodology from which Ms Farmer attempted to 'draw bright lines', the bulk of the BKF site is in its area C2[109] as is the TF site such that that area should now be read as developed and renders the 2009 Study further outdated.

308. In the Council's view, the report to which much more weight should be given is the LUC Sensitivity Study. It adds that this is part of the layering of assessments that local planning authorities are advised to obtain[110]. It adds that this was obtained, not to inform any particular development, and not with the prospect of providing evidence at an Inquiry in mind. The Council contends that it is independent and impartial. It adds that Ms Farmer agreed that for the purposes of this study, the proposals are "small-scale development"[111].

309. In Sub Area Cr2 of the LUC Sensitivity Study, in which the site lies, the

[104] CD11.13, para 74
[105] CD23.2.2, para 3.1.3
[106] CD12.23
[107] CD23.5.1, para 63
[108] CD12.22, para 1.6
[109] CD12.23, figure 9
[110] PPG Paragraph: 037 Reference ID: 8-037-20190721
[111] CD12.22, Table 2.2, p16

authors have concluded that for small-scale development, the range of Sensitivity is between Medium High and High[112]. The Sensitivity conclusions provide: "*Adjacent to the allocated AL/CR4*[113] *development on the edge of Cranbrook, around Turnden, and in remaining open gaps along Hartley Road, proximity to existing/intended development means that sensitivity is slightly lower"*. The Council maintains that, despite Ms Farmer's evidence, plainly this is the area which has been given the lower sensitivity rating in the table. The Council adds that there is no other explanation, and it is the obvious interpretation. The Council also says that the Guidance on "potential mitigation/enhancement measures" relates to openness around the Turnden farmhouse. However, that was written before the farmhouse was burned down and de-listed. Whilst Ms Farmer stated that this still meant that the Sensitivity Definition "High" applied, the Council states that she also had to accept that the way that Table 2.1 was drawn, meant that the Sensitivity Definition "Medium-high" also applied[114].

310. This accords, the Council adds, with Mr Duckett's conclusions for the Sensitivity of the Development Area as Medium/High[115].

AONB Special Qualities

311. The HWAONB Management Plan[116] provides the definition of the natural beauty of the High Weald and all five defining components of character that define the natural beauty of this AONB are relevant in the determination of this application. The Council submits that, in order to assess whether a proposal conserves and enhances the HWAONB, it must be relevant to assess the defining components and how the site contributes to them. Ms Farmer disagrees but, on her analysis, which the Council says is also contrary to GLVIA[117] in assessing specifics of a site, all development in the HWAONB would be unacceptable because it is a uniformly attractive landscape.

312. In relation to the key component of Natural Beauty, Geology, page 24 of the Management Plan says that the HWAONB is "*characterised by a deeply incised, ridged and faulted landform…from them spring numerous gill streams*….". The Council says that the site makes a "moderate contribution" to this key characteristic[118] and the changes in level across the development are gradual and stepped in concert with the general landform and therefore comply with Objective G2's proposed actions in avoiding substantive alterations to landform in development. Objective G1 seeks to restore the natural function of water courses and bodies. The proposals would restore ditch lines and water courses across the site adding, in the Council's view, connectivity and improving biodiversity.

313. The Council states that settlement is a further component of Natural Beauty and the objectives are to protect the historic pattern and character of settlement. It adds that the proposals meet Objective S2 whose rationale is "*To protect the distinctive character of towns, villages, hamlets and farmsteads and to maintain*

[112] CD12.22, p30 and p126
[113] Allocations of BKF and Corn Hall
[114] CD12.22, p15
[115] CD12.22, p29
[116] CD12.13
[117] CD16.1, para 5.41
[118] CD23.2.2, para 9.2.2

the hinterlands and other relationships (including separation) between such settlements that contribute to local identity". Indicators of Success include "*Physical and perceived separation between settlements maintained*". Mr Duckett has assessed the relationship between Cranbrook and the neighbouring hamlet of Hartley and finds that the proposals do not affect the existing separation between the TF development and the ribbon development extending north out of Hartley.

314. The Council says that, whilst the sense of separation would be largely unaffected because the mature hedgerows and trees are retained, the proposed housing fronting the development would be set back behind the retained roadside hedgerow by between 50-80m, maintaining the sense of separation. It adds that, the new housing proposed in the Development Area would be no nearer to Hartley than the development permitted at the TF site.

315. Mr Duckett stated that the HDA 'identified gap' is the essential gap between settlements and that it is unaffected by built development of any sort[119]. In the Council's view, once one moves beyond that there is an effect of Orchard Way on the scene. It adds that it is the Orchard Way development that is the "anomaly in the settlement pattern" due to its arrangement and suburban character. The Council goes on to say that a new woodland is also proposed between the TF development and Hartley to reinforce the physical sense of separation. It contends that, contrary to the HWAONB Unit's submissions, the landscape strategy enhances the legibility of the historic landscape with the restoration of woodland shaws and historic field hedgerow pattern. The Council adds that, as set out in GLVIA[120], perception is relevant, and Mr Duckett was clear that both the gap and the perception of the gap would be retained.

316. Mr Duckett considered the Historic Landscape Characterisation and the AONB Parish Plans and assessed the map regression and the historical aerial photographs. The site has, in the Council's view, undergone substantial change in terms of its landscape structure with some modification to site levels, in contrast to other landscape surrounding the site[121]. It adds that, Ms Farmer accepted that there had been a loss in discernability of the field boundaries in certain fields.

317. The Council goes on to say that the Wider Land Holding provides the opportunity to restore and enhance a considerable area of landscape between Hartley and Cranbrook as high quality rural countryside. It adds that through the long term management of the Wider Land Holding via the LEMP, this would ensure the separate identities of the two settlements, providing a "full stop" to development that would be maintained in perpetuity.

318. Among the top five issues noted under Settlements in the HWAONB Management Plan is "Declining affordability". Both the market housing and the 40% affordable housing contribute towards alleviating this issue. Another issue listed is "Generic layout and design of new housing developments failing to respond to, or reinforce AONB character". The Council considers that Mr Pullen's evidence demonstrates how carefully the Housing Design Guide[122] has been followed.

[119] CD14.3.9a, p3, figure C2, Essential separation to settlement
[120] CD16.1 PART 1, para 2.2
[121] CD23.2.2, para 10.9.1
[122] CD12.15

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319. The Council states that routeways are also relevant and the vision of the HWAONB is to promote a landscape in which the character of the distinctive lanes and rights of way is protected, and a balance achieved between the comparative quietness and rurality of the roads of the High Weald and their function as communications central to the economic and social wellbeing of the area. It adds that, the proposals maintain the footpath alignment and the landscape enhancements would maintain rurality and additional permissive routes would enhance the social wellbeing of the community by extending the network, and Tanner's Lane would be reinstated.

320. The fourth component of Natural Beauty is Woodland. The key characteristics include that there is a "*High proportion of ancient woodland*" and that "*there is a mosaic of many small woods and numerous linear gill woodlands*". Objective W1 is to maintain the existing extent of woodland and particularly ancient woodland. The Vision discusses that the Ancient Woodland in the High Weald should be "*managed in a sustainable way…*". The Council says that Objective W2's rationale is to extend the area of "*appropriately managed woodland (including restoring plantations on ancient woodland)".* It adds that the top five issues include invasive and damaging species including, rhododendron.

321. The Council says that the proposals provide for the managed development of woodland across the southern and western portions of the Wider Land Holding, including the adjacent off-site Ancient Woodland adjacent to the Crane Brook which is currently unmanaged. This can only be positive, in the Council's view, and amount to long term enhancement for the HWAONB through reinstated shaw woodland and introducing additional blocks of woodland.

322. The last component is Field and Heath. The High Weald is characterised by small, irregularly-shaped and productive fields often bounded by hedgerows and small woodlands, and typically used for livestock grazing small holdings; non-dominant agriculture.

323. The Council considers, however, that the site simply does not contribute to this component. It says that a small-scale field pattern with irregularly shaped fields bounded by hedgerows does not remain on the site. Mr Duckett undertook a historic landscape assessment and concluded that there was a lack of historic hedgerow boundaries within the site and a lack of coherent fieldscape. The Council maintains that the internal fieldscape is not defined by hedgerows, it is compartmentalised by paddock fencing and some remnant hedging and woodland. During his oral evidence Mr Duckett pointed out that historic plans do show a more divided and small-scale landscape. The Council maintain, however, that when he walked the site, even with his expertise and knowledge of the plans, he could not "*pick up hedgelines or fieldscape*". He "*looked for dog legs*" (to which Dr Bannister refers) but could not find any. He looked for "*intactness in the fieldscape and the things that represent it*".

324. Mr Duckett also compared the oblique aerial photograph from 1929 with the vertical aerial photos from 1940, 1990, 2014 and 2020. By 1940, he said there was loss of trees and loss of historic hedges and then a gradual diminution of hedgerow structure and stated, "*to my mind the coherence of the fieldscape is waning*". His view is that the "*field structure is not there*". He spoke of what an ordinary person would find on the Site. The Council contend that a ditch here and a remnant hedgerow there does not amount to intactness in the fieldscape

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such that anyone other than a landscape historian could discern it. In the Council's view, it is wrong to suggest that Mr Duckett was "only" concerned with what the "ordinary man" can see, as he also said he could not see it. The Council says that his evidence was that there had to be something "tangible" and Mr Duckett could not find it.

325. The Council notes that in its closing submissions the HWAONB Unit states that the position of the Council contrasts with the position it took at the Gate Farm appeal. However, the Council states that in that case there were historic buildings left on that site and it had been in use for grazing recently. It adds that, in any event, that Inspector disagreed with the Council's position[123].

326. The Council maintains that the landscape proposals actually restore the historic field pattern to the south-east of Hennicker Wood, enrich the agricultural landscape within the south-west field with species rich meadow, field trees and scrub, and establish new woodland adjacent to Hartley Road. Woodland links, it adds, can be enhanced between Hennicker Wood to the Crane Brook Ancient Woodland. Livestock grazing of pasture and low intensity sheep grazing of the meadows would also be introduced. The Council contends that, by removing the paddock fencing and equestrian paraphernalia and introducing these features, the proposals would enhance the HWAONB.

327. The Council considers that the ditch and historic hedgerow alignment dividing the proposed open spaces to the western boundary would restore historic character. The enhancements proposed for the Wider Land Holding would, it adds, restore the field boundaries evidenced on the 1810 tithe map to the south-eastern fields and reinstate the wooded shaw linking Turnden Wood to the Crane Brook.

328. In the section "Other qualities" of the Management Plan, page 58, it is set out that the HWAONB is characterized by perceptual qualities, features and cultural associations that enrich character components, enhance health and wellbeing, and foster enjoyment and appreciation of the beauty of nature. The proposals would, in the Council's opinion, enrich character components, enhance health and wellbeing and foster enjoyment and appreciation of the beauty of nature. The Management Plan also says the HWAONB is also a stronghold for characteristic species, page 41, improving wildlife is part of the Vision, page 5, and BNG is specifically mentioned on page 16. The Council contend, as follows, that this key element of the beauty of the AONB is significantly enhanced.

HWAONB Unit Landscape & Visual Impact

329. The Council states that, in terms of the HWAONB Unit's landscape evidence, Ms Marsh, a landscape ecologist rather than landscape architect, has not undertaken her own LVIA nor has she provided any methodology for how she assessed landscape and visual effects. It adds that the GLVIA is clear as to the importance of transparency[124] and in its view Ms Marsh's evidence cannot be properly understood or traced such that the Council submits that it is not credible.

330. The Council adds that, despite that failing in her own evidence, Ms Marsh

[123] CD19.8, para 18
[124] CD16.1 Part 1, para 2.24

stated that in respect of the professional judgements of Mr Cook and Mr Duckett, both landscape architects, theirs were not within the range of reasonable judgements and were "fundamentally wrong". The Council also says that she disagreed with Ms Farmer as to whether planting and landscaping was exceptional, could see no benefits from the proposals at all and had completely failed to assess the proposals against landscape character assessments, despite the Council's LCA being adopted as an SPD[125] and Core Strategy Policy CP4 (2)[126] requiring the same. It adds that Ms Marsh also failed to assess the scheme against the objectives of the HWAONB Management Plan, is the only witness who maintained the position that the recent aerial photography showed a surviving fieldscape visible on site although the LUC Sensitivity Study also states that there are no historical surviving field boundaries[127], is the only witness who maintains that the soil distribution is a major adverse impact. In the Council's opinion, she represents an outlier amongst the landscape witnesses.

331. The Council adds that Ms Marsh also took the position that, in relation to Viewpoint 3, the year 2 view would better reflect the natural beauty of the HWAONB and that that natural beauty was better served by seeing a 180 house development at BKF rather than planting visible at year 15. This, the Council contends, rather demonstrated the extraordinary interpretation of natural beauty of the HWAONB from Ms Marsh.

332. The Council states that, her evidence, whilst on paper in agreement with NE because the HWAONB Unit objects to the proposals, is not in the same category of professionalism or reasonableness of other landscape witnesses at the Inquiry.

333. With regard to Framework para 177, the Council says that the HWAONB Unit provides no evidence, but that Ms Marsh did say that in her view, in order for exceptional circumstances to be met, it would mean that proposals met and exceeded the aspirations of the HWAONB Management Plan. The Council maintains that, whether this is a reasonable position or not, the proposals do meet and exceed the aspirations of the HWAONB Management Plan for all the reasons above.

Conclusions on Landscape & Visual Impact

334. The Council commends Mr Duckett's evidence and adds that he noted the trenchant criticism of his approach by Ms Marsh, yet he gave the landscape evidence relevant to AONB impact in the Steel Cross appeal and the Court of Appeal[128] took no issue with the reasoning of the Inspector in that case, which found favour with Mr Duckett's assessment and approach. To assess landscape and visual impact in relation to distinct areas is, in the Council's view, a recognised approach. In this regard the Council says that there has been no "carving up" of "artificial parcels" or parcels considered in "isolation" as alleged, Mr Duckett's approach is a proper one to take. It adds that his evidence is reasoned, transparent, reasonable and completely independent.

335. The Council considers that the visual impacts of the proposed development would be minimal due to the site's containment and there is no iconic view of the

[125] CD12.8
[126] CD11.4, p36
[127] CD12.22, p125
[128] CD19.1 and CD20.5 respectively

Greensand ridge. Mr Duckett considered the landscape as a resource separately from the visual assessment and, in the Council's opinion, fully explained containment of the site both in physical and visual terms. The proposed development would, it adds, have a negligible impact on the visual amenity of the wider HWAONB and would have a very limited visual effect on local views from public rights of way[129].

336. In terms of landscape character, the Council maintains that, whilst there would be a localised adverse effect on the Development Area, effects within the site would reduce to Minor adverse/Neutral after 15 years with the residual effects on the Wider Land Holding being Moderate beneficial and on the wider HWAONB largely Neutral. It adds that the allegation by NE that Mr Duckett's approach to assessing harm was "flawed" because the approach could justify inappropriate development by enlarging application sites fails to recognise that this is a landscape led design which comprises 80% of the application site. That is unusual in the Council's view. It goes on to say that GLVIA[130] refers to mitigation offsetting or compensating for identified harm, which is provided by the landscape proposals within the Development Area and, in addition, enhancement which improves the landscape resource or visual setting of the site or wider area over and above the baseline condition are an integral part of the scheme and can "*legitimately be assessed as part of the proposal*". In the Council's opinion the scheme for the wider site does that and it is not flawed to consider that in the overall balance of effects. Mr Duckett's conclusions, it adds, are broadly consistent with those of the Council's Landscape and Biodiversity Officer, also a chartered landscape architect, who also supported the proposals in their final form[131].

337. The Council states that the conclusions of a number of landscape professionals have been put forward in this case, including those of Mr Scully, Mr Duckett and Mr Cook, while detailed LVIA work produced by the applicant and the Council, demonstrate the extremely limited harm. It adds that there is no contrary LVIA work produced by a Rule 6 party and it submits that the conclusions of Mr Cook, Mr Duckett and Mr Scully are to be preferred.

Effect on Biodiversity

338. Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities to have regard, in the exercise of their functions, to the purpose of *conserving biodiversity*. Section 41 provides for a duty in relation to particular species of the greatest conservation importance. The PPG sets out that a "*key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by government in its 25 year Environment Plan*"[132].

339. The Council adds that, the most recent revisions to the Framework strengthen provisions relating to biodiversity. Its para 8(c) requires "*improving biodiversity*" rather than "helping to improve" as part of the environmental objective. The Council considers that the approach to BNG in the Framework is outlined in para

[129] CD23.2.2, Table of Visual Effects p41
[130] CD5.7.1, para 4.32-4.36
[131] CD6.14.3
[132] 009 Reference ID: 8-009-20190721

180(c) and states that when determining planning applications "*opportunities to improve biodiversity in and around developments should be integrated*[133] *as part of their design, especially where this can secure measurable net gains for biodiversity*".

Biodiversity Net Gain – the Metric

340. The Council says that, whilst Mr Scully and Mr Goodwin both agree that that the biodiversity Metric is a proxy for ecological value, and both respectively recognise that professional judgement also plays a part in assessing BNG, it is agreed with NE that the Biodiversity Metric version 2.0 is the appropriate method for calculating whether this proposal delivers BNG. This must be right, the Council adds, as achieving net gains for biodiversity requires an objective, pragmatic and standard method for its measurement.

341. The Council goes on to say that it is also agreed that there is currently no planning or legislative requirement to deliver BNG. Core Policy 4 of the Core Strategy requires only no net loss and the Framework does not provide a minimum. The Council considers, with reference to Mr Scully's evidence, that the direction of travel is that the minimum requirement in legislation will be 10% BNG. Emerging Policy EN9 requires "*measurable long-term net gain for biodiversity in both area and linear habitats*" and a minimum of 10%.

342. Ms Marsh is correct, in the Council's view, that Metric version 2.0 is not the only method. The Council adds though that the PPG advises that the Metric can be used, there is no policy or guidance that says it cannot be used and Ms Marsh puts forward no alternative. The Council says that her response to this was that it is not for her to do so, it is for the applicant. In the Council's opinion however, in the light of the PPG and the advice of NE to use the Metric, this makes no sense.

343. It adds that her evidence displays an in principle objection to the Metric despite the fact that this is the standard method being used and advised to be used. Mr Scully stated that he found it hard to accept that position because NE has been "developing this tool for years, there have been pilot projects and there have been rigorous evaluations, consultation exercises, meetings, training events, it has evolved and has been refined". The Council adds that Mr Scully recognises that it is not the whole answer, and he was clear that he wants to make sure that it works properly and that its use has led to a "step change" in what the Council is seeing provided with planning applications. This, the Council considers, is already, prior to the legislative changes, resulting in further gains to biodiversity which would not be achieved but for the use of the Metric. Given the position of NE, the applicant, the Council and Kent Wildlife Trust, and the guidance in the PPG, the Council considers that Ms Marsh is an outlier with respect to the principle of the tool.

Use of the Metric

344. The Council says that further to Ms Marsh's in principle objection to the use of the tool, she also criticizes the way that it has been used. It adds that it is worth noting that NE has not challenged the way that the Metric has been used nor has NE challenged the BNG figures the applicant has put forward. The applicant's use

[133] Replacing the word "encouraged"

of the Metric has been reviewed by Mr Scully and by Kent Wildlife Trust. The Council considers that they have both found the way it has been used to be robust and independently verifiable as Ms Marsh states it should be.

345. The Council says that while Ms Marsh criticises the surveys, those undertaken by BSG Ecology in the ES were also reviewed by an ecologist instructed by the HWAONB Unit[134]. It adds that there has been no update to that May 2020 report, which concluded that the surveys appeared on the whole "*to be robust, thorough and to follow accepted good practice guidance*", and the applicant's surveys have also been reviewed by the Council and there has been no challenge to them by NE. Importantly, in the Council's view, Ms Marsh has done none of her own surveys.

346. The Council says that Ms Marsh's criticisms of the inputs for the baseline relate to the assessment of the grassland. Mr Scully explained that this has been an ongoing issue for Ms Marsh and, as a result of her comments at the Reg 18 stage, the Council commissioned independent grassland surveys across the Borough. The Council states that the survey was not to inform a particular development or commissioned for a particular result. It was simply to investigate the HWAONB Unit's concern in relation to possible allocation sites that the grassland was more interesting than the existing phase 1 habitats that the Council possessed.

347. The conclusions are summarized by Mr Scully[135]: "*the habitats identified are considered replaceable and proportionate compensation should be sought through use of an appropriate Biodiversity Net Gain calculator*". For the application site, the report concluded that the grassland was of "*low botanical interest*", of "*Low-Moderate ecological importance*" and was B2.2 Neutral Grassland Semi Improved and Modified Grassland of Moderate quality. This, the Council adds, is broadly consistent with the assessment of BSG[136] that this is Modified Grassland. The applicant's NVC survey[137] concluded it was semi-improved just as the comments of the ecologist for the HWAONB Unit suggested. Overall, the Council considers, there is agreement across the surveys that the grassland is semi improved and of low botanical interest.

348. The Council considers that Ms Marsh's conclusion that the grassland has become slightly more diverse between 2018 and 2020 misunderstands that one survey was an NVC survey and the other was a phase 1 survey – they were two different types of survey and hence produced slightly different conclusions. The Council adds, there is a translator embedded within the Metric and if that translator is used, the grassland is identified correctly from "poor semi improved" into "Grassland Modified Grassland". The Council contends that is no reason to use a different translator code and it makes no sense to use one when the Metric provides for one. The Council goes on to say that, even if different translator tables are used, the result is still the same. As both Mr Scully and Mr Goodwin explained, the Council considers that Ms Marsh's claims that this is g3c6 Neutral grassland using the UK Habitats table[138] cannot be correct because the Habitats

[134] CD6.5.1 – Kate Ryland Dolphin Ecological Surveys
[135] CD23.2.4
[136] CD5.6.7
[137] CD5.6.12
[138] CD16.19

tables exclude species poor swards and would translate to g4 Modified grassland.

349. Finally, the Council says, Mr Scully used his own experience; this was species poor modified grassland and there is absolutely no evidence to suggest otherwise. It was suggested to Mr Scully in cross examination that the differences in opinion with regard to grassland amounted to disagreements between professionals. However, the Council says that he clarified that him, Mr Goodwin, Kent Wildlife Trust and NE have not challenged the grassland inputs, and that he pointed out that if a graph plotted all of the professional's opinions, there would be a cluster on one point and Ms Marsh would be 'out on her own'. The says that she is, again, on grassland, an outlier.

350. The Council states that, despite Ms Marsh's distrust of the professionals using the Metric, Mr Scully said that in his experience, this was one of the better versions of the Metric he had seen. He assessed the work of the applicant and provided 5 sets of comments over 40 pages. He explained that early on in the process he had been a critic and had not "held back". However, in this case, he said that there were considerable changes to the scheme. He has in the past rejected LVIAs and ecological reports and he has also reported an ecologist for gross errors to the relevant supervisory authority. Yet he saw no "gaming" of the Metric in this case, and he explained that he had "scrutinised" it. He also pointed out that Ms Marsh had provided no full Metric of her own, has not undertaken her own full BNG assessment and what she has done is incomplete. The Council maintains that there would be improvements whether grassland is poor or moderate, yet Ms Marsh made no allowance for this and had made no allowance for any improvements to, for example, Ancient Woodland.

Securing the BNG in perpetuity and the LEMP

351. The Council says that Mr Scully expressed surprise at the criticisms of the LEMP and, in particular, planting hedgerows and trees. He said that the planting and proposals are all site specific and there is "nothing random or scattergun" about the proposals. He added that individual features like ditches were carefully protected and each part of the proposal was informed by landscape studies or heritage or ecological guidance or historical mapping. The HWAONB Management Plan[139] provides for hedges being restored and new hedges being planted as an indicator of success for Objective FH2, at page 49, and the FH2 actions include restoring hedgerows where lost, protecting and managing hedgerows and using historic maps to reinstate hedgerows. The Council considers that Ms Marsh was dismissive of connectivity yet the FH3 rationale included connectivity in "hedges, woodlands, ditches and ponds…". The Council adds that NE also agree that these aspects are positive[140].

352. The Council states that the management of the Ancient Woodland was Mr Scully's suggestion. His evidence is that the LEMP would protect the Ancient Woodland and lead to betterment through management. It is proposed that there would not be general access and that the cultivation and spraying of chemicals and fertilisers within the buffer which currently occurs would cease. In the Council's view Mr Scully disagreed strongly with Ms Marsh's suggestion that this was Ghyll woodland which did not need management as he stated that they

[139] CD12.2
[140] CD9.2, p23, vi

are very vulnerable to drying out due to climate change and pressures, and that the buffers would provide additional protection.

353. The Council adds that this is in accordance with Objective W2, on page 43 of the Management Plan, that woodland should be appropriately managed and with the Vision, on page 42, which aims for management in a sustainable way. If management in the HWAONB was not important, the Council contends, it would not be mentioned in the Management Plan at all. In contrast to Ms Marsh, the Council says, that NE, which jointly with the Forestry Commission provide the Standing Advice on Ancient Woodland, agree that it is positive that the scheme includes new woodland block planting and management and enhancement of existing woodland, including ancient woodland[141], and NE do not challenge the buffers provided as inappropriate.

354. Mr Scully was not of the view that the proposed soil spreading was a significant issue and felt that planning conditions could deal with soil movement to tie-in with phasing, for instance Condition 21. The Council says that these were all matters that had been considered at the time the application was being assessed[142].

355. Mr Scully was also of the view that conditions could deal with seed mix, planting mix, the proposed hedgerow planting and other planting, and he invited the HWONBP to provide input as late as 28 October 2021 despite what the Council describes as his disappointment that they had not engaged to ensure the best possible scheme on the site in the event that planning permission were granted. The HWAONB Unit, however, has opted not to engage[143]. The Council submits that it appears that, as the HWAONB Unit recognises that many of the criticisms can be resolved by condition, it stubbornly refuses to engage, preferring to repeat that certain aspects of the proposals are not beneficial. In the Council's view that is an unreasonable position.

356. The Council adds that, it would seem that many of the criticisms levelled at the scheme by the HWAONB Unit could have been overcome had it offered detailed advice on species mixes, planting methods and soils treatment but no such advice was forthcoming during many months of consideration. The HWAONB Unit's closing submissions continue this theme in the Council's view: criticism rather than advice. It sees this as underscoring what it considers to be Ms Marsh's objection in principle to the application and a surprising lack of engagement – an advisory body, described as such by Ms Marsh, that has failed to advise.

357. The Council contends that the do-nothing scenario would not secure BNGs and there is no evidence that it would or how it would from Ms Marsh. It adds that there would be no way of controlling grazing/mowing/horsey culture, fertilizer spraying.

358. The Council maintains that Mr Scully is confident that BNG would be achieved and both he and Mr Hazelgrove are completely satisfied that the S106 Agreement and LEMP would secure the gains, which along with conditions would provide for

[141] CD9.2, p23, vii
[142] CD6.14.3 – 7 references to soil
[143] ID57

monitoring visits every 5 years for 25 years and thereafter every 10 years[144] and secure the introduction of livestock grazing in perpetuity. The Council considers that the S106 Agreement guarantees success because it provides for step-in rights. It adds that no alternative arrangement has been suggested by the HWAONB Unit.

359. The Council goes on to say that, as Ms Marsh, Mr Hazelgrove and Mr Scully have all confirmed, biodiversity is part of the natural beauty of the HWAONB. It adds that Ms Marsh has not assessed the biodiversity improvements against the objectives of the HWAONB Management Plan in contrast to Mr Scully[145]. In terms of biodiversity, the Council submits that the proposals comply and contribute towards Objectives G1, G2, G3, S1, S3, W1, W2, FH1, FH2, GH3, OQ1, OQ2, OQ3 and OQ4 of the Management Plan.

360. The Council considers that itself, the applicant and Kent Wildlife Trust are all of the view that BNG will be achieved. Both Mr Scully and Mr Goodwin acknowledge the need for professional judgement to be exercised when considering the results of the Metric, and both have done so. NE, the Council adds, is the statutory authority whose remit and purpose is to help conserve, enhance and manage the natural environment for the benefit of present and future generations[146]. The Council states that Ms Marsh and the HWAONB Unit are the outliers and that the suggestion that there could be a net loss to biodiversity is not sustained and is not a position taken by the Government's statutory advisor the NE, which accepts that there is BNG arising from the proposals. The Council states that the predicted gains are over 20% on a conservative basis and that this is exceptional in and of itself.

Effect on Air Quality

361. The Council accepted the air quality evidence provided by the applicant as part of the application. It adds that the reports were assessed by Dr Stuart Maxwell who is one of the few Air Quality specialists with a degree in Chemistry as well as Environmental Health and he has been assessing air quality for local authorities for 16 years.

362. The Council has agreed in the SoCG with the applicant that the operational air quality effects of the proposed development are "not significant" and can be mitigated by the conditions proposed. The Council has nothing to add to the evidence on air quality provided on behalf of the applicant and commends it to the Secretary of State.

Government Policies for Conserving & Enhancing the Historic Environment

363. The Council's Conservation and Urban Design Officer, Ms Salter, advised that the significance of four listed buildings would be affected by the proposals and that less than substantial harm, on the lower end of the scale, would be caused. Ms Salter also advised that less than substantial harm would be caused to the significance of the Cranbrook Conservation Area. Whilst she advised that this was on the "higher" end, the Council considers that she was clear in her oral evidence that she did not say "highest", and she clarified that her meaning of

[144] CD 4.12, para 6.8.1
[145] CD23.2.4, Appendix 1
[146] https://www.gov.uk/government/organisations/natural-england/about#our-vision-and-mission

"higher" end meant coming out of the mid-point level of the scale. In response to CPRE's Closing Submissions, the Council asserts that she did not record this as "serious".

364. The Heritage section of the SoCG[147] records that there is agreement between the Council and the applicant that the site no longer comprises an historic farmstead, that the historic settlement pattern has been altered and is not a designated heritage asset and that the outline planning permission for BKF would result in development that interposes between the Conservation Area boundary and the application site. They also agreed that there are no direct views between the Upper High Street Character Area of the Conservation Area or any of the listed buildings and the development proposals, and that the design reflects the AONB design guidance.

365. Ms Salter did not agree with Historic England[148] that the historic landscape character of dispersed farmsteads surrounded by a network of field systems is a non-designated heritage asset. On that point she agreed with Dr Miele that the High Weald is a very large area of historic landscape and in this case the settlement pattern and the field systems are matters of landscape character and AONB policies and not for assessment against more targeted and detailed heritage policies.

366. Ms Salter did not agree with Mr Page's assessment of harm to the significance of the Conservation Area, and nor did she agree that the development would "complete any separation of the town with the countryside" and did not place weight on the "green wedge". She spoke of the pedestrian connections, improvements and access to the Crane Valley and noted the lack of impact on views from the Conservation Area.

367. Lastly, Ms Salter stated that Dr Miele had used established and known methodologies and that the differences between the Council and the applicant on harm to heritage assets was simply as a result of differing professional judgement.

368. The Council adds that Ms Salter did not consider her views to have been "over-ridden" in the planning process. She was well aware of the internal balancing exercise to be undertaken and she was also very clear that harm she identified largely related to character rather than appearance and that there are mitigating elements of the proposals to assist in lowering the impact on both character and appearance where relevant. And that these include the substantial buffer of the green space fronting Hartley Road so that built form would be hidden on the slopes down to the valley, layout and landscaping developed with consideration of the landscape characteristics as well as the prevalent form of buildings when not centred in a town, an assessment of local distinctiveness guiding the choice of architectural detailing and materials, the Crane Valley woodland being enhanced and hedgerows reinstated, reinstatement of shaw and streams, reinstatement of field boundaries with defining trees, retention of wet depression and hollows in the central green area and the new woodland to the south.

369. Overall, the Council states that, Ms Salter concluded that the layout,

[147] CD9.1
[148] CD6.6.2 advice prompted by Historic England being contacted by Sally Marsh

appearance and landscaping sought to minimize impact on significance and respond to local distinctiveness.

370. The Council contends that the advice was taken on board fully in the recommendation to Members[149] and the internal balance undertaken in accordance with Framework para 202 concluded that the benefits in the public interest outweighed the harm. It adds that the relevant benefits were listed at para 10.45 of the Committee Report which also identified the relevant statutory duties and weight to them, at para 10.44, while there is no such assessment on behalf of CPRE Kent.

Government Policies for Sustainable Transport Promotion

371. The Council advises that Cranbrook is identified as a tier 2 settlement in the Core Strategy and is, therefore, an area in which the Core Strategy seeks to concentrate development to support sustainable development. It contains a number of shops and services, including a bank, a leisure centre with swimming pool, a rugby club, a primary school, a supermarket and 2 secondary schools. The Council acknowledges that the High Weald Academy appears to be closing but adds that it is also likely to become a Special Educational Needs Centre, which it says is a matter that is ignored in the Closing Submissions of CPRE Kent.

372. Whilst Manual for Streets 1 states that "*Walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to about 800m) walking distance of residential areas",* the Council says that it also states that the greatest potential to replace short car trips is for journeys under 2km[150] and that this was agreed with Ms Daley. Table 3.1 of the SoCG between the Highway Authority and the applicant[151] indicates that local facilities accessed via the BKF development are all under 2km save for one nursery school. The Council adds that the following Table 3.2 shows that local facilities accessed via existing footways adjacent to the A229/High Road are all under 2km, and that these were agreed with Ms Daley.

373. The Council also states that there are also improvements that are forthcoming. The TF development planning obligation contains a requirement to build a new bus stop closer to the development. It adds that the current application scheme seeks to widen the roadside pavement, provide multiple pedestrian routes that link Turnden and the BKF development to provide a more attractive[152] and usable route and bus services would improve as a result of enhancements to signals which would reduce delays and allow the introduction of bus priority[153]. The Council contends that there is no need for any concern regarding a small strip of unregistered land within the BKF site. An assessment of the plans[154] shows that only one of four connections could possibly be affected. The Council adds that, if connections were to be compromised, the Council would use compulsory purchase powers as reflected in the eLP[155]. Contrary to CPRE's Closing Submissions, there is no uncertainty.

[149] CD7.1, Summary and paras 7.134-7.138, 10.42-10.43
[150] ID31, para 4.4.1
[151] CD9.20
[152] ID32 and ID31, para 6.3.1
[153] CD9.20, para 4.11
[154] ID60 and 61
[155] ID64, paras 4.73 & 4.84

374. While the Council accepts that there would be partial reliance on the car it adds that the options to facilitate a change in habits will be available. It says that a travel plan would be in place and that the position of the site to the tier 2 settlement and the improved pedestrian links leads Mr Hazelgrove to conclude that this is "*strongly sustainable in relation to … proximity to services and the nature of the route to them"*. Therefore, in the Council's view, the scheme complies with Framework para 110 (a) and there are no objections from KCC as Highway Authority.

National Policy relating to AONBs

375. The Council states that while NE seeks to rely on the Glover Report, as Ms Marsh accepted, the Framework was amended in July 2021 and, despite the Glover Report pre-dating those changes, no higher test was introduced. The report is, in the Council's view, interesting but it does not and cannot change national planning policy.

Framework Paras 176 & 177

376. The Council states that further to para 176, the national policy test applicable in a development control context when major development in the AONB is proposed sets a high threshold. Under para 177, it must be shown that there are "exceptional circumstances" and that the proposed development is "in the public interest". The Council adds that para 177 does not necessarily apply in the plan-making context and so there can be no suggestion that the applicant is gaming the system in making an application prior to the site being allocated.

377. However, the Council adds that it should also be noted that this test is not the most stringent in the Framework and refers to *Compton PC v Guildford BC and Others* [2020] J.P.L. 661 [2][156], which states that '"Exceptional circumstances" was a less demanding test than the development control test for permitting inappropriate development in the Green Belt, which required "very special circumstances"'[157].

378. The authority is, the Council says, therefore directly applicable to the exceptional circumstances test of Framework para 177. In respect to exceptional circumstances it provides, that "*The phrase did not require at least more than one individual "exceptional circumstance"*. The "*exceptional circumstances" could be found in the accumulation or combination of circumstances, of varying natures, which entitled the decision-maker, in the rational exercise of a planning judgment, to say that the circumstances were sufficiently exceptional…*", para 2. It also stated that the phrase "*had to be considered as a whole and in its context" and that "It did not mean that they had to be unlikely to recur in a similar fashion elsewhere*", para 4.

379. The Council adds that Ms Kent agreed that in principle a collection of unexceptional circumstances could amount to exceptional circumstances. The Council goes on to say that there is no restriction on what kinds of benefits can be put in the basket of exceptional circumstances[158] and refers to BNG as being

[156] CD20.17
[157] Also CD20.4, para 54
[158] CD20.5

'plainly relevant'.

Para 177(a) – The Need for the Development etc

380. The Council maintains that there is no negative impact on the local economy from the scheme only positive ones from construction, employment and new households in the area.

381. The Council's need for housing is identified in the Housing Needs Assessment Topic Paper February 2021 as 12,204 net additional dwellings over a plan period 2020-2038 (678 dwellings per year)[159]. This is more than double what the Core Strategy sought to provide at 300 per annum[160]. The Council considers that its shortfall is not significant at 0.11 years, but also acknowledges that it has not been able to demonstrate a 5 year housing land supply for over 6 years. It is improving but slowly. With reference to CPRE Kent's closing submissions, the Council adds that Mr Hazelgrove and Mr Slatford agreed a continued improvement in delivery, rather than supply, due to the completion of some big sites. It adds that the improvements result from granting planning permissions in conflict with the LBDs in the development plan.

382. While the parties accept that there is a local and national need for housing, the urgency of that need or the import of that need is not agreed. Whilst the Council's view is that there is an urgent and important housing need, it does not consider that it matters in any event. In this regard it cites *Compton*[161] [3]: General planning needs, such as ordinary housing, were not precluded from the scope of "*exceptional circumstances … The phrase was not limited to some unusual form of housing, not to a particular intensity of need…*".

383. As to the urgency of that need, the Council says that its need is now. It adds that it matters not whether the housing land supply is 2 years or 4 years because the outcome is the same, there is not enough supply of housing now and that that is pressing. The Council seeks to address its shortfall through its eLP. The strategy is based in part on allocations of major development in the HWAONB. That strategy will be a matter to be considered by the Examining Inspector. The Council says, however, that it is notable that NE objects to the principle of the strategy and yet also seeks to show that the Council does not have a "pressing need" for housing. If NE's complaint is a good one, the need for housing in the Borough becomes greater because there is no strategy that does not rely on major development allocations.

384. The Council goes onto say, as Ms Kent accepted in cross examination, there has been a significant under supply of affordable housing across the Borough and there is a significant need for affordable housing. The Housing Needs Assessment Topic Paper[162] shows that the affordable housing requirement is 391 per annum. The Authority Monitoring Report[163] shows that delivery has been on average 81.6 affordable homes per year. There is a shortfall of over 300 per year and, based on the current policy threshold of 35%, there would need to be in excess of 1000 new homes per annum to address the identified affordable

[159] CD14.2.4, para 2.16
[160] CD11.4, para 5.133
[161] CD20.17, para 3
[162] CD14.2.4
[163] ID46, Table 26

need, and that is if all developments trigger and provide affordable housing. There are 917 households on the housing need register as at December 2020, an increase from 870 in June 2019. The Council adds that of those, 157 applicants specified that they want to live in Cranbrook and 51 households have a local connection[164]. It adds that even the affordable dwellings from the TF and the BKF developments, which amount to 75 dwellings in total including 23 rented, cannot meet that locally identified housing need on the register.

385. CPRE Kent raise that if the Hawkhurst Golf Club[165] appeal is allowed, this would address the Council's 5-year housing land supply and there would be no need for this development at Turnden. The Council state, however, that if it were to be allowed, it would not affect the area's overall housing need, which stands at over 12,200, as a grant of consent for 374 dwellings makes little difference in its view.

386. The Council goes onto say that, it would not address the shortfall of housing in the 5 year supply period because the appeal was by a landowner and not a developer or housebuilder and there was no developer/housebuilder on board, no registered provider identified for affordable housing and no care package in place for the elderly housing; the appeal was in relation to an outline planning permission with a number of reserved matters, which would need to be approved in due course thus delaying development; the site is currently listed as an Asset of Community Value which is likely to delay any sale to a developer / housebuilder[166]; and central to the scheme is a "relief road" which is more than 10m wide and would not, at the earliest, be finished before 2025.

387. The Council adds that the scheme is for 374 houses plus a major road, would not be deliverable for some time if it were to be granted planning permission and would not therefore address the need for housing and affordable housing now. By contrast, in the Council's opinion the current scheme is by a reputable housebuilder, is for full planning permission and Mr Slatford confirmed that last occupation could be by May 2025, probably before the relief road is even built in Hawkhurst. The Council adds that, if the development at Hawkhurst Golf Club were to come forward, it would assist in meeting the need for Hawkhurst, also a tier 2 settlement, not Cranbrook.

388. Lastly, the Council considers that, the need for housing is ongoing.

389. It adds that, while it does not accept the point, if a "critical" need does need to be demonstrated, there is an urgent need for housing and a critical need for affordable housing in Tunbridge Wells, and that need exists nationally also.

Para 177(b) – The Cost of, and Scope for, developing outside the HWAONB or Meeting the Need for it in Some Other Way

390. With reference to *SSCLG v Wealden DC* [2017] EWCA Civ 39[167], the Council maintains that there does not have to be a consideration of alternative sites, but if there is a consideration, it says that the policy does not prescribe how alternative sites are to be assessed or how wide the search must be, it depends

[164] CD9.1, para 7.2
[165] CD22.1
[166] A review was requested which was upheld by the Council and there has now been an appeal to the First Tier Tribunal which the Council is defending
[167] CD20.5

on the circumstances and is a matter of planning judgement.

391. The Development Strategy Topic Paper for the eLP[168], paras 6.133 onwards reveal that, following consultation, a "more rigorous appraisal of the larger sites" was warranted, and the Council maintains that it fully considered the AONB constraints. It reduced the number of allocations in the HWAONB from 49 to 32 reducing the number of dwellings by 47%. The largest single proposal is now for just over 200 dwellings. At para 6.167 it sets out that whilst 69% of the Borough is designated as AONB land, the amount of land allocated for development is 82 hectares which amounts to about a third of 1% of the total AONB area within the Borough. The Council submits that that demonstrates the care and attention it has taken during what it calls an extremely difficult exercise of finding land for housing in a heavily constrained Borough.

392. When assessing major development allocations, the Council says that it took a precautionary approach and assessed each site against Framework para 177 as shown at para 6.125 of the Topic Paper. Table 3 of the Paper sets out that "*As identified in Section 4 and elaborated upon in the 'Housing Needs Assessment Topic Paper', there is a substantial local housing need, which it has been found cannot, sustainably, be met without at least some major development in the AONB, which covers nearly 70% of the borough*". The assessment of need in the Paper also notes the "*very high affordability ratio in the borough that is limiting access of local people to housing" and the "high need for affordable homes*".

393. In terms of 177(b), the Paper concludes from the SHELAA and Sustainability Appraisal[169] noting that both processes have "*given great weight to the conservation and enhancement of the AONB*" that "*The scope for developing outside the AONB has been fully realised*". It also notes that for settlements like Cranbrook, even within the built-up area, inevitably development will be in the AONB. It adds that, whilst the main urban areas of Royal Tunbridge Wells and Southborough and Pembury are outside of the AONB they "*have developed virtually to the AONB; hence, further growth of these very sustainable settlements would also almost certainly be in the AONB*".

394. The Council adds that Paddock Wood is the only town outside the AONB but that it has been identified for major urban expansion for 4000 dwellings in addition to the 1000 in the current Site Allocations LP and that is regarded "*as its full potential capacity*". The Paper also advises that the scope for developing outside the AONB has not been restricted to the Borough and neighbouring authorities have been contacted. Lastly, the Council says that all suitable smaller sites in the AONB are already proposed for allocation.

395. The Council maintains that the SHELAA is a detailed study, assessing 500 sites, based on a robust methodology, compiled by experienced planning professionals and informed by technical consultees like KCC and that Ms Kent made no criticism of the process. If a Borough-wide assessment of alternatives to Turnden is required as part of this planning application, the Council considers that it has been done and thoroughly so. Indeed, it adds, by contacting neighbouring authorities, the decision maker can be satisfied that there have also

[168] CD14.2.2
[169] CD14.1.2

been attempts to explore sites outside of the Borough.

396. The Council states that, hypothetically, there is an area of land in the Borough which is not designated Green Belt and is not designated AONB. However it adds that, as Ms Kent accepted, in that area of land is agricultural land, farmland, subject to sustainability/accessibility constraints, or not available. The Council goes on to say that just because land is not designated does not mean that it has been put forward by landowners, and that, realistically, there is nowhere else to go.

397. The Council also says that the Topic Paper demonstrates that it is aware of and has considered all constraints, including Green Belt, heritage assets and archaeology. It adds that it has been a difficult exercise, but it has been carefully and properly assessed. The Council states that it takes seriously the subject of development in the AONB, it refused the applications for 27 homes at Gate Farm, for 374 homes at Hawkhurst Golf Club and for 2 at Land Adjacent to Frisco Cottage[170].

398. As for a local alternative site assessment, the Council contends that the proposed sites put forward by CPRE Kent based on a draft 2019 AECOM report, to which it considers no weight can be given, were assessed by Mr Hazelgrove through the documents at ID 52 and 53. He concluded that virtually all were not suitable for allocation. The SHELAA is more recent than the AECOM report, and the Council states that it has been informed by statutory consultees, has considered 500 sites and reflects the assessment of planning professionals, in contrast to the sites Ms Warne puts forward as alternatives. The Council adds that, Mr Hazelgrove has provided an update on planning permissions refused and planning appeals dismissed. It adds that CPRE Kent's alternatives can be safely discounted as 'they fall woefully short'[171].

399. The Council says that NE advances no alternatives and with reference to the Sonning Common appeal decision, in which the Council "never really suggested any alternative sites[172]", NE claim that that is a serious shortcoming. However the Council contends that it is not good enough to say that that is for the applicant or that is for the Local Plan inquiry, as the application has been made and requires determination. It adds that NE unreasonably suggest that there is an alternative way to meet need in the face of the extensive work undertaken by the Council without putting forward a single example.

400. Framework para 177(b) is met in the Council's view.

Para 177(c) – Any Detrimental Effects on the Environment, the Landscape and Recreational Opportunities, and the Extent to which that Could be Moderated

401. For its reasons outlined above, the Council says that there would be minimal detrimental long term effects on the landscape.

402. The Council adds that there would be no detrimental impact on recreational opportunities or the environment. There is enhancement of recreational opportunities and enhancement to biodiversity in its view.

[170] 20/01991/FULL discussed at ID18
[171] CD20.5, para 56
[172] CD19.10, para 115

403. The Council considers that Framework para 177(c) is also met. It states that great weight has been given to conserving and enhancing the HWAONB. It adds that, as biodiversity is part and parcel of the natural beauty of the HWAONB, its enhancement is a matter to which great weight should also be given. In the Council's view the para 177 tests have been met and there is a basket of factors which, when taken together, amount to exceptional circumstances: the urgent need for housing now, the critical need for affordable housing now, the local need for housing in Cranbrook, the delivery of housing not just in numbers but in a location adjacent to the settlement boundary, the above policy compliant level of affordable housing, the provision for wheelchair homes even though not required by policy, the exceptional BNG provision, the 7ha of publicly accessible open space which is "considerable" and above policy compliant, the landscape enhancement and restoration, managed in perpetuity with the provision of interpretation boards and walks.

404. The Council adds that, overall, Mr Hazelgrove said that what is also exceptional is that "it is in the location it is and can accommodate development in a highly constrained area with limited impacts and benefits which would not occur without the development taking place", and that this is "rare" and in comparison with other schemes he has dealt with "this provides significantly more". In the Council's view, the contention of the HWAONB Unit that the benefits are commonplace is plainly not correct given Mr Hazelgrove's experience as a planning officer.

The Planning Balance

405. The Council refers to the s38(6) duty applying throughout and that when it resolved to grant planning permission it did not apply the tilted balance, but Mr Hazelgrove agreed in oral evidence the effect of the lack of a 5 year housing supply and explained that there is a need to assess weight to policies in any event.

406. The Council considers that the proposal complies with the development plan and adds that, as Mr Hazelgrove sets out in his proof of evidence, where the proposal conflicts with development plan policies they are out of date (Policies LBD1, AL/STR1, CP1, CP6 and CP14). While it acknowledges that there is conflict with Policies EN1(4), EN5(1), EN25(2) and CP4(1) and (14) insofar as they relate to heritage assets only, it adds that the Framework allows for a balancing exercise which has been undertaken. The Council also recognises that Mr Hazelgrove notes that there is conflict with Policy EN1(4) but in a limited way. It adds, in particular, that Mr Hazelgrove explained why Policies CP4 and CP12 do not preclude harm.

407. The Council goes on to say that even if it is wrong and there is policy conflict, the benefits, set out above, are exceptional and outweigh policy conflict. By default, if the tilted balance applies, in the Council's view the adverse effects do not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusions

408. The Council's Planning Committee voted in favour of this scheme by 7 votes to 2. The Portfolio Holder has written to me setting out that the Planning Committee "*gave great thought and consideration*" to the application and that the

Richborough

resolution to grant "*was and remains the decision of the Council*"[173]. The Council states that its officers and elected members continue to support the application and the site through allocation in the eLP following extensive work and a vast evidence base.

409. In the Council's opinion, this scheme, in an excellent location, consisting of exceptional benefits and minimal harms and is "rare". In accordance with the overall conclusions to be drawn from the decision letters of other Inspectors within the evidence, there is, the Council states, also the combination of: (i) need, (ii) low level of harm, and (iii) that the application is in a very heavily constrained Borough. The Council says that it does not routinely grant planning permission for major development in the HWAONB, but that this is different. It is so different in its view that it amounts to exceptional circumstances and is in the public interest.

410. The Secretary of State is respectfully invited by the Council to grant planning permission.

The Case for Berkeley Homes (Eastern Counties) Ltd

Introduction

411. The applicant states that this application for the construction of 165 high quality new homes, 40% of which would be affordable, is:

(i) On a site which it is agreed is in an accessible location, having regard to local bus routes, schools, shops and services;

(ii) On a site that has been allocated in the eLP following an exhaustive and comprehensive search for sites;

(iii) Proposed by an applicant which has a well-established track record for delivering high quality developments locally; and

(iv) Supported by the Council, both by its officers and its members, after a process of lengthy and careful consideration.

The Site

412. The site sits directly adjacent to the revised settlement boundary of Cranbrook and to the consented BKF scheme. It wraps around the consented scheme for the TF site. Evidence at the Inquiry considered the plans for the development of the neighbouring sites and the applicant emphasises how in its view the three are being designed to be read together, with connections permeating throughout that area and synergies in open space connections. The site is bounded to the north-west by the A229, which is a busy road, and is also contained on that side by the ribbon development that makes up Hartley and some more recent backland development that abuts and overlooks the site.[174]

413. The applicant adds that, while the site was once a farmstead, surrounded by small-scale irregularly shaped fields, that is no longer the case.[175] The farmhouse sadly burned down, has been de-listed and is itself to be redeveloped for additional housing.[176] It is common ground between the applicant and the

[173] ID27
[174] CD23.1.3, p20 & 30-31, and ID9 p13-18
[175] ID9, p31-32
[176] ID58 and ID59

Council that no farmstead remains, and the applicant also refers *to Historic Farmsteads & Landscape Character in the High Weald AONB*[177], which recognises this farmstead as *lost*. Regarding whether any historic fieldscape remains legible on the site, the applicant contends that it is no longer legible or that, when putting the contrary case at its very highest, all that is left are some limited remnant boundaries which are extraordinarily difficult to discern. It adds that Mr Duckett and Mr Cook agreed that, on a scale of 1-10, as to degree of intactness the number would be about 2, and that Mr Cook further qualified this by noting that the position of the hedgerows do not enclose the old field enclosures identified on historic maps.

414. The applicant adds that the LUC sensitivity study in 2018 records in relation to the site "post-Medieval consolidated strip fields are noted in the HLC [Kent Historic Landscape Characterisation dataset of field/land use types] around Turnden, but these are now equestrian paddocks and do not form part of any recognisable historic landscape"[178]. The applicant considers that the site is currently made up of derelict horse paddocks and that a number of the historic buildings that made up the farmsteads in the wider locality have also gone.[179] In this regard the applicant quotes further from CD12.22, "Five historic farmsteads are recorded in the sub-area, but only two of these have historic buildings remaining", of which the applicant adds Turnden Farmhouse has now also gone.

415. The applicant goes on to say that Ms Farmer agreed that all the field boundaries in the large field to the south-east have gone and accepts there has been at least "some loss" of the field boundaries in the northern area of the site, within the Development Area. The applicant adds that she suggests, however, that the field boundaries in the Development Area are to some extent 'still legible', while Ms Marsh is the furthest outlier, suggesting the field boundaries in the site are "Historic" and "have remained unchanged since the 1830s"[180] and/or for the past 400 years and/or are medieval[181]. The applicant contends that the various character maps on which these assertions are based are without any proper evidential foundation.

416. The applicant states that the final pertinent point to the site 'as is' is what it could do if permission is refused. It could, it says, allow non-commercial horse grazing to be undertaken, introducing ticker tape, electric fencing and even temporary horse boxes, further fragmenting the fields. As Mr Slatford confirmed, that is what the applicant would seek to do.

Design

The Development

417. The applicant says that only one, very experienced, professional witness was called to give evidence on design matters, Mr Pullan. The strength of his evidence was, in the applicant's view, wholly reinforced following its testing in cross examination by HWAONB Unit's and CPRE Kent's advocates.

[177] CD16.24, para 3.25
[178] CD12.22, p125
[179] ID21 p13
[180] CD5.7.15, p2
[181] CD16.04

418. The applicant contends that, fundamentally, this is a very, well designed and completely bespoke scheme. It adds that the design, developed by OSP architects, has been informed by the comments not just of the immediate 'team', but also the responses of 27 wider consultees including Kent Wildlife Trust, Kent Police, and NE itself. Close attention, it says, has been paid to the pattern, grain character, and appearance of existing development at Cranbrook and Hartley, and the design has been developed in multiple iterations after a thorough review of the site's constraints and opportunities. This process has, in the applicant's opinion, resulted in a scheme which complies with the requirements of national, regional and local planning policies and design guides, most importantly the Housing Design Guide.

419. The applicant considers that the development can be conveniently split into two parts: the Development Area, which accounts for some 39.43% of the site, and Wider Land Holding, which is the remaining 60.57%.

420. The applicant states that the Development Area is 9.4ha, of which only 4.7ha would be occupied by built form with the rest of the Development Area being high quality open space. The majority of buildings, it adds, would be 2 storeys, with some 2.5 storey elements in the three apartment buildings confined to the core of each building. There are, broadly, three areas: The Green, which the applicant says would be representative of the central and historic core of Cranbrook, The Yards, the central Courtyards composed of buildings with simple forms and materials drawing on the farmyard aesthetic, and the Rural Village Edge a low-density area fringing the edge of development, with outward looking faces that the applicant says draw on precedents from local villages in terms of property spacing, material and style.

421. The applicant maintains that the affordable housing would not be qualitatively different, or look different, from the market housing, in contrast, it says, to other development in the area, such as the backland development off the A229 in Hartley. Access would be taken from a new dedicated priority junction from the A229, with further off-site highway works being proposed in the form of a right-hand ghost lane into Turnden Lane. The applicant acknowledges that there are proposals to widen both the northern and southern footways along the A229 but considers that these tie into what is already consented for the BKF and TF developments.

422. With reference to the visualisation[182] which begins roughly from the start of the newly reinstated Tanner's Lane, the applicant says that proposals for the Wider Land Holding feature extensive amounts of enhanced green and blue infrastructure, with a naturalistic open space buffer along the A229 leading to a central village green that would be used for informal recreational purposes. A multi-functional east to west green corridor with retained trees and hedgerows would connect the open spaces within the TF development, accommodating natural exploratory play, drainage features and both existing and new proposed vegetation. The applicant adds that a landscape buffer in excess of 15m from the Ancient Woodland is proposed along the south-eastern boundary, which would also include drainage features and additional and enhanced woodland edge scrub for habitat creation and ancient woodland protection. The Wider Land

[182] ID21 p15

Holding would also feature the creation of a Species Rich Grassland, a reinstated woodland shaw, a reinstated watercourse, a reinstated historic route, namely Tanners Lane, the recreation of a number of historic hedgerow boundaries, new permissive paths, and pastoral livestock grazing.[183]

423. The applicant states that all this landscaping and its management would be secured through the LEMP in perpetuity with the likely involvement of Kent Wildlife Trust. While it acknowledges that there would be some changes to the topography of the site to accommodate the earthworks, the applicant contends, with reference to Mr Pullan's evidence, this is not only a sustainable approach, but would also lead to minimal noticeable change. Overall, the applicant re-emphasises that less than 20% of the site would be built on, with 80% retained and enhanced landscape infrastructure. It says, in contrast the approved BKF scheme has landscape infrastructure (57%) such that the development is correspondingly denser.[184]

Assessment

424. The applicant says that Mr Pullan's proof of evidence pulls together the key references in design related policies in all relevant documents, against which he has assessed the development, and set that out under the themes encapsulated in the Housing Design Guide: (i) response to context, (ii) making a place, and (iii) the right details. The applicant adds that this merits reading in full but highlights the following three points.

425. First, in the applicant's view the design of this development responds to its context.[185] Landscape and setting have, it adds, been primary considerations in developing the design,[186] as reflected in the opportunities taken to, for example, reintroduce woodland shaw. In a similar way, it says, the historic settlement pattern and landscape character can be seen in, for example, the reintroduction of medieval field pattern in the Wider Land Holding, and the extensive green buffer separating development from both the A229 and Hartley.[187] The applicant maintains that cut and fill has been minimised,[188] with a wildflower meadow growing in the area where soil has been sustainably retained on site.[189] It adds that the possibility of views both through and out into the countryside has been built into the fabric of the design whether that is in the spacing of the buildings, the retention of existing buildings, or the new paths created.[190] This, the applicant says, was challenged principally on two bases in cross examination:

(i) There was some suggestion that the development fails to respond to its context because it would undermine the TF scheme's design and the vision for it to be an isolated farmstead surrounded by countryside. The applicant says it is flawed in three ways:

- It proceeds on a false premise – it is not a farmstead, the 36 home scheme was simply designed in a farmstead style and such a scheme could not

[183] ID9 para 49, and CD23.1.7 paras 5.15-5.16
[184] CD23.1.3 para 3.10 and Figure 4
[185] ID9 p51
[186] CD23.1.3 p54, CD1.3.3 and CD3.2
[187] CD23.1.3 p55
[188] ID9 p54
[189] CD23.1.3, p56-57
[190] CD23.1.3, p58

seriously be said to be a farmstead, and now three additional homes have been granted permission.

- If the Council had sought to keep the TF site surrounded on all sides by fields, it could have done so via planning obligations secured by legal agreement as the applicant owns these. It did not and the Committee Report makes clear that the Council saw a strong relationship between that site and land allocated for development at the BKF site. It was only the southern side where there was perceived to be a relationship with open countryside, and this is not only unaffected by the development, but it is only the current development that offers a way to maintain that in perpetuity.
- The rural setting to the TF site has been considered and maintained on every side bar where it immediately adjoins the Development Area, and that is where the Committee Report on the TF development saw there being a strong relationship to the BKF development and the edge of the settlement of Cranbrook.

(ii) There was further suggestion that the design team should have 'pushed back' and considered quantum of development as the first stage in the process. However, as Mr Pullan pointed out in evidence, neither the HWAONB Management Plan nor the Housing Design Guide prescribe the scale of development that is appropriate to the HWAONB.[191] Moreover, the quantum of development proposed here has been influenced by the allocation in the eLP, and this is itself landscape led and supported by the HDA LVIA[192]. In short, the quantum of development here has been landscape led, considering the policy, draft allocation, and impact.

426. Second, fundamentally, the applicant maintains that the development creates a highly desirable place to live. It adds, though separated from the A229 through a generous landscape buffer, connections are established through and beyond the site, integrating the development into both the landscape and urban context. The site is permeable, in the applicant's view, with few – if any - dead ends, and is connected by legible routes in a clear hierarchy, which run through houses that are placed to work with the topography of the area rather than against it, all in a framework which is very, very green.[193] The applicant would particularly like to draw attention to those green spaces that are immediately adjacent to the Development Area, as it sees these as being multifunctional, providing a place to walk, to gather, and as interlinking systems for both wildlife and landscape. This is, the applicant adds, all complemented by the placement of the buildings in the Development Area, which have a clear relationship to the street, landform and green corridors, supporting the street hierarchy while simultaneously providing active edges. It adds that care has been taken to create homes which it considers are 'just right', with designs and materials selected to reflect the local grain and development pattern in the area, which are massed and spaced to reinforce the High Weald character in a manner which is clearly related but variable enough to be interesting: the traditional and older Kent vernacular is evidently an influence here.

[191] CD23.1.3, para 1.33 and CD23.1.5, para 6.37
[192] CD14.3.9
[193] CD23.1.3, p59 & p60

427. The applicant contends that while Ms Marsh purports to have assessed the proposals against the Housing Design Guide, she has not provided a full or even summary analysis of it. It adds that she suggested that this was "a generic residential housing estate" imitating the post-war housing, that Mr Pullan had sought to justify the development by reference mainly to the 1970s estate, and that there was no development story. The applicant contends, however, that:

(i) Acquaintance with the development design demonstrates how absurd those suggestions are and how devoid of all perspective Ms Marsh and the HWAONB Unit have become. The influence of buildings on High Street Cranbrook, Horsley Place, Waterloo Road, and Crane Cottage are clearly evident in what is proposed. The HWAONB Unit's case on these matters can be fairly characterised as extreme and devoid of merit.

(ii) Ms Marsh has failed to outline any summary or detailed analysis or methodology of the proposals against the Housing Design Guide or the Kent Local Design Guide, National Design Guide or sections of the Framework which deal with design. These failings are fundamental and her comments that the development would be a generic residential housing estate are without justification and should be accorded no weight.

(iii) Given that the HWAONB Unit seems to be objecting in principle to any major development, it is unclear what, if any, difference that makes to its case.

428. Third, in the applicant's opinion, its own close eye for detail is well known and has been deployed to full effect here, reinforcing the existing High Weald character with homes that would include details such as clay and slate tiled roofs, rust and russet tile hangings, open eaves and simple porch canopies. The applicant adds that this classic vernacular pattern complements the integrated sustainability benefits of the properties, including sufficient space, facilities and connections to enable working from home in accordance with the Code for Sustainable Homes. The streetways, it says, use simple surface materials, reinforcing the palette to be used at the TF development, while lighting has been designed to maintain safety and security, minimising light pollution and any impact on wildlife. It adds that the green infrastructure would incorporate native planting schemes, using traditional land management skills, and maximise opportunities to support characteristic wildlife.

429. Each of these points, Mr Pullan says, demonstrates compliance with all relevant policy and guidance. When all of this is taken together the applicant says that all of the design details show this is the right scheme and in the right place.

Landscape & Visual Issues

430. Given that this would be *major development* for the purposes of Framework para 177, landscape and visual issues were rightly considered during the Inquiry in the applicant's view, given that the site is in the HWAONB so that such matters deserve, and have received, careful consideration. In addition to the LVIA provided with the application,[194] the landscape impacts have been considered within the HDA LVIA,[195] and by the Council's Landscape Officer[196] and case

[194] CD5.7.1 and 5.7.2
[195] CD14.3.9
[196] CD6.14.1 and CD6.14.2

officer[197]. Moreover, evidence was heard from Mr Cook, Mr Duckett, Ms Farmer and Ms Marsh. The applicant relies on the evidence of Mr Cook, though notes that he and Mr Duckett have undertaken similar analyses and reach similar conclusions. So, it says, it is through the lens of Mr Cook's analysis that it makes the following three 'key' points[198]:

(i) That the Development Area, being occupied by housing that is in keeping with the general vernacular seen in Cranbrook, and being fully in accordance with the Housing Design Guide, would have a neutral rather than adverse effect;

(ii) That the remainder of the site, including the Wider Land Holding and other green infrastructure would have a clearly beneficial landscape and visual effect.

(iii) Overall, therefore, the development's effects would be neutral to beneficial with regard to both landscape character and visual amenity.

Methodologies & Underlying Assumptions

431. The LVIA sets out its methodology. The applicant notes that Ms Farmer expressly said she took no issue with it.[199]

432. Both Mr Cook and Mr Duckett outlined their methodologies in their proofs of evidence. The applicant says that it does not understand Ms Farmer to have taken any serious issue with those approaches. It adds that some criticisms were made by the HWAONB Unit, but the applicant submits that they were all demonstrably flawed. The applicant says that although Mr Cook was challenged on the basis that he had not outlined both visual receptors and landscape receptors, landscape receptors are discussed in sections 6, 7 and 11 of his proof of evidence, while visual effects are discussed in sections 8 and 9. It adds that it was next suggested that he had not complied with para 3.26 of GLVIA[200], but the applicant asserts that he showed that he had. It was also next suggested that he erred in not providing tables, but the applicant contends that earlier paragraphs in GLVIA guard against the over-use of tables or matrices and that a narrative is preferred.

433. The applicant says that Ms Farmer did not set out her methodology, and some issues which the applicant says that this gives rise to are set out below.

434. In the applicant's view, Ms Marsh is a complete outlier and her evidence, at the very least, gives a strong appearance of being coloured and devoid of any degree of impartiality. In this regard the applicant says:

(i) Notwithstanding Framework para 177, the HWAONB Unit will oppose all major development in the HWAONB, which is the wrong approach in principle;

(ii) Ms Marsh lives in Hartley and within a mile of the site, which raises the potential for a perceived conflict of interest and is a situation that experienced professionals should seek to avoid; and

(iii) Although she stated that she was able to keep the personal and professional separate, the HWAONB Unit has appeared at appeals for development near

[197] CD7.1
[198] CD23.1.7 para 2.17
[199] CD23.5.1 para 97 and CD6.12.1 p3, Annex A
[200] CD16.01

Hartley in this case and in the case of the Gate Farm appeal, and also at the BKF allocation examination hearing, for example, but not at inquiries elsewhere, such as for the Hawkhurst Golf Club appeal, which concern many of the same issues.

435. In the landscape context, the applicant says that Ms Marsh failed to outline her methodology, pointing instead to the Technical Guidance Note by the LVIA Institute[201], a document concerned with reviewing LVIAs, and which provides no methodology for her evidence in so far as it goes beyond this and expresses views on the degree of impact. On this basis the applicant maintains that there is no transparency in her approach, which it considers to be a particular problem in this case, as it appears to the applicant that she has a completely different understanding of some key terms from the other witnesses. The applicant adds by way of an example, Ms Marsh suggested that while one could speak of containment in visual terms, it could not be applied to questions of landscape resource and perceptual qualities. It adds though that, as Mr Duckett stated, it can be applied to both.

436. Therefore for landscape purposes, the applicant says, on the one hand there are qualified landscape experts, Mr Cook, Mr Duckett and Ms Farmer, who disagree on certain points but accepted that the views of the others fell within the bounds of reasonable expert opinion. Each is a qualified landscape expert. The applicant adds on the other hand Ms Marsh was of the opinion that her views were correct, and the other experts were outside the range of reasonable responses open to them, which in the applicant's view was quite extraordinary evidence.

Baseline

437. The applicant is of the understanding that all parties agree that the baseline must take into account both the planned TF and BKF developments, alongside the existing developments at Hartley Road, Orchard Way, and Cranbrook, albeit that Ms Farmer has sought to outline the effect of the baseline using her Appendix maps B and C. The applicant says, however, that these significantly overplay the impact of the development, as they do not show green infrastructure and alter the status of the TF development and Orchard Way.

438. In this regard the applicant says that:

(i) All parties accept that this is a settled landscape;

(ii) Much has been made of the idea of a 'green wedge', but the BKF and the Corn Hall allocation fundamentally changes the understanding of that; something the applicant contends NE's advocate explicitly acknowledged in his cross examination of Mr Duckett, where the discussion was of "slivers" of green not a wedge having regard to the allocations at BKF and Corn Hall. The applicant says it is not something affected by the development;

(iii) There is a dispute as to how to 'read' the TF scheme. Ms Farmer considers that it (and Orchard Way) should read as part of a green wedge right up until the application development is built. Mr Cook outlined that rather than maintain a 'dispersed' character as suggested by NE, the TF development would visually relate to the BKF development once they are both built,

[201] ID20

reading as an outlier to Cranbrook but remaining associated with it. The officer report also indicates that the TF development could not be considered 'isolated';[202]

(iv) There was some dispute about whether the site could be considered 'tranquil' in the baseline. Mr Cook outlined that this remains a site close to the busy A229, and adjacent to the BKF and TF sites such that it cannot be said to be particularly tranquil, albeit that the amount of noise pervading the site reduces to its lower third. The most tranquil elements are the south and south-eastern parts;

(v) Once developed, the Development Area of the site would have relatively hard built edges on the BKF site and the internal roads that would run along the northern edge of the TF site. In response to any suggestion that the Council can 'soften' at least the BKF edges through detailing requirements, the applicant says that it is constrained in whatever it can request by way of Reserved Matter approval for the BKF site by the approved Parameters Plan[203], which shows a narrow strip of land. That Parameters Plan in turn has been influenced by the policy locations of the buffers on the site Allocations LP.[204] So, there is not that flexibility. In any case, such a suggestion cannot apply to either the TF internal roads or the backland development; and

(vi) The site currently features what the applicant refers to as derelict paddock fencing, which it says detracts from the landscape. A suggestion was made to Mr Duckett that the landscape was "recovered", but he said that this is not so. It adds that it is simply in a period of suspended animation pending the next usage.

Policies, Guidance & Previous Site Assessments

439. The applicant refers to six documents.

440. First, the National Character Area 122, which forms part of an assessment of the character of England's landscape.[205] NCA 122 is very large. The key characteristics are identified on page 8 and Statements of Environmental Opportunity on page 5.

441. Second, at the local level, there is the Tunbridge Wells Borough LCA SPD 2017[206]. The site and its surrounding area fall within the Cranbrook Fruitbelt LCA 4. There is a detailed SPD which runs through the Cranbrook Fruitbelt's key characteristics (p50), valued features and qualities (p53) and outlines a recommended landscape strategy, considered in the context of the HWAONB (p54).

442. Third, there is the HWAONB Management Plan,[207] which replaced the earlier 2014-2019 version which is referred to in the Council's LCA SPD.[208] It outlines five defining components of character which comprise the natural beauty of the

[202] CD18.02 para 10.12
[203] CD18.4 Condition 5
[204] CD11.3
[205] CD16.2 p3, 5 and 8
[206] CD12.8
[207] CD12.13
[208] CD12.13 Appendix 5 (p222)

HWAONB, geology landform and water systems, settlement, routeways, woodland, and field and heath.

443. Fourth, the sensitivity of the site itself was examined in the LUC sensitivity study.[209] In the context of the study, in the applicant's opinion, what is proposed would be small scale at 2-2.5 storeys[210]. This area falls within area Cr2. Although much larger than the site, the study states that the area adjacent to the allocation AL/CR4 development on the edge of Cranbrook, around Turnden, and in remaining open gaps along Hartley Road, proximity to existing/intended development means that sensitivity is slightly lower"[211]. The applicant says that Ms Farmer sought to dispute this, suggesting the reference to "slightly lower" meant "slightly lower than high" and not medium-high. However, the applicant maintains that Mr Cook made it clear that the LUC study refers to both the High and Medium/High boxes, at page 126, so the latter category Medium/High must be relevant to the site.

444. The applicant adds that Mr Cook also defended the analogy with Cr4, pointing out that, once built upon, buildings would be in the northern part of Cr2 in the same way they are for Cr4, and that there is quite the degree of commonality between the two designations as both are bounded by the A229, with residential development on the opposite side of the road, with development sitting adjacent to them. So, in the applicant's view, while Mr Cook accepted that the two are different, he maintains that the benchmarking process is still beneficial and that one must look at the definitions for both medium and high to see where the proposal sits between the two.

445. On that basis the applicant maintains that the LUC study indicates that the sensitivity of an area roughly equivalent to the Development Area is medium/high. In the applicant's view the LUC analysis also identifies the large nucleated settlement form of Cranbrook, rather than dense close-knit houses, suggests that the sensitivity diminishes with increasing proximity to development along the ridge crest, and that the fields around Turnden are now disused equestrian paddocks and do not form part of any recognisable historic landscape. The applicant goes on to say that it should also be noted that this study took place at a time when the, now gone, Turnden Farmhouse was still extant.

446. The applicant also says that while Ms Farmer raises a number of concerns regarding the LUC report, she accepted that these do not mean there is "no worth" in the conclusions LUC reach, and they are not fundamental. It adds that although she considers that LUC should have paid more attention to the role of the site in reinforcing the gap between settlements, the applicant considers that this is simply her taking a different view from LUC. The applicant adds that in circumstances where LUC specifically did consider separation for other plots, adjacent to Cr2, it is wrong in its view to consider this an oversight or gap in their analysis, rather than a deliberate decision and part of their analysis. As with the HDA study, in the applicant's view, she is conflating disagreement with oversight.

[209] CD12.22
[210] ID21 p6
[211] ID21, p11

447. Ms Farmer also suggests that not enough attention has been paid to the TF scheme as an isolated farmstead although the applicant states that the highest she puts it was that this "arguably" increases sensitivity.

448. Fifth, following the LUC report, the site was also assessed by the HDA LVIA. This was commissioned by the Council at NE's request and assesses the proposed major development allocations in the eLP. The applicant says that NE had not previously criticised this LVIA despite being provided with its methodology, and although a number of criticisms have since been made by Ms Farmer and the HWAONB Unit, in the applicant's view, they were shown during the Inquiry to be untenable. The applicant particularly highlights two criticisms. The first is the suggestion that this LVIA post-dates and was influenced by the site LVIA for this application, but the applicant states that this is wrong because the project was commenced in November 2019 and had no regard to this application's LVIA. The second is the suggestion that the Inspector in the Gate Farm appeal decision[212] had called into question the judgements in the HDA LVIA, but in the applicant's view he did not, and it adds therefore that criticisms of the entire HDA LVIA based on that appeal decision are meritless.

449. The applicant goes on to say that the site is recognised as being subject to various constraints, including ensuring a demarcation between the settlements of Cranbrook and Hartley. In that regard it adds that while Ms Farmer suggests that no mention is made of the role of the site in the perceived gap between Cranbrook and Hartley, in its view the issue of separation has clearly been considered as Figure C2 of the HDA LVIA shows. The applicant states that after analysing matters such as landscape character plans, routeways and historic routeways, geology and water systems and character components and objectives of the HWAONB Management Plan, the HDA LVIA sets out a proposal for the allocation of the site, identifying the north-eastern part of the site for residential development providing additional mitigation measures are complied with. It adds that, without outlining an exhaustive list, these measures include matters such as retaining two-thirds of the site as open space, undertaking enhancement such as recreating historic field boundaries, and including open spaces and landscape buffers to maintain the sense of separation between Cranbrook and Hartley.

450. The applicant says that, overall, HDA LVIA concludes that sensitive development within the site could be achieved without residual significant landscape and visual effects from public accessible VPs, and that there is the potential for the proposal within the site to enhance the landscape of the HWAONB in the areas allocated for open space. Mr Cook considers that the proposed development complies with the requirements of the HDA LVIA, and the applicant says that Ms Farmer confirmed that she does not suggest there is non-compliance.

451. Sixth, based in part on the work of HDA, there is what the applicant describes as the 'landscape-led' allocation of the site in the eLP, which it adds includes a number of landscape-led requirements such as non-vehicular routes, having regard to existing hedgerows and mature trees, locating development only on areas identified for residential use, and providing extensive green infrastructure. The applicant says that Ms Farmer confirmed it is no part of NE's case that the

[212] CD19.8

development does not comply with the criteria set out therein, whereas Ms Marsh does not offer an opinion on compliance with the eLP.

452. The applicant considers that these six documents are important. It notes that Ms Farmer also referred to the earlier, 2009, Landscape Capacity Study and the eC&SNP evidence base, neither of which are particularly relevant in the applicant's view. In this regard applicant says that that Landscape Capacity Study is based on the outdated GLVIA 2 methodology, has been superseded by events, notably the BKF and TF developments, and the C2 area within it is significantly larger than the site. In respect to the eC&SNP the applicant also says that the VPs[213] should be given no weight. This it adds is because they form part of a draft document that carries limited weight, they were published shortly after and in response to the Council approving at Regulation 18 stage the draft allocation of the site, and they have not been reviewed after the BKF scheme was granted permission.

The Development

453. The applicant maintains that Mr Cook has undertaken a thorough review of the development, finding both that it reflects the HWAONB and accords with the principles of good design set out in the National Design Guide. It says that Ms Marsh did not assess the development against the National Design Guide and failed to assess it against the Housing Design Guide. The applicant adds that Ms Farmer did not attempt any such appraisal, purporting instead to take an 'in principle' objection to the development having not assessed design but looked rather at only one of ten characteristics outlined in the National Design Guide.

454. In the applicant's opinion, the criticism of the scheme implies that it makes no difference whether what is proposed is the worst designed generic housing estate imaginable or an architectural masterpiece. The applicant says, however, that that cannot be right. It adds that the very first step for a landscape assessment is to 'get under the skin of the development', to see how it impacts the landscape, which it says is an approach required by the Guidance Note *Legislation and Planning Policy in the High Weald AONB,* the Housing Design Guide and the Framework. The applicant maintains that Mr Cook has done that while Ms Farmer and Ms Marsh have not. It also states that that difference in approach fundamentally weakens the case put against the development.

455. The applicant says that the vision is for a development which is attractive, accessible and which allows biodiversity to thrive. It makes / highlights the following points in particular, including their effect on landscape:

(i) The open area to the north-west of the site allows the development to be considerably set back from the A229, maintaining the sense of separation from the A229 and Hartley, which ties into the same principles deployed in the BKF scheme immediately to the north. During construction a section of the hedge would need to be removed to accommodate the visibility splays and highway works, but once those are in place there would be an opportunity, behind the visibility splays, to reinstate a native hedgerow and stand of trees. The sweeping entryway would also be framed by a stand of trees;

[213] ID11

(ii) The Wider Land Holding and large elements of open landscaping would help maintain the sense of separation between Cranbrook and Hartley;

(iii) The reinstatement of the historic Tanner's Lane would provide an opportunity to link the site to the BKF development and Cranbrook;

(iv) The central village green area would retain existing mature trees, wet depressions and hollows, the latter two would be enhanced as naturalised attenuation ponds surrounded by marginal aquatic vegetation and shrub planting, forming attractive anchor features;

(v) A similar strategy is employed for the central green corridor, retaining good quality tree cover and using that as a framework for the new grassland, shrubbery, standard trees and large naturalistic attenuation pond;

(vi) The Ancient Woodland is retained, and the minimum 15m buffer zone provides a naturalistic landscape environment protecting and enhancing that woodland;

(vii) The proposed woodland shaw and stream within it involves the reinstatement of a historic feature;

(viii) The currently featureless field on the south-eastern part of the site would benefit from a new woodland shaw to the north, and two blocks of woodland to the west known as Turnden Farmstead Wood and Hennickers Pit Wood. This would sit alongside the recreation of historic field compartments, with hundreds of linear metres of replanted mixed native hedgerows, and standard trees based on historic maps of the 1800s;

(ix) While the field would be raised by some 460mm, as it would mirror the existing topography, once the area has been seeded, the change would be imperceptible, and a poor semi-improved grassland would be replaced with a wildflower meadow. The footpath would not be materially affected once the meadow is in place;

(x) The creation of the new woodland shaws would reinforce the buffer / physical gap and sense of separation between Hartley and the TF development;

(xi) This all works together alongside particular residential elements in the Development Area, such as framing shrub beds and lawns by ornamental hedgerows within front gardens. Mr Hazelgrove notes that it is rare to provide such a large amount of public open space and ecological management in a scheme such as this. Mr Cook considers the proposal would be exceptional in the amount of green infrastructure it delivers, alongside the housing.

456. The applicant adds that providing additional footpaths, reinstating lost hedgerow and field boundaries, providing new woodland block planting and new publicly accessible green infrastructure are all agreed with the Council and NE to be benefits of the development. It adds that Ms Farmer accepted that the only aspects she considered resulted in harm were the removal of hedgerow for access along with other access related works on the A229 and the built form, notwithstanding not having assessed the design. The rest, the applicant says, she accepts would be landscape enhancements, which there would be no obligation to deliver if the development is not consented. It adds that Ms Farmer, on behalf of NE, does not seek to criticise the content of the LEMP or the landscape statement.

Richborough

457. The applicant goes on to say that Ms Marsh alone suggested the landscaping was not exceptional, although she saw "exceptional" as "exceeding the aspirations of the [HWAONB Management Plan]". Tellingly, in the applicant's view, she could not point to any examples of any similar sized scheme with anywhere near equivalent levels of landscaping, nor did she accept any of the above matters were benefits, suggesting instead that the landscape enhancement proposals are "generic, inadequate, and disadvantageous to the AONB".

458. The applicant contends that this position was shown to be as untenable as it was extreme. By way of example, the applicant says that it was pointed out to her that "Recreational access" is specifically referred to in Framework para 177, yet Ms Marsh, it says: suggested that provision of public open space was a requirement of any scheme but was unable to explain from where this view came, other than her own experience; accepted she had not undertaken an analysis of the extent to which it met or exceeded policy requirements; and suggested permissive paths were not guaranteed despite the provisions of the S106 Agreement. Moreover, it adds that, it is not in dispute that affordable housing would be provided, listed as one of the top five issues facing this AONB in the HWAONB Management Plan[214] while the open space to be provided would exceed policy requirements.

459. The applicant adds that Ms Marsh also dismissed the importance of the LEMP on the basis that good outcomes could be achieved at minimal expense by, for example, donating the site to a regenerational farmer. The applicant sees this evidence as being somewhat extreme, having an air of unreality, and an outlier from all the other evidence.

460. Against that background the applicant analyses the application in landscape and visual terms, breaking it down into *effect on landscape elements and character within the site*, *effect on landscape elements and character outside of the site*, and *visual impacts*.

Effect on Landscape Elements & Character within the Site

461. The applicant says Mr Cook, Mr Duckett and Ms Farmer all agree that one looks both at the overall landscape and elements within the site, both in quality and quantity, pre and post-development. This is not, the applicant adds, because the three experts have 'confused' elements with character, as suggested by the HWAONB Unit.

462. Mr Cook identifies six individual landscape elements to assess, in respect to which the applicant says:

(i) The effect on trees and tree-cover would be both major and beneficial. A significant number of new trees are proposed, over the very limited losses associated with the proposed development as set out in the Arboricultural Impact Assessment.[215] Many trees would be retained, and substantial further tree cover would be introduced across the site, including 126 new trees within the Development Area and a further 38 trees and 1.15ha of

[214] CD12.13
[215] CD3.06, Table 1

native woodland planting within the Wider Land Holding. All of which is characteristic of the HWAONB and the area.

(ii) The impact on hedgerows would be both major and beneficial. Although 290m of hedgerows would be lost, what is proposed includes the enhancement of 90m of hedgerow with native species rich hedgerow and proposed new native hedgerow planting of some 1.29km. Some reinstated hedgerows are along historic boundaries as advocated by the HWAONB Management Plan.[216]

(iii) There would be a moderate beneficial effect on grassland, balancing the admitted loss of some poor quality grassland against the creation of naturalistic species rich grassland and meadowland.

(iv) There would be minor adverse effect on topography, which would be imperceptible in due course. The slight raising of the topography is a side effect of not exporting soil, so has sustainable development benefits.

(v) There would be a major beneficial effect on public access and recreational opportunities stemming from the retention of existing PROW, creation of permissive paths and delivery of significant areas of open space. KCC Public Rights of Way and Access Services has no objection subject to certain considerations being taken into account.[217]

(vi) There would be a moderate beneficial effect on water features, as existing ponds, ditches and wet depressions would be retained and enhanced, and the landscape proposals are designed to provide blue infrastructure connections and reflect the pattern of landscape features such as shaws, ditches and ponds, characteristic of the site, landscape, and the HWAONB.

463. On landscape character more generally, the applicant says that Mr Cook, Mr Duckett and Ms Farmer agree that this is a high value landscape. Mr Cook says the susceptibility of the site, particularly the Development Area, to change is low, referring to the absence of visibility, the lack of coherent fieldscape of the post-medieval landscape, the noise and development associated with the A229 and the proximity to the urbanising influence of other development, as existing and consented.

464. Therefore, considering the baseline, and susceptibility to change, Mr Cook and Mr Duckett assess the Development Area and Wider Land Holding separately. In terms of the latter there would, be a major beneficial effect in landscape element and character terms, reflecting the sheer volume of planting and landscape enhancement which is "quite exceptional given the limited scale of proposed housing". The applicant says that Ms Farmer accepts that the physical effects on the Wider Land Holding would be positive, save for some harm in the short-medium term from soil movements. In terms of the Development Area, Mr Cook considers there would be a neutral impact. He accepts that residential property is a *different* element to grassland. The applicant adds though that it has been specifically designed to respond to the context of the HWAONB as a settled landscape, which it says it does and is fully compliant with the Housing Design Guide, such that it conserves what one associates with this part of the AONB, which is significantly defined by Cranbrook.

[216] CD12.13) p50 objective FH2: "Proposed Actions […] Use historic maps to help reinstate lost hedgerows"
[217] CD6.10.1-3

Effect on Landscape Character Beyond the Site

465. Looking beyond the confines of the site, the applicant says that Mr Cook has analysed the impact of the proposals against both NCA 122's key characteristics and the Statements of Environmental Opportunity, alongside key elements of the Council's LCA SPD. The applicant did not repeat them in closing but suggested that they re-pay rereading in full[218].

466. Ms Farmer expresses some concern that the LVIA does not include an LCA of the Crane Valley as a perceived landscape unit, to which the applicant responds:

(i) She accepted that none of the published LCA assessments do this, that it is standard practice and recommended by GLVIA to start by using the published assessments;

(ii) Her 'outline' of the Crane Valley[219] fails to indicate either a northern or southern edge and the purported LCA does not include Cranbrook town - a key area-defining element according to Mr Cook;

(iii) Her 'outline' is inconsistent with the Crane Valley as defined in a map provided by the HWAONB Unit from the eC&SNP;[220] and

(iv) Bearing in mind the relevance of the HWAONB to all of this, although she set out a table purporting to show the relationship between AONB qualities and the Crane Valley there was no real attempt to justify why the Development Area, site, or immediate environs have these qualities as opposed to the Crane Valley more generally.

467. The appellant contends that the majority of NCA 122's key characteristics would be maintained, reinforced or enhanced, and that the development complies with Statements of Environmental Opportunity 1, 3, and 4. The applicant adds that it is an inevitably high-level character assessment but provides a useful overview by which to understand the character of the local landscapes and its surroundings. At this higher level, as Mr Cook confirms, the development would bring about negligible change to the key characteristics of the NCA beyond the site. In the applicant's view, the proposal would, therefore, be in keeping with the character of the adjacent settlement and accord with NE landscape strategies.

468. With regard to the Council's LCA SPD, the LCA's key characteristics, such as the network of small watercourses, the high proportion of woodland and settlements falling within a topographical and wooded framework, and valued landscape features, such as ridges of wooded ghyll valleys, ancient routeways, and again woodland, are retained or enhanced in the applicant's view. Mr Cook particularly drew attention to the fact that he considers that of the eight valued features, three focus on or show the influence of the settlement of Cranbrook in defining this local landscape. The applicant adds, moreover, this SPD identified a recommended landscape strategy for this local LCA, again with which the development complies. The applicant says, for example, the rural character of the area would be maintained insofar as it still exists in the baseline, the wooded framework is enhanced, suitable buffers are put in place to protect the Crane

[218] CD23.1.7 para 7.4-7.23
[219] CD23.5.1, Appendix 3, Drawing 1
[220] CD13.1 p26

Valley and woodland from further development, and features which currently degrade the environment, such as paddocks and fencing, would be removed.

469. The applicant says that overall Mr Cook, Mr Duckett and Ms Farmer agree that there is no effect on the HWAONB beyond the Crane Valley. It adds that there would be a change in the character of the Development Area, from derelict paddock subject to the urbanising influences of the TF and BKF developments, to a high quality residential scheme surrounding and punctuated by high quality green and blue infrastructure. Mr Cook says that what is created would be an infinitely more attractive rural landscape, more in keeping with the wider landscape character of the area than is currently the case. The physical changes are confined within the site boundaries and largely within the Development Area, and offsite the pattern of the land cover, tree and hedge cover and agricultural mix, undulating topography, variety of building materials, Cranbrook's settlement pattern generally and network of streams would all continue and prevail with the development in place. Those key characteristics of the wider landscape would be physically unaffected. The change to experiential factors, both visual and audible, would be negligible in the context of the TF and BKF developments, the A229 and the settlements of Hartley and Cranbrook. The applicant adds that the development would not change the broad character of the wider area as a 'settled agricultural scene' which would continue to prevail with the development in place.

470. The applicant says there has been some suggestion that the development would result in an end to the separation of Cranbrook and Hartley but claims that is not so. It maintains that the TF development is already likely to read as a residential enclave which is part of Cranbrook and itself closer to Hartley than the proposed development. The applicant adds that, in any case, the open space and set back proposed for the development, mirroring that for the BKF scheme and fitting with the set back nature of TF, would maintain the strong sense of separation between Cranbrook and Hartley.

Effect on the Special Qualities of the HWAONB

471. The applicant says that this is dealt with in separate sections of both Mr Cook's proof of evidence and Mr Duckett's.[221] As outlined above, the applicant has identified five defining components of natural beauty within the HWAONB, and Mr Cook has analysed the proposal against each of these, concluding that it accords with the HWAONB Management Plan.[222] The applicant adds that this approach is in line with the guidance set out in the Guidance Note *Legislation and Planning Policy in the High Weald AONB*[223] and that Mr Cook also includes an entire section assessing this against the Housing Design Guide.[224]

472. From the wider evidence, the applicant highlights and submits the following:

(i) The time-depth of the HWAONB is a material matter. However, Ms Marsh spent much of her time discussing historical matters despite not appearing as a heritage witness. Dr Miele addressed heritage matters and she barely commented on his evidence.

[221] CD23.1.7 Section 11 and CD23.2.2 Section 9 respectively
[222] CD23.1.7 paras 11.6 to 11.51
[223] CD12.17 p9ff
[224] CD23.1.7 11.52-11.71

(ii) The extent to which the proposal would impact field and heath is determined by how much survives on site. While Ms Marsh maintains that there is an additional landscape receptor in the form of the fieldscape that would suffer a major adverse effect if covered in soil, she is the only witness to contend for this and this should be accorded no weight.

(iii) Regarding routeways, while Ms Marsh maintains that the entrance way would "materially destroy" the character of the A229, this is a nonsensical, extreme view as it would remain the A229, on the same line, but with one more access among several. Any archaeological issues arising can be dealt with by condition.

(iv) Ms Marsh also suggested there is the loss of an 'iconic' long view which would be adverse, roughly equating to the analysis of VP4. It is far from an iconic view and already features the BKF scheme in the baseline. She accepted that buildings in the HWAONB are not necessarily harmful to it, provided they are good enough to be seen. Ms Marsh would prefer to see the BKF development in views than vegetation in the form of restored historic hedgerows, yet objects to any view of the proposed development.

(v) Regarding settlement:

a. While it was suggested the dominant settlement pattern in this area is dispersed farmsteads, it is not, the dominant settlement pattern is Cranbrook.

b. There are differing views on where the various settlements end, and what role the site plays in maintaining that separation. However, the different views held on where Hartley and Cranbrook beginning / end do not materially affect the analysis, as the proposed development would not alter the separation, as its the combination of set-back, planting and sense of enclosure, particularly compared to the BKF development, that maintains the separation between Cranbrook and Hartley. Building an additional access on the A229 would not fragment and dissolve that separation.

c. While it has been suggested that he ignored these matters, Mr Cook specifically considered separation and found the development maintained it and was clear that the sensitivity would not change, but that this would be something which may be taken into account in the planning context.

d. Notwithstanding the HWAONB Unit's position, Mr Cook's points stand that development "reinforces growth of main settlement reflecting growth pattern" and that settlements, even in the AONB, do have to grow.

(vi) With regard to geology, in particular soils, the HWAONB Unit repeatedly struggled with the concept that there is a benefit in replacing low grade grassland with a wildflower meadow.

Visual Amenity (Appearance)

473. The applicant says that no party takes a point on what it describes as 'residential visual amenity'. On that basis it says that the starting point is to establish a baseline, and the visual envelope for the development is remarkably

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contained.[225] The applicant says that Mr Cook's Zones of Theoretical Visibility (ZTV) were not seriously challenged, and with reference to those it adds that there would be no significant visual extension of the settlement with the development in place. The applicant also maintains that the development would not introduce views of the settlement of Cranbrook or open up views of it where previously there were none.

474. The applicant acknowledges that for those views where the TF and BKF developments could be seen, even more settlement would be seen as a result of the development, but it says that this is an unavoidable consequence of building things. The point, in the applicant's view, is that it is contained, and it adds that it would also be development that is good enough to be seen.

475. The applicant states that in terms of the development specifically, without the rest of Cranbrook, the area of visibility is heavily confined to just the site as it is limited to the east by the woodland along the Crane Brook, to the south by mature tree cover, to the west by the ribbon development along the A229 and associated tree cover, and to the north by the BKF development[226]. It adds that there is also a very small area of visibility to the west of the A229 near Goddard's Green, which is private land and some distant visibility to the north-east of Cranbrook, with Cranbrook in the foreground.

476. The applicant adds that while his ZTV appears to show some areas of visibility to the north-east of Cranbrook near Wilsley Green and to the east near Tilsden Oast, Mr Cook has checked these in person and found that there would not be any visibility in practice. The applicant also says that Ms Farmer agreed that the visual effects were limited to the Crane Valley and not extensive. On this basis the applicant says that the visual envelope is remarkably well contained and, while it does not maintain that solely to conclude that because it is contained it can be developed, it is in its view highly relevant to the site context.

477. Regarding the potential effect of Ash Dieback on visibility, the applicant refers to the extent of woodland planting proposed and adds:

- To the extent Ash Dieback is in the area, it seems to be moving much slower than Ms Marsh indicates, given the baseline photograph for Viewpoint 13B features the same canopy as in the TP1 LVIA dated July 2018[227];
- Yet in her oral evidence Ms Marsh's reasons for not raising Ash Dieback during the consultation with the Council was that it moved very fast and might not have been seen in 2018;
- Mr Duckett and Ms Farmer do not shared Ms Marsh's views on this matter; and
- Ms Marsh does not accept the LEMP as a good thing, on the basis that the Ancient Woodland could recover without it, so it seems that Ash Dieback is significant enough to prevent the development being permitted, but not permanent enough that a legal obligation to manage the woodland can be a benefit in her view.

[225] ID21 p19-23
[226] CD23.1.7, Appendix 6
[227] ID21 p44

478. The applicant then turns to focus on the changes from where the proposed development could be seen from, referring to 'some representative highlights and photomontages', including viewpoints (VP), and draws attention to Mr Cook's table at Appendix 13 to his proof of evidence outlining the degree of visual effects[228].

479. The applicant says that the impact on views from the A229, VP1 and VP2, though major, are neutral. The A229 is a busy highway, which already has a number of accesses with the TF and BKF developments being further additions in the baseline. The applicant also says that it agrees with Mr Duckett's assessment that this is a transitory setting such that it is of less import. The applicant adds that it is also less sensitive.

480. VP1 on the A229, the applicant says, is the view where a gap in the hedging for the access road to the site would start to be seen. It adds that, while a limited stretch of hedgerow would be removed and new pavement created, there would be reinstatement with native hedging and trees. Once the hedge, which the applicant says would grow quite quickly, grows to some 2m most pedestrians and motorists would not, in its opinion, have a view into the site other than when passing the access itself. It goes on to say that the BKF planting would bisect any open space on the BKF frontage with a hedge and trees, reducing views of the proposed development.

481. VP2 is the view from the A229 facing the entrance to the TF site. The applicant states that most of the vegetation would remain, though the canopy would be cut back. The line of sight would go diagonally across open space so, as a motorist, there would be a fleeting opportunity to see the TF development, the proposed development in the middle distance and the BKF scheme in the far distance. The applicant adds that the impacts on VP1 and VP2, though major, are neutral.

482. Mr Cook added VP11 opposite the proposed access, to provide a view as to what a motorist travelling northbound along the A229 would see. The applicant says that there would be a gap of some 24-25m after hedgerows have been re-established behind the visibility splays. The built form would be set 40-50m back from the road and there would be a significant amount of planting. He concludes that the opportunity to gain sight of the dwellings in the development would therefore be quite limited. The applicant adds that what would be seen is not out of keeping or character with what local people see associated with Cranbrook nor the BKF development.

483. VP3 shows the view from footpath WC115 across the TF development, such that the baseline shows a view of dwellings. The applicant considers that the proposed development adds relatively little beyond what is the baseline, one or two roofs in the first year, and once the planting has had 15 years to take effect, both the TF and the current application developments would be largely hidden.

484. Regarding VP4, the applicant states that the BKF development would be clearly visible in the baseline even if consent for the current scheme were to be refused. It adds that one would see the BKF scheme or the development, both sit in the same plane with the same backdrop and cover roughly the same ground. Once

[228] ID21 – VP1 p24, VP2 p25, VP3 p26-28, VP1 p29 & 31, and VP6 p33-35

the hedgerow is established, the applicant says that neither would be seen, and adds that it notes Ms Marsh's views that she would rather see the housing than the hedgerow, and notwithstanding that this hedgerow restores an historic field boundary. The applicant goes on to say that in its view Ms Marsh sought to refine her view of the impact here, suggesting that what would be lost are "glimpses through the hedge over [the TF site] and up to Greensand Ridge." However, the applicant contends that this is not a significant issue.

485. Overall, the applicant says, the impacts on these VPs are beneficial - moderate for VP3 and major for VP4.

486. The applicant says in respect to receptors who walk along FP WC 116, that it was agreed by Ms Farmer that the most significant views from this footpath are at VP6. In its opinion the difference between the baseline, year 1 and year 15 is not significant. It adds, the vast majority of the proposed development would be heavily filtered by proposed tree cover and would appear in a context of views of properties in Orchard Way and those planned at the BKF and TF sites. The applicant also says that tree cover is mature already and so unlikely to get larger. Mr Cook accepted that in winter there would be some more visibility, but the applicant adds that is equally true of the TF and BKF schemes, and in its view the development would read seamlessly as part of those. The impact is, it says, moderate and neutral.

487. Regarding the views of the proposed development across the open space in the BKF development, on the BKF parameters plan it can be seen that the open space between the BKF site and Hartley Road shows an area subdivided into two parts with a hedgerow running along the interface between the BKF and the application developments. The applicant states, therefore, any views in that direction toward the proposed development would be heavily filtered and framed by planting in the foreground and middle distance.

488. In respect to the VPs in the eC&SNP, its VP26 looks west across the valley and the BKF development would be within it. Mr Cook considers that the degree of effect would be limited from this view based on previous analysis of the baseline and year 1 photomontages. Draft NP VP27 looks toward the area allocated as part of the BKF and the Corn Hall site allocation, such that the applicant says that there would be development in the middle distance of that view in any case. Draft NP VP35 is similar to VP4 as discussed above.

489. The applicant states, therefore, that Mr Cook considers the degree of visibility of this development is remarkably limited, and where the proposal could be seen it would be in the context of the TF and BKF developments.

Cumulative Effects

490. The applicant says that, given that the BKF and TF developments form part of the baseline for analysis, it is clear that Mr Cook has considered cumulative effects of those schemes and the proposed development. However, it adds for the avoidance of all doubt the following:

(i) With regard to the cumulative effect on landscape elements: the TF scheme does not involve the loss of any notable landscape features given it is essentially redevelopment of previously developed land and includes large elements of green and blue infrastructure. The BKF site is currently unmanaged grassland which is reverting to scrub, and which would be replaced by significant areas of new quality grassland and a small orchard,

with the introduction of significant numbers of new trees and native shrub planting, and new wetland areas. The development is covered above. Overall, Mr Cook concludes that all three schemes, when considered cumulatively, would result in BNG and beneficial affects with regard to tree cover, hedges, water features, and public access, with only minor adverse effects on topography. So, there would be a net beneficial effect for most landscape features.

(ii) With regard to the cumulative effects on landscape character: with the exception of some limited vehicular access and pedestrian access requirements, none of the three schemes rely on off-site works to enable the projects to be implemented. So, the physical fabric of the landscape beyond the site would remain essentially unchanged as would the physical character of the surrounding landscape. Within the bounds of the three sites, BKF would change from fields and scrub to a residential neighbourhood and associated green spaces, appearing broadly naturalistic with features such as meadow, hedges and tree cover – all of which are local landscape features and assist in defining the countryside, reading as part of Cranbrook. The TF scheme involves the redevelopment of a developed site, from a former horse riding facility with some commercial storage to an attractive residential neighbourhood within a landscape framework of open spaces. The site is currently derelict pony paddocks, exhibiting little that is typical in defining the local landscape character area as a fruit belt. Ms Farmer accepted that the TF scheme had become the new edge of Cranbrook. The TF and BKF schemes would have a strong urbanising influence over the Development Area. The land would, therefore, even absent the development, read as an urban fringe environment rather than deep countryside, currently occupied by derelict paddocks detracting from the local character area. However, the introduction of the development would create a residential neighbourhood with green spaces across the Development Area, changing it from urban fringe to an attractive residential area linking to and complementing both the TF and BKF schemes. The additional effect therefore would be neutral, Mr Cook considers, rather than adverse with regard to the Development Area. The Wider Land Holding would deliver substantial green infrastructure and have a net beneficial effect.

(iii) With regard to general 'visual amenity', the visual envelope from the introduction of BKF extends south-westwards and south-eastwards to an extent but remains confined within the topography of the Crane Valley and settlement of Cranbrook. The introduction of the TF scheme would result in a further visual envelope extension, overlapping in part with the BKF scheme, but also falling within the Crane Valley. The introduction of the development on top of that does not result in any extension of the visual envelope - and where the development is observed it is usually filtered by vegetation, only seen in parts, and this is almost always in the context of the TF and BKF schemes and other housing. Taken cumulatively, Mr Cook considers the development does not materially increase the degree of visual effect over and above the baseline.

Overall

491. The applicant says that, while there is a lot to take in on the topic of landscape, in its view the development is exceptional - an exceptional design,

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and an exceptional amount of enhanced and permanently secured green infrastructure proposed. It adds that even Ms Farmer recognises there is a substantial significant benefit flowing as a consequence of the wider green infrastructure. Mr Cook says the built environment and the green infrastructure are in keeping with the character and appearance of the area and Mr Duckett agrees, as does the Council officer's Committee Report.[229]

492. The applicant goes on to say that Ms Farmer purports to consider whether the site could accommodate "some" development and concludes in her proof of evidence that it cannot without giving rise to adverse effects on landscape and settlement character.[230] Yet in her oral evidence she sought to "clarify" this, by saying she is analysing whether the site can accommodate "this quantum" of development and she accepted that it can accommodate some form of development but could not say what.

493. The applicant also notes that not all in the Parish think the site is unacceptable for development and refers to Cllr Warne who was a member of the CVLT at the time that it sought to buy and promote the site for mixed housing and employment.

494. Ms Marsh's analysis was, in the applicant's view, in all respects a complete outlier. It adds that she considered the effects adverse, of high magnitude and of major significance, yet in the applicant's view provided no explanation as to how she had reached these conclusions.

Heritage

Introduction

495. Evidence was heard from Dr Miele, Ms Salter, and Mr Page. The applicant adds that NE did not provide heritage evidence or advance a heritage case. While Ms Marsh did not appear as a heritage witness, the applicant says parts of her evidence strayed into that territory on which it considers she is not qualified to give evidence.

496. The applicant contends that Mr Page was not a reliable witness. It adds that while he acknowledges that the applicant has conducted a detailed and thorough analysis, disagrees with the outcomes of that analysis, and does so in a manner which is unsupportable: failing to give the necessary professional affirmations; supporting CPRE Kent's suggestion that the applicant's position on harm has very recently "shifted"[231] when that is demonstrably untrue; there is little difference between DHA's position that there was negligible harm and Dr Miele's position that there is no harm[232], while the Framework does not recognise negligible harm – an impact is either harmful, or it is not; referring to Cranbrook as itself being a heritage asset[233] from which he resiled in oral evidence half-heartedly suggesting it could be considered a non-designated heritage asset; suggesting the setting of the Conservation Area itself was a non-designated heritage asset from which he also resiled; and suggesting Dr Miele was not in line with the position expressed

[229] CD7.1, paras 10.85-10.166
[230] CD23.5.1 para 185
[231] ID05 para 7
[232] CD5.8.1 electronic pages 23, 29, 30 and CD23.1.2 para. 6.38
[233] CD23.3.2 para 3.1, 5.9, 6.2

by Historic England in their consultation responses,[234] notwithstanding that it does not express a view on the impacts on either the Conservation Area or Goddard's Green listed buildings, which were the only two heritage assets Mr Page sought to analyse. The applicant adds that had Historic England identified harm to heritage assets, in particular the Grade II* Goddard's Green Farmhouse, or a high degree of Less than Substantial Harm to the Conservation Area or other assets, Historic England would have said something.

497. The applicant contends that Mr Page's substantive analysis of the Conservation Area and the development's impact thereon was equally poor. It says that he suggested the Conservation Area's character is defined by its relationship to the landscape notwithstanding that that is one of eleven characteristics set out in the Conservation Area Appraisal,[235] much of the remainder concerns built form; he suggested that the Council "overrode" the views of its Conservation Officer when it simply applied the relevant tests in the Framework; and he suggested the harm to the Conservation Area was on the border between *less than substantial harm* and *substantial harm* where the latter implies an impact such that the significance of the heritage asset is vitiated or reduced, leaving it a husk with no intrinsic value.[236]

498. The applicant adds, Dr Miele considers there to be no harm, but even Ms Salter, who says that there would be some, mitigated, harm, clarified in her oral evidence that she considers this toward the mid to higher end of less than substantial harm, certainly nowhere near the highest end. The applicant goes on to say that Ms Salter explained that the harm relates to character of the area rather than appearance, and mitigating elements include the substantial buffer to Hartley Road so that built form is hidden by slopes, the design of the development and, for example, its reference to local distinctive architectural materials, and the landscape enhancements in the Wider Land Holding. It adds that she further clarified in cross examination that the design references farmstead character, loose-grain development which is appropriate to the rural settlement pattern within the area, and the built form and landscaping which take reference from local distinctiveness.

499. The applicant contends that Mr Page's view is not credible where:

(i) There is no direct impact on the Conservation Area (all that is alleged is setting impact);

(ii) The Conservation Area Appraisal refers to a rural setting which is 'contiguous' with the Conservation Area, yet the site is not, having been separated from it by BKF, Corn Hall, and other housing. Nor is the site part of the Conservation Area's 'adjoining landscape';

(iii) The site has no formal orientation toward the Conservation Area;

(iv) Whereas Dr Miele states that the land does not contribute anything to the experience of the Conservation Area by reason of its views, Mr Page has not undertaken any assessment of views or analysed the ZTVs so is not in a position to dispute that. Ms Salter also noted in her oral evidence that there are no direct views between the Conservation Area and the site;

[234] CD6.6.1 and CD6.6.2
[235] CD12.10 para. 3.1
[236] CD20.2

(v) Mr Page fails to follow the guidance set out by Historic England, failing to undertake the first two stages required. Even then his analysis is sub-standard, referring to noise impacts from traffic and from the residential use while not having reviewed the noise assessment, the consideration of noise in the Committee Report, the traffic assessment or the impacts of noise from the consented neighbouring schemes;

(vi) He refers to light spill from night-time traffic movements and incidental effects despite not having reviewed the traffic assessment at all or any documentation the applicant produced to deal with lighting in detail; and

(vii) He suggests the development would lead to the removal of one of the last "green wedges" reaching into the town, yet the site does not form part of such a green wedge, lying between it and the Conservation Area are both the BKF site and the Corn Hall allocation. The perimeter of the town is now, at the very least, the BKF site.

500. The applicant also notes that, notwithstanding that neither Ms Farmer nor Ms Marsh appeared as heritage witnesses, Mr Page suggested that he had not provided evidence on the historic landscape so as not to duplicate their evidence. The applicant also asks that this evidence be rejected in its entirety.

501. Against that background, the applicant maintains that there is only Dr Miele and Ms Salter's evidence to weigh. It states that there are some differences between them which are dealt with below, but largely Dr Miele's evidence has not been the subject of any significant or serious challenge. The applicant adds that he is an extraordinarily experienced heritage witness with a CV that speaks for itself, and that he was not involved in the application and has undertaken an entirely fresh appraisal of the heritage impact of the development.

502. The applicant says that, overall, his view is that there is no harm to any significant historic resource, whether the Conservation Area, the listed buildings or, for the sake of argument, the landscape. In this, he disagrees with the relevant ES chapter which identifies a slight adverse indirect effect on the Conservation Area and moderate indirect adverse effect on Goddard's Green Farmhouse.

503. Given what it sees as the lack of any serious challenge to Dr Miele's evidence, the applicant says that it does not deal with this matter in the same level of detail as the landscape, and the applicant says that, in summary form, broadly there are two things to consider. Firstly, the impact of the proposal on fieldscape, and whether / to what extent there is medieval landscape on the site and if so, what the impact would be. The second is an examination of the above ground assets, the Conservation Area and the three buildings in issue, and to identify the harm thereon.

Fieldscape

504. The applicant says that neither Dr Miele nor Ms Salter agreed with Historic England's suggestion that the "surviving historic landscape character of dispersed farmsteads surrounded by a network of field systems is a non-designated heritage asset".[237] The applicant adds that this does not appear to have been a point that was ever taken by anyone objecting to the BKF or the TF schemes.

[237] CD6.6.2 p2

Nonetheless, Dr Miele considers the impact on the field systems as an aspect of landscape character that reflects the time-depth of the HWAONB. The applicant adds that there were two points arising. First, the applicant states that while it was suggested that if it were a non-designated heritage asset this would change the way it was protected under the Framework, Dr Miele disagreed, noting the HWAONB already gives great protection to an area. Second, although it was also suggested that if the site is a non-designated heritage asset it would suffer Substantial Harm by being completely removed, Dr Miele disagreed noting all of the individual features which could be of potential interest are retained. The applicant maintains that any harm coming from a change of use of land may be landscape or planning related but are not heritage related.

505. The basic question, in the applicant's view is, whether and to what extent the site demonstrates a medieval organisation of the land, in terms of both fieldscape and farmstead, given the two are interrelated. The applicant adds that the historic pattern of the High Weald is comprised of two elements: dispersed farmsteads, and urban towns and villages. In respect to each the applicant says:

(i) Dispersed Farmsteads comprise a single family living in a farmhouse with associated buildings and fields. The dispersed farms came first and interact closely with the topography of the area. Here, the topographical unit is the cross section going form Hartley Road to Crane Valley. The pattern is medieval, widespread, and characteristic of the historic settlement pattern. Looking in detail at what is meant by a 'farmstead', this is defined by reference to its buildings only.[238] Two types of field should be considered:

a. Assarted fields, fields that have been cleared from woodland, which can be identified by their irregular shapes; and

b. Consolidated strip fields, which are broadly rectangular in shape, with curving longitudinal boundaries and often a dog leg. These fields were farmed by oxen pulling ploughs along a series of rows. These are not common in the High Weald, where they were farmed in common by prosperous peasant farmers and can be difficult to spot because there is a lack of ridge and furrow.

(ii) The second is urban towns and village. The towns and villages come later, in the 13th-15th Century, and have a broader economic base than the farmstead units. Cranbrook, for example, grew and prospered through the manufacture of woollen broadcloth in the second half of the 15th Century.

506. The applicant goes on to say that Dr Miele outlined that he could not see any evidence of consolidated strip fields either on site or in the parish and that he has sought to check this in four ways:

(i) Documentary sources, such as enclosure papers, medieval charters, but he found no documentary evidence that assists;

(ii) Examining field names, he found no evidence of field names in such usage.

(iii) Cartography and map regression, beginning with the tithe map and working forward. He highlighted where consolidated strip fields may have been, but these were not present in the site in his view. He found that by 2020 there had been considerable loss, a ditch in the north field but nothing remains which Dr Miele would consider substantial or indicating any sort of antiquity.

[238] CD12.09 p9 third para and p10 para 1.15.

(iv) Field surveys. He could not see any, for example, any ridge and furrow. He also rejected the proposition dog legs in some of the fields indicated that they must be composite strip fields and pointed out these octangular fields do not have the S curve which he said is a defining feature.

507. Drawing this together, Dr Miele takes the view that while the basic framework of what is discussed is medieval, from the woodland at the bottom to the frontage consisting of an old hedge at the top, the extent of both the field loss and the farmstead has seriously eroded it as a component of historic character, reducing its significance to no more than local at best. He does not consider the contention that this is medieval can be sustained.

508. The applicant says that this is a conclusion he shares with the ES and Mr Duckett. It adds that the HWAONB Unit argues otherwise, based largely on the 2017 and 2020[239] reports of Dr Bannister. In response, the applicant says that Dr Miele outlined:

(i) Put broadly, Dr Bannister's reports are a Historic Landscape Characterisation, taking a broad brush approach based on first edition OS maps rather than tithe and parish maps, such that its dataset is limited.

(ii) This compares with the more detailed work Dr Miele has undertaken, which is also more recent, for example, Dr Bannister does not take account of the fire that destroyed the nearby listed farmhouse. Dr Miele does not ask that his opinion be given 'more weight' than Dr Bannister's, only that the shortcomings of that evidence be recognised.

(iii) The map the HWAONB Unit refers to which identifies Turnden in yellow[240] as an example of a medieval field system is wrong and also adopts alignments and boundaries that are not the same as exist on site today. The map also acknowledges that all information is "provisional" and that "individual site based assessments are recommended." That site based assessment has now been undertaken by Dr Miele and the conclusions are those set out in his evidence.

(iv) The HWAONB Unit bases its view in part on the notion that Turnden is surrounded by consolidated strip fields.[241] This is something Dr Bannister suggests in both reports. As outlined above, Dr Miele does not accept this and notes that the April 2020 report draws on her previous work and online material. She was unable to visit, for example, county and local libraries, nor the site itself.[242]

(v) Indeed as Dr Miele highlights there is a tension in the HWAONB Unit case – if the characteristic pattern of the High Weald is individually owned farmsteads, a consolidated stripfields are not part of that pattern as they represent shared agricultural practice; so any surviving stripfields are interesting, but not an example of individual farmsteads.

509. Moreover, the applicant states, Dr Miele made clear that reinstating historic hedgerows and the shaw in the southern fields is beneficial to the time-depth character of the HWAONB, that reinstating Tanner's Lane would be beneficial in heritage terms as it expresses something of the history of the site that currently

[239] CD16.22 p26 and CD6.5.1 p7 respectively
[240] CD16.04, and ID 26 p7
[241] ID26 p9
[242] CD6.5.1 p2

is not present, and that such components of the fieldscape that still survive are largely to be retained, and some enhanced. All of which, the applicant maintains, can be secured over the lifetime of the development by the LEMP.

Above Ground Assets

510. The applicant says that as this is a 'setting' case, the significance of the asset must be identified and then the contribution that the setting makes to the asset's significance and its appreciation must be identified. It adds that you must ask what the significance of the asset is and, if development is carried out, how much of that is removed. In a case involving setting, it says, one looks primarily at visual impacts, although that is not to say one rules out other impacts – other intangible concerns, such as historic connections – may well be relevant, as might other sensory ones, such as smell.

511. Starting with the Conservation Area, the applicant maintains that Dr Miele noted:

(i) A question was asked whether the site is part of the setting of the wider town. Assuming that this meant Conservation Area rather than town, Dr Miele's opinion is to approach the question as if the site was part of the setting. That did not change the following analysis.

(ii) There is no intervisibility between the proposed development and any part of the Conservation Area, such that this is a case where one is dealing with parts of the setting which are associational or intangible. In that regard, the Historic England Guidance on the setting of heritage assets[243] makes clear that views are important, and other considerations include character and use of land, historical relationships, and history and degree of change over time. The degree of change has been significant as the BKF and the TF schemes represent a significant change to the setting on this side of the Conservation Area.

(iii) The Conservation Area Appraisal[244] would tend to indicate that the effect of this parcel of land on its setting is minimal at best.

(iv) Dr Miele found no reference to the site in this Conservation Area Appraisal document, a document which identifies specific instances where green space is important to the Conservation Area and puts it into its historical context. Generally isolated farmsteads were not part of the town economy, they were independent of the towns and that was rather the point. Nor can any party identify a specific link between this farmstead and Cranbrook. Nor could Dr Miele identify any impact on any second component identified as significant. He therefore concludes that the site does not contribute to the setting of the Conservation Area and cannot see it has any impact on the Conservation Area's special interest.

512. Regarding the four listed buildings, the applicant refers primarily to Dr Miele's analysis in his proof of evidence[245] which it maintains was not seriously challenged.

[243] CD5.1
[244] CD12.10
[245] CD23.1.2, Section 7.0

Transport

513. Neither the Council nor the KCC as Local Highway Authority maintained an objection on highways grounds.[246] In respect to transport matters, the proposals include an access via a right hand turning lane accompanied by traffic islands, measures which have been agreed by KCC and subject to a stage 1 safety assessment. The applicant adds that these features would have positive effects including, the prevention of overtaking and that reduced road width appears to decrease speeds. Of other transport proposals the applicant says that a currently narrow footway on Hartley Road would be widened; a traffic signals upgrade scheme at Hawkhurst crossroads consisting of the introduction of on-crossing detection for pedestrians and MOVA would be introduced; a sum to improve PROW would be paid; 24 electric vehicle chargers in private spaces, nine in communal spaces, and ducting in every other property would be secured; and adequate cycle storage provided.

514. The applicant also refers to the pedestrian and cycling routeways that would connect the development to the TF and the BKF developments and from there to Cranbrook, whether via Corn Hall or otherwise,[247] in terms of distance and safety. It adds that these changes must be read in a context where there are already changes required to the A229 from the TF and the BKF developments that would improve safety, including a reduction in speed limit,[248] and the BKF scheme is consulting on its own proposed improvements, including providing new cycleways.[249]

515. With reference to sustainable transport the applicant says therefore:

(i) It is agreed with KCC that most local facilities are within 2km of the centre of the site, with the great majority being within some 1.6km. These are within the parameters set by the *Manual for Streets* and, in traffic terms, are not unusual distances for walking in a rural area, and the cycling times are quite short, with all under 10 minutes. Mr Bird says this is a highly sustainable location and as do other experts or policy.[250]

(ii) There are good quality walking and cycling routes for users of the development and this is in a context where the TF scheme was consented without any of the routes through the development or the BKF site having been approved such that it would have been less sustainably accessible.

(iii) Bus services are available. Criticisms have been made of these relating to frequency, price and the time they may take. The prices are overstated if one buys a season ticket and the criticism of time overlooks that it is a benefit to have services available at all as it opens travel possibilities for those without a car or second car, and the reliability of the services would increase were the Hawkhurst signal junctions to be in place. This may be combined with increased service frequency using payments associated with the BKF permission, which could increase bus use.

(iv) A travel plan has been submitted and agreed with KCC, including softer measures to encourage the use of sustainable modes of transport. While people cannot be forced to adopt more sustainable methods, in the midst of

[246] ID62
[247] ID30 p11
[248] ID30 Slide 5 re the various schemes and Slide 8 re the speed limit reduction
[249] ID30 p14-15
[250] CD11.04 paras 4.5 & 5.129, and Box 3 & 4

a climate crisis, and against a background where such plans have been proven to work in the past, where Mr Bird considers there are real opportunities to achieve a shift toward sustainable travel compared with the existing situation in Cranbrook, this is a highly relevant consideration and one required and referred to by Framework para 113.

516. CPRE Kent's transport witness, Ms Daly, an Orchard Way resident who, the applicant says, fairly admitted she is not a transport expert and does not purport to provide technical transport evidence such as evidence on trip generation. The applicant states that most of the objections referred to are already dealt with in a table produced by Mr Bird[251] and are addressed above. It adds that, many come from Ms Daly not accepting certain industry standard practice on matters, such as walking distances taking account of matters of topography or whether one is walking with children, or considering that public safety reports underplay the level of accidents as some go unreported, or assuming cars will break the newly reduced speed limit. On this last point Mr Bird said in oral evidence that the Council and the Police do not support decreases in speed limits unless they consider these will be obeyed. The applicant adds, in any case, it should be assumed that the law will be obeyed. The applicant goes on to say that, while it values local input, the decision maker should go on the best available data and industry standards.

517. The applicant adds that all matters on the transport effect of the development are agreed with KCC, including that the traffic impact on all assessed junctions is acceptable without any mitigation with the exception of Hawkhurst Crossroads, where the proposed mitigation led to KCC withdrawing its objection. Indeed, with the proposed improvements at Hawkhurst and the benefits these are expected to bring in the form of a net reduction in delays at the Hawkhurst crossroads even factoring in additional traffic from the development, the applicant maintains that any impacts of the development would be more than mitigated and there would be a benefit for the wider populace in the form of increased bus priority. In this regard, the applicant adds two points. It was suggested that this might lead to locals who currently 'rat-run' being drawn back to using Hawkhurst crossroads, but the applicant says this is unlikely as people only tend to change their travel habits when there is a more significant change, so that any attraction back would likely be marginal.

518. The applicant has also identified that some questions were raised about the delivery of the linkages between the proposed development and the adjoining planned developments, including an alleged "Ransom Strip" pointed out by CPRE Kent[252]. The applicant says that linkages generally would be secured through conditions on the BKF outline permission and further secured through the pursuant reserved matters application[253]. As to the alleged Ransom Strip, the applicant makes four points:

- The issue affects at the very most one out of four routes;
- Mr Hazelgrove made clear in oral evidence that the Council would be willing to compulsorily acquire the land if necessary;

[251] ID30 p20
[252] ID55
[253] CD23.2.1 paras 4.15-4.17

- The unregistered land is not within the application red line, but rather within the BKF site; and
- There is a condition on the BKF outline permission dealing with connectivity and a further one is proposed on the reserved matters application[254].

519. Overall, the applicant says, therefore, the development is strongly sustainable and that this is a view shared by Mr Hazelgrove. It adds that it is also in accordance with all relevant transport policies and there has been no serious challenge to those conclusions.

Air Quality

520. The applicant states that the only air quality is NO_2 pollution at Hawkhurst, which was agreed by CPRE Kent's witness, Dr Holman, in oral evidence to arise mostly from road traffic on Cranbrook Road. CPRE Kent is the only main party who maintain an objection based on air quality. The applicant maintains that CPRE Kent does not provide planning evidence suggesting that itself would be a reason for refusal and contends that it plainly would not be. The applicant adds that the Council's environmental protection team raise no objections on this point, the Committee Report considered the impacts would be minor, and capable of mitigation and did not recommend refusal on this ground.[255] It also says that the Council's current position is made clear by Mr Hazelgrove: "*It* [(air quality)] *is not considered to be a matter (either in combination with other negative impacts or on its own) that outweighs the benefits of the scheme even if it cannot be fully mitigated by other means"* and Mr Slatford agrees.[256]

521. In terms of background the applicant states that:

(i) This is not a matter of national limit values, rather of the national objective of 40 µg/m^3 set out in the Air Quality (England) Regulations 2000. There are references to the WHO guidelines and their recent revision, that is not yet incorporated into UK law and there is no clear indication it will be shortly. The WHO updated it guidelines for PM2.5 16 years ago, and that has not yet made its way into UK law. It is also unlikely to be achieved at any city, town or village in the UK with an appreciable road in the near future.

(ii) Roadside NO_2 concentrations are decreasing, both throughout the UK and at Hawkhurst specifically.

(iii) The team at Air Quality Consultants carried out a detailed assessment of air quality for the Council in 2020, using a model scrutinised and approved by Defra, which showed the 40 µg/m^3 objective was exceeded close to Cranbrook Road in 2018 and 2019. That was accepted by the Council and an AQMA will be declared.

522. The applicant states that, therefore, the AQA[257] prepared by Air Quality Consultants is thoroughly researched using the same Defra-approved model as that 2020 air quality assessment and reviewed by Stephen Moorcroft.[258] Basing future year predictions on 2019, to avoid the impact of the pandemic, this has

[254] CD23.2.1 para. 4.17
[255] CD7.1 para 10.226
[256] CD23.2.1 para 4.83 and CD23.1.5 paras 6.126-6.124, 6.140 & 11.32 respectively
[257] CD2.6
[258] Chair of the IAQM Working Group that produced CD22.3. Also see CD21.1.1, Appendix 9, p40-41

assessed a number of receptors in the area. The applicant says that it concludes, among other things, that:

(i) The 40 µg/m^3 objective will be achieved at Hawkhurst Crossroads by 2025. This is more conservative than Dr Holman, who predicts that this objective will be achieved by 2023.

(ii) Comparing future air quality with and without the proposal, moderate impacts will occur at two properties and a slight impact at one property in 2022 and 2023, moderate impacts will occur at one property and slight adverse impacts at another in 2024, moderate adverse impacts will occur at one property in 2025, and negligible impacts will occur thereafter.[259]

(iii) Adverse impacts are primarily a result of elevated baseline concentrations, the incremental changes from the development are small, the impacts of concern will be temporary, and will affect at most three residential properties. On this basis the overall operational air quality effects of the development are not significant.[260]

523. The applicant adds that while this has been challenged in part by Dr Holman, there is a remarkable amount of agreement between the applicant and CPRE, as set out in the SoCG.[261] The applicant sees the remaining areas of disagreement to be the use of meteorological data; traffic data and cumulative effects, excluding the TEMPro issues; uncertainty; determining significance and the use of EPUK/IAQM Guidance; and mitigation.

524. Regarding 'meteorological data', the applicant says that Dr Holman suggests modelled weather data such as those sold by her company should be used instead of the data from an actual measurement site, such as Herstmonseux, notwithstanding this is the same approach she took a year ago. Dr Marner has outlined why the use of measured data is suitable.[262]

525. The applicant summarises this as, while modelled data is valuable in parts of the world with relatively few good quality measurement sites, such as the coast around Hull, or parts of the UK with unusual geography, such as the Welsh Valleys, they rely on a series of relatively subjective assumptions which have an appreciable effect on results. It adds that it is therefore difficult to gauge the relative veracity of the different predictions without comparison against measurements. For example, when Dr Holman says that weather varies on a 3km by 3km basis, there is no way to check that, whereas measurements are objective in the applicant's view. It adds that the Herstmonseux site is less than 25km from Hawkhurst, and the terrain between the two is far from mountainous or coastal, so Dr Marner considers the results reliable. He does not suggest the weather will be exactly the same, but it is the best available data on which to make predictions.

526. The applicant also states that in this case the data has been scrutinised by Defra and considered appropriate. It adds that Dr Marner has also outlined why, contrary to Dr Holman's approach, one cannot simply present a comparison of the two.[263]

[259] CD2.6 para 7.4 and Table 5
[260] CD2.6 Section 7.
[261] CD9.08
[262] CD23.1.1 paras 8.10 and 10.16-10.23
[263] CD23.1.1 para 10.20

527. The applicant goes on to say that what it describes as Dr Holman's "Do as I say, not as I did" approach appears throughout her analysis on other issues, such as uncertainty. It comments that her own AQA in Hawkhurst was only last year, and post COVID, yet she could offer no justification for criticising the applicant's consultants for doing things she had recently done in the same location. The applicant adds that when challenged in cross examination she suggested that her approach had changed following the Ella Kissi-Debrah inquest, yet she was not prepared to say that her previous work was now not valid, and national and IAQM guidance has not changed. The applicant contends that this shows her criticisms are unfounded and arbitrary.

528. Regarding 'traffic data and cumulative effects', the applicant says that in oral evidence Dr Holman confirmed that she was no longer taking issue with the use of TEMPro, and accepted Dr Marner had now done sensitivity studies. On that basis, the applicant says that the sole remaining issue is the suggestion that, rather than focusing on 'incremental' change, the assessment should consider the combined effect of all traffic growth. The applicant maintains, however, that both the relevant industry guidance and government policy[264] suggest that comparison should be with and without development, rather than with and without every other impact, which is what has been done, and is also what Dr Holman did in her own AQA last year.

529. The applicant states that that analysis shows, factoring in cumulative growth under three alternative assumptions for that growth, the 40 µg/m^3 objective is met in the same year,[265] there is no change to exceedances, and in terms of concentration the difference made by this development is very small, indeed Dr Holman accepted it was not her case that this development alone would cause serious health impacts. The applicant adds that, in any case, an assessment has been undertaken showing the project with and without cumulative growth, and then with and without the proposal.[266] It states that Dr Holman accepted therefore the cumulative growth issue had been addressed in a way but suggested it was still 'lurking in the background', but the applicant maintains that it is not.

530. Regarding 'uncertainty' the applicant says that Dr Holman accepts that the model results used in the AQA meet Defra's statutory guidance such that the case made against it is now one of failure to take into account of particular traffic uncertainties, such as the effect of the COVID 19 pandemic, which again was something that she did not take into account in her August 2020 Air Quality Assessment. The applicant states that although Dr Holman does not dispute that the effect of lockdown has been to reduce NO_2 concentrations, she highlighted changes to the rate of vehicle turnover, and in the traffic volumes and transport mode share. The applicant adds that, as a general point, although there have now been multiple reports showing a decrease in roadside nitrogen dioxide due to the pandemic[267] the AQA has not relied on any lasting beneficial effects from the pandemic, while any lasting adverse effects would need to be extreme to remove the improvements already forecast.[268]

[264] CD22.3 para 6.22k and The Air Quality PPG, CD23.1.1 para 4.9 respectively
[265] CD23.1.1 Figs 3 and 4
[266] CD23.1.1 Figs 2 and 3
[267] CD26.6.1 para 2.2-2.4
[268] CD23.1.1 para 10.33-10.34

531. The applicant also states that similar claims have been raised and dismissed in the recent Stanstead Airport inquiry.[269] As to fleet turnover specifically, it is agreed, the applicant says, that cleaner vehicles can and will make a difference to NO_2 in Hawkhurst. It adds that registration decreases between 2019 and 2020 were caused by a reduction in sales of the highest emitting vehicles, where sales of low emission vehicles such as battery and hybrid vehicles increased in a manner more precautionary than assumed in the AQA, thus making the AQA precautionary.[270] Moreover, the applicant adds, and with regard to modal shift, Dr Holman's evidence was highly speculative, for instance she notes that 'if' public transport was not well used post pandemic it 'might' be stopped in circumstances where it is run by commercial operators. The applicant adds that she was not giving transport evidence and Dr Marner made clear that neither was he. The applicant adds that just as Dr Holman could raise mere possibilities indicating negative results, Dr Marner could point to possible positive ones such as how the shift to home shopping, if carefully managed, could lead to one electric vehicle trip rather than 10 petrol and diesel trips.

532. The applicant contends that in any case Dr Marner shows air quality remains appreciably better in Hawkhurst then it was pre-pandemic.[271] It adds that there can be a tendency to view uncertainty as spreading to either side of a defined point equally, but it maintains that that is not so and that the AQA and Dr Marner ensured that they would most likely over-estimate concentrations in future, such that in its view there is nothing in CPRE's case in this regard.

533. Regarding 'significance', the applicant states that the AQA and Dr Marner conclude the effects of the proposal are not significant and adds that much of Dr Holman's evidence on this was wrong in as much as it sought to apply portions of the IAQM Guidance which are not relevant here. The applicant also states that, as to the remainder, she appeared to suggest at one point that any impact described as "moderate" in the IAQM Guidance must be considered significant.[272] However in cross examination she accepted that was not the case, it is always a matter of professional judgement, including consideration of how large an area, or how many properties, are affected. The applicant considers that, in this case, the number of properties is small, 3 at the start, 2 for two years, such that the number of people affected is small, some 4-5 people based an average occupancy rate of 2.4 persons per residential unit. It adds that the incremental change is also small at 0.6 µg/m3, which is only 0.2 µg/m3 more than the 2020 scheme that Dr Holman promoted and given the delays in start date the years affected are now less than that in the AQA. The applicant submits that Dr Holman's professional judgement is in conflict with Dr Marner's, ACQ's, Mr Moorcroft's, the Council's, and that reached by her own self in August 2020.

534. Regarding 'the need for mitigation' the applicant states that the difference here stems from the outcome of 'significance'. If it is found that the impacts are significant, then Dr Marner and Dr Holman agree mitigation is required, but if not, there is no such need – this is the view of Dr Marner and the approach that Dr Holman took last year. The applicant says, however, that in any case, pursuant to the 'Better by Design' principles, measures have been included which

[269] CD26.6.1 para 2.11
[270] CD26.6.1 para 2.6-2.9
[271] CD26.6.1 para 2.10
[272] CD23.3.1 para 6.7

have a beneficial effect on air quality, including travel plans, provision for cycling and electric vehicle charging, and the works to Hawkhurst junction provide effective mitigation, given the relatively simple point that reducing congestion reduces emissions.

535. The applicant submits that, overall, therefore there is no basis for departing from the conclusions of the AQA, the effects at Hawkhurst are not significant. It adds that while there are moderate impacts predicted at two properties for two years, the difference the application scheme would make is small. It maintains that air quality will continue to improve at Hawkhurst whether this application is consented or not, there is simply a very slight difference made to timing. In the applicant's view that there would be some difference cannot of itself be a reason to refuse. It adds that, therefore, this proposal accords with national and local policy and there is no air quality basis to refuse consent.

Ecology

536. On the topic of ecology, the applicant considers that, the applicant's and Council's witnesses, Mr Goodwin and Mr Scully, largely spoke with one voice, in line with BSG Ecology, which Kent Wildlife Trust supports, to which NE has taken no objection, and they indicated there is a BNG. Against that, the applicant says, a contrary position is taken by the HWAONB Unit and Ms Marsh. Again the applicant uses the term 'alone against the world' to characterise Ms Marsh's evidence and adds that she suggested this was "one of the more poorly thought through schemes I've looked at" and concluded that not only would there be no BNG, but there would be a harm. The applicant contends that this betrays, what it sees as, a complete lack of impartiality towards the development on her part.

537. Starting with the baseline, the applicant says that the ecology chapter of the ES records that, having undertaken a Phase 1 Habitat Survey, the dominant habitat present on site was improved grassland, horse paddocks.[273] Having been initially surveyed in 2018, the site was revisited and an NVC survey undertaken in 2020, which classified it as poor semi-improved grassland. The applicant adds that the grassland is one homogenous type, excluding small areas around the water bodies, dominated by a few fast growing species, including Yorkshire Fog, perennial rye grass, common bent, cock's foot, timothy, and rough meadow grass. There are very few forbs with most quadrats recorded as having one or two.

538. The BSG Ecology Survey, in 2018 and 2020 respectively, concludes that the site fits most strongly within MG7 and MG7b, and is at the lower end of the scale for poor semi-improved grassland.[274] The applicant says that Mr Goodwin has walked over the whole site, and although he found that it could be considered as improved grassland, and there are some small differences either way between him and BSG,[275] he too is content it can be considered at the poor end of semi-improved grassland.

539. The applicant explains this in greater detail with reference to the condition tables in the Metric 2.0 Technical Supplement[276]. "Moderate" condition grassland

[273] CD5.6.1 para 9.7.4.
[274] CD5.6.7 paras 4.7-4.16
[275] ID34
[276] CD16.15 p19

has less than 25% cover, and wildflower coverage of less than 30% excluding white clover, creeping buttercup and injurious weeds, or is a priority habitat. "Poor" condition grassland is characterised by more than 25% rye grass cover, is often periodically re-sown and maintained by fertiliser treatment and weed control, and has cover of undesirable species above 15%. In this case, the applicant adds, there is more than 25% Rye Grass coverage, white clover is present on site, there is a limited number of forbes which it says indicates the use of some sort of herbicide, it is not a priority habitat, and of the 11 undesirable species 7, namely spear thistle, curled dock, broad-leaved dock, common ragwort, common nettle, creeping buttercup, and white clover, were present.

540. The applicant goes on to say that, although *Grassland Assessment Survey of Selected Sites within the High Weald AONB*[277] suggests that the grassland is of moderate quality rather than poor condition, Mr Scully outlines that the BSG Ecology condition analysis should be preferred, not least because that survey was directly on point and made for the purposes of this application, whereas the aforementioned grassland survey is necessarily broader.

541. The applicant also says that there was also some suggestion that Mr Goodwin should have asked BSG for the raw data, but BSG is a well-regarded practice, and when discussing whether a habitat is MG7, most ecologists can undertake such an assessment without doing an NVC survey, such that asking for the underlying data would not have been proportionate.

542. On that basis the applicant says that the poor end of semi-improved grassland is the baseline, and that that is supported by the Grassland Survey the Council commissioned based on the HWAONB Unit's comments on its Reg 18 plan that grassland in the High Weald is "better value" than previously recognised.[278] This baseline position is not contested by NE. The applicant adds that Dolphin Ecology, whose report the HWAONB Unit provided, also suggests that the baseline from the Phase 1 Survey is either "improved" or "poor semi-improved" grassland.[279] Ms Marsh comes to a different view. However, the applicant maintains that she puts forward no evidence of that other than her own walk across PROW WC115, which she accepts was not a survey. This, Mr Goodwin considers, is not an adequate basis to disagree with a range of other professional opinions. Overall, the applicant contends that the condition and value of habitats on the site as matters stand now is poor, and of very little interest from a nature conservation view.

543. In the context of the foregoing, the applicant says that a point made against the application scheme is that the ecological proposals do not fit with the HWAONB Management Plan, but it adds that Mr Goodwin strongly disagrees. It adds that the Management Plan sets out a vision for the HWAONB which is a landscape maintained by sustainable land management practices, and shows thriving wildlife and improving ecological quality in an interconnected and biodiverse landscape.[280] The applicant sets out that it is an important part of the designation to enhance natural beauty to conserve and enhance flora and

[277] CD16.11
[278] CD16.11 paras 5.4.8-5.4.10
[279] CD23.2.4 para 6.12
[280] CD12.13 p5

fauna[281] and it provides key principles to help guide actions in the HWAONB regarding restoring wildlife, including in the development management process for identifying whether actions will enhance or damage the AONB's natural assets.[282] This help, the applicant says, includes principles on implementing the plan to guide action 'on the ground' – steps which include restoring naturally functioning habitat mosaics and taking positive action to improve measurable BNG.[283]

544. The applicant adds that there was some suggestion by Ms Marsh that the Management Plan is 'broad brush' and that the benefits and objectives it lists may not apply to this site. While matters must be looked at in a site specific manner, it is notable in the applicant's view that Ms Marsh both sought to distance herself from portions of the Management Plan that did not help her case, as with the issues of hedgerows and cat predation, and suggested that NE was wrong in considering a matter to be beneficial on the basis that it has not looked at it in enough fine detail.

545. At the Inquiry with reference to the proposed scheme Mr Goodwin spoke to the Management Plan, for example, the applicant says that managing the Ancient Woodland to remove Himalayan Balsam is fully in accordance with Objective G1, W2, and the Vision for Woodland; the LEMP's illustrative masterplan and betterment plan would reinstate one of the key characteristics for woodland in the HWAONB, and the Natural Beauty, Key Characteristics, Vision, and Objectives such as FH2 for Field and Heath.[284]

546. These, the applicant says, are simply examples but Mr Goodwin and Mr Scully made clear that this application meets the requirements of the Management Plan. It adds that this is particularly clear from the level of detail in plan ECO1,[285] where scrubland links the Ancient Woodland to the south to the woodland in the north, a mosaic of habitats has been created, with scrubland, grassland, woodland and ponds all in close proximity. The applicant adds that the HWAONB Unit disagreed with that, drawing out some examples, and making suggestions that it is better to let changes occur naturally rather than provide a boost.

547. Mr Goodwin said the LEMP was an "excellent piece of work" – one of the "best [he'd] ever read", meeting the vision of the Management Plan and picking up on and supporting the key objectives contained therein. By way of example, he highlighted para 4.1.1 and Objectives 1 and 2. The applicant adds that it is flexible, it has to be, taking into account that while consent and works are a 'moveable feast', certain natural works would need to be done at specific times of year. That, the applicant says does not detract from the weight it attracts.

548. The applicant states that the criticisms made by the HWAONB Unit should not carry any weight and that they can all be traced, in its opinion, to:

- A misunderstanding of the LEMP, for example, Ms Marsh suggested that it was flawed for referring, on page 30, to Laurustinas 'Eve Price' as native hedgerow. However, the LEMP makes no suggestion that it is native, as the native

[281] CD12.13 p18
[282] CD12.13 p4 and p15
[283] CD12.13 p16
[284] CD12.13, including p4, e.g. Key Characteristic 3, p16, p28 and p41
[285] CD23.1.6 Appendix, Plan ECO 1

hedgerow mix is set out on page 29. Similarly, ornamental hedgerow species are limited to the gardens of owner/occupier housing;

- A focus on matters which can be dealt with by condition, for example, suggested Conditions 17, 21 and 22;[286] and
- What it calls the HWAONB Unit's counterproductive approach of looking for problems rather than considering whether there are positive planning solutions. An example of this is Ms Marsh's concerns that establishing hedgerows, something required by the Management Plan Objective FH2 indicators of success and actions, and Objective FH3, is not a good thing in this context because it would lead to cat predation and / or that breaks in the hedgerows are also a bad thing because dormice would not cross them.

549. The applicant contends that 'much of this beggared belief', such as:

- Ms Marsh's suggestions that there would be an absolute loss of semi-improved grassland but no real gain;
- The suggestion that the LEMP's inbuilt flexibility means it cannot be relied upon;
- The suggestion there is no benefit to protecting and enhancing and managing ancient woodland because it is already 'protected', in circumstances where:
  - Ancient woodland only has policy protection from development such that a landowner could fell trees, or fertilise and spray fields in land adjacent to the Ancient Woodland;
  - Where Ms Marsh refused to see a benefit in requiring management for woodland because it has survived thousands of years and particular proposed legal obligations, such as to get rid of invasive non-native species, do not in her view go beyond what landowners would otherwise have no obligation to do but would be encouraged to do;
  - It was Mr Scully's suggestion, for the Council; and
  - Although this has some features of Ghyll Woodland which does require a high degree of moisture, the 15m Ancient Woodland planting buffer would help maintain that climate;
- The suggestion in Ms Marsh's proof of evidence[287] that the LEMP is nothing more than a wish list in circumstances where she agreed in cross examination that many of the measures contained therein are perfectly achievable; and
- The suggestion that there is no benefit to grassland management when ID35 makes clear that grassland needs to be managed.

550. The applicant maintains that where there is a conflict of professional opinion, such as what is said to be drawn from Ms Ryland of Dolphin Ecological Solutions, Mr Goodwin has explained why he does not consider her opinion correct and gave the following examples:

- That, if the baseline is improved poor condition grassland, the LEMP measures are unlikely to create good condition native wildflower meadow or species rich grassland, to which Mr Goodwin says it is possible to establish grassland in high nutrient soils as he has done this before;

[286] ID32
[287] CD23.4.1 para 8.18

- That the works would have "profoundly damaging effects to existing vegetation fauna and soil biology", to which Mr Goodwin says large portions of Ms Ryland's analysis are wrong; and
- There is a difference between the damage from temporary and permanent changes, to which Mr Goodwin says the biota in soil is relevant to what is above it, and that *in this context* it is difficult to see what one would be losing).

551. The applicant adds that, in contrast to Ms Ryland, Mr Goodwin and Mr Scully have been to site and have made themselves available for testing in via cross examination.

552. The applicant says, overall therefore, the utility and quality of the LEMP is aptly demonstrated by the fact that Kent Wildlife Trust spoke in favour of the proposals. In this regard the applicant adds that the oral evidence of Mr Goodwin, Mr Scully and Mr Slatford made clear, although the consultancy services are the commercial arm of Kent Wildlife Trust, they would not speak in favour of development unless it was something they genuinely thought was good.

553. The applicant says that matters such as seed mix, whether to use a nurse crop, soil mix, deep ploughing, phosphate levels, and the exact contents of the Woodland Management Plan can be conditioned, are dealt with via the S106 Agreement and can be controlled either in reviewing the LEMP or the required detailed method statement in relation to soil movement. The applicant maintains that the key point is that such matters can all be dealt with, they are not fundamental barriers, yet the HWAONB Unit has refused to offer positive comments on the conditions or make suggestions for how its concerns could be mitigated[288]. The applicant adds that attempts to work up issues of seed mix into fundamental attacks on the credibility of the LEMP should be given short shrift in light of the positions of Mr Goodwin, BSG, Mr Scully, the Council and NE.

554. Regarding the BNG metric, the applicant considers that the metric faced a lot of criticism at the Inquiry. The applicant says for example that Ms Marsh suggests that Metric 2.0 and 3.0 are "fundamentally flawed", while in oral evidence she suggesting that the theory has not been fully tested, values therefore remain "guesstimates", there can be "no confidence the output score represents biodiversity", amendments will need to be made before coming into force as required by the Environment Bill, and that the changes caused by including or excluding ancient woodland show the Metric is a "nonsense". The applicant adds that these conclusions are not accepted referring to Mr Scully's oral evidence that NE has been developing the Metric for several years and has run pilot projects subject to rigorous evaluation.

555. The applicant adds that it is not the place of the planning application process to challenge government policy and that the Metric has been published by NE and developed to support the incoming Environment Bill. It recognises that it is not perfect and that it does not cover every biodiversity eventuality, for instance it does not take into account species as well as habitats. Nonetheless, the applicant notes the fact that it can be used is set out in the PPG,[289] it is supported generally by the relevant industry body CIEEM, and NE fully accept that

[288] ID57
[289] CD10.06 para 023

Metric 2.0 is an appropriate tool for calculating BNG in this case.[290]

556. The applicant maintains that the Metric is fundamentally a tool to be considered in the exercise of ecologists' professional judgement. It adds that the extent the HWAONB Unit criticises it and the way in which it works should be given no weight. It also notes that the HWAONB Unit has failed to present any type of alternative.

557. In respect to how the Metric applies in this case, the applicant considers that it has done its utmost to comply with the *Biodiversity Net Gain: Good Practice Principles for Development*:

(i) The mitigation hierarchy has been applied (principle 1);

(ii) It has sought to avoid impacting the Ancient Woodland and ancient woodland characteristics and achieves no net loss from those (principle 2);

(iii) It has engaged with stakeholders such as Kent Wildlife Trust (principle 3);

(iv) It achieves a measurable BNG contribution and contributes to nature conservation priorities (principle 5);

(v) It achieves the best outcomes for biodiversity by e.g. enhancing existing habitat, creating new habitat, and enhancing ecological connectivity (principle 6);

(vi) It delivers conservation outcomes beyond what would occur anyway – there is no suggestion (for example) that historic hedgerows would reinstate themselves and there is, at present, no 10% requirement for BNG required by law or policy (principle 7); and

(vii) It creates biodiversity educational opportunities (principle 8).

558. Regarding how the Metric has been calculated in this case, the detail of the Metric analyses undertaken is set out in Mr Goodwin's proof of evidence. The focus here is limited to the areas in dispute.[291] The applicant acknowledges that there are some slight differences between Mr Goodwin's measurements and BSG measurements[292], but see these as small, making limited difference to the outcome and the faith that can be placed in the Metric's results and the key point is that even with those two differences, there remains a significant BNG gain.

559. On this basis, the applicant considers that there is rather a lot between Mr Goodwin, Mr Scully and BSG Ecology on the one hand, and Ms Marsh on the other. It adds that Ms Marsh has not undertaken her own BNG calculation, nor surveyed the site, she has simply changed a few of the inputs in the Metric calculations of others. The applicant notes:

(i) A large difference is the baseline, both in terms of habitat type and condition;

(ii) A further difference is how one translates from the Phase 1 or NVC Surveys into the UK Habs Classification for use in the Metric.[293] Ms Marsh alleges this baseline is properly categorised as UK Habs g3c, other neutral grassland. Everyone else says it is g4, modified grassland. There is a long route and a short route to understanding that translation. The short route is

[290] CD9.2 para 5.18-5.22
[291] CD23.1.6, Section 5ff
[292] ID34
[293] CD26.3.2 para 2.17ff

to simply use the conversion table embedded in the Metric. The longer route is to use the UK Habs classification handbook, which is the approach Ms Marsh adopted. Mr Goodwin worked through both of these in his oral evidence, demonstrating in the applicant's view that the baseline, as ascertained using a Phase 1 survey, translates as modified grassland. The applicant maintains that Ms March took a flawed approach to this exercise on the basis that she appears to have misunderstood the definitions set out therein, in particular, that species poor swards are excluded from the definition of g3c grasslands and referred instead to g4 modified grassland. The baseline, outlined above, has more than 25% cover of Rye-grass, which falls outwith the indicator in g3, with Rye Grass and White Clover commonly seen in accordance with the g4 definition; grasses making up more than 75% of the assessed area, also in line with g4 definition. Indeed, Mr Goodwin estimates grass cover to be 90-98%. The applicant adds that it is species poor with only two forb species per quadrat, again in line with the g4 indicator.[294] The applicant adds that if one begins with an NVC survey, which Mr Goodwin considers to be the 'gold standard', the NVC community coefficients[295] all translate into modified grassland.[296] On that basis the applicant concludes that, however one starts, and whether one adopts the long or short route, the results are the same, the baseline should be translated to modified grassland, g4, within the meaning of the BNG Metric.

(iii) The inclusion or omission of the Ancient Woodland is the largest difference between Mr Goodwin and BSG. The registered Ancient Woodland was included by BSG in error.[297] Mr Goodwin's evidence shows that taking it out increases the BNG of the proposal. Were Mr Goodwin also excluded the Henniker's pit woodland, which shows ancient woodland qualities but is not registered, that would increase BNG even further. So, there can faith in the measurements outlined by Mr Goodwin.

(iv) Mr Scully also noted that Ms Marsh's efforts were incomplete, as she had failed to change the target values for the particular habitats, adding that does not make any real sense, as whatever state the grassland is in now, the work done would increase the number of species within it.

(v) Much was also made about the relocation of soil onto parts of the Wider Land Holding, with a large focus on the deposit of the soil itself rather than looking at what happens after. It was suggested that the Metric focuses on grassland without reference to the soil underneath, but as Mr Scully explained the full process, including its effect on the soil is already taken into account in the Metric. One cannot have grass without soil. Furthermore, the technical reports submitted with the application consider that[298] the proposed soil movement offers an opportunity to improve soil conditions. This would all be controlled by condition with a detailed method statement required.

560. The applicant adds that as one progresses through the Metric – from measurement to translation to outcome – there are areas where professional judgements may differ. It adds however that Ms Marsh's oral evidence initially

[294] CD16.20 electronic pages 22ff, and pages 27 for g3c grasslands and 32 for g4 modified grassland
[295] CD5.6.7 para 4.13
[296] Using ID36 as provide by the HWAONB Unit
[297] CD16.15 p62 table TS2-10
[298] CD5.6.17 paras 4.4-4.6

suggested that the applicant had sought to "manipulate" the scores and "subtly downgrade" them, whereas when challenged on this she indicated that she was not making any actual allegation, simply saying there were "opportunities" for that to occur, but the applicant says such suggestions should be rejected.

561. Overall, the applicant says, with the exception of Ms Marsh, all the ecologists concerned with this case agree that there are significant biodiversity benefits. It adds that the BNG goes far beyond what is currently required by legislation and policy as well as beyond the 10% mooted for the Environment Bill. The applicant maintains that it is not material whether it exceeds 10% by 30%-40% or 20%-30%, there is still a high degree of confidence there is a substantial BNG. It adds that the BNG Metric is not the 'be all and end all', but Mr Goodwin has in its view, shown that the measures proposed also meet the requirements of the HWAONB Management Plan and are positive. Mr Scully agrees, going so far as to say that trying to get this amount of ecological benefit into a development such as this was a "tall order", an "ambitious" approach which shows a "step change" from what has been done in the past.

562. As a final point on this topic the applicant says that a number of suggestions have been made that woodland and grassland would do better if we "do nothing". The applicant does not accept that, and it states that it is entitled to do whatever it wishes within the bounds of the law with its own land and that refusing permission would not leave it preserved in aspic. Indeed, it adds, it is likely to see the return of horse use.

Planning

563. Summarising the planning judgement, in response to: (1) the extent to which the proposal is consistent with national policy on the natural environment, delivering a supply of homes, the historic environment and sustainable transport; (2) the extent to which it is consistent with the development plan (and the weight to be attributed to the eLP; and (3) whether any harm or conflict would be outweighed by other considerations,[299] the applicant contends that (1) it is, (2) it is, and (3) they would.[300]

564. Before dealing with some of the details of those matters, the applicant addresses a few considerations regarding NE's involvement with the application and the Inquiry. It says NE does not present evidence on biodiversity, heritage, transport, air quality, or housing land supply. It also considers NE's planning witness seemed confused about how these matters weigh in the planning balance.[301]

National Policy

Natural Environment

565. This section considers landscape and biodiversity starting with landscape.

566. The applicant says that it is not in dispute that the most important policy in this section of the Framework is para 177, which is written to test major development outside of the Local Plan process, that whether it is satisfied is a

[299] With reference CD9.10 para 4
[300] A fuller summary can be found at CD23.1.5 Sections 14 and 15
[301] CD23.5.2 para. 1.18

matter of planning judgement both on exceptional circumstances and public interest. Mr Slatford and Mr Hazelgrove consider that that test is satisfied here. The Council's intention is that the site should be developed as shown by deciding to allocate it in the eLP and by resolving to grant permission.

567. In this regard the applicant identifies what it calls five fairly fundamental points. First, it says a number of parties and advocates have suggested this is a "stringent" test. The applicant says, however, that the courts have made clear that what is an "exceptional circumstance" is a lower test than the "very special circumstances" test for release of land from the Green Belt, and that it is the latter test which has been described as "stringent".[302] The applicant adds, therefore, while it is not disputed that the exceptional circumstances test in para 177 is a high test, it is not one that is as stringent as that which applies to the grant of planning permission in the Green Belt, and is as the Court of Appeal held in *Luton* "less demanding" (CD20.04).

568. The evidence refers to the Glover Report.[303] It is not policy. The applicant states that since it was prepared, the Framework has been revised and its recommendations not implemented. Nor, it adds, has there been any Government guidance or PPG suggesting the same. Accordingly, it can only be given minimal, if any, weight in the applicant's view.

569. Second, the applicant says that NE suggests that major development sites should come forward through the eLP process rather than the planning application process. Yet Framework para 177 is a development management test, as is evident from its text, made clear by the Courts[304] and by Mr Slatford[305] and with which Ms Kent agreed.

570. Third, the three considerations at para 177 are not exclusive.[306] It is common ground that when you are assessing whether there are exceptional circumstances, you can look at all the benefits of the scheme. The applicant adds that it is not the case that each benefit has to be exceptional. General planning needs, such as ordinary housing, can form part of an exceptional circumstances case. The applicant states that the factors involved do not have to be unlikely to occur in a similar fashion elsewhere.[307]

571. Fourth, the applicant maintains that various lessons can be drawn from previous Inspectors' decisions as to what may be in the set of benefits to satisfy the exceptional circumstances and public interest test.[308] While all cases turn on their facts, the applicant states that Ms Kent accepted in cross examination that:

- Housing need can be an important part of the set of benefits;
- It is a relevant consideration that a large part of the Borough is in an AONB or has other similar restrictions;
- It is relevant that the site is in a sustainable location and/or settlement;

[302] CD20.04
[303] CD16.9
[304] CD20.5, paras 62-63 and CD20.17, paras 209-217
[305] CD23.1.5 para 6.6 and 6.7
[306] CD20.14, CD23.1.5 para 6.15, and CD19.4 paras 13-15
[307] CD19.13 para 116 and CD20.17 headnote paras 2-3
[308] Steel Cross (CD19.1) paras 89-90; Little Sparrows (CD19.10); Old Red Lion Street (CD19.5); Milton-under-Wychwood (CD19.11)

- The level of impact on the AONB, and in particular if there is little or no impact, including the extent of mitigation measures; and
- All other benefits, including economic benefits such as those that housing brings.

572. The applicant also notes that none of the appeal decisions on exceptional circumstances considered at the Inquiry was the site allocated in an adopted or emerging plan and maintains that this is also something which can form part of the exceptional circumstances case under para 177. The applicant says these factors echo those outlined by Mr Slatford, who adds that the assessment of alternative sites is a main consideration.

573. Fifth, the applicant notes the references made by NE's advocate to Framework para 176 which says *the scale and extent of development within all these designated areas should be limited*. This wording was added to the national policies protecting AONBs in the 2019 version of the Framework and considered by the Courts in the *Advearse* case.[309] The applicant says that the Judge was of the view that this wording was not a further test to be met for major development beyond that which is now set out in Framework para 177.

574. Turning to the sub-paragraphs of Framework para 177, para 177(a) has two elements: the need for development, including any national considerations; and the impact of permitting it on the local economy.

575. Starting with need, the applicant relies on there being a national, district, and local need for housing and in particular for affordable housing. It adds that it is not contested by any professional witness that there is a national need, there being a housing crisis. The applicant says that Ms Kent accepted there is an imperative to boost the supply of housing and that it is an important factor in previous decisions. Indeed, the applicant adds that need is so important that it, combined with no or limited/localised landscape harm to the AONB, has been found to constitute exceptional circumstances. The applicant also states that it is important to note the existence of other sites, which collectively still fall short of the full OAN, does not amount to an alternative for these purposes.[310]

576. At the supra-district level, the HWAONB Management Plan recognises that declining affordability, including a lack of social housing, is one of the top 5 issues facing the AONB.[311]

577. At the Borough level, the applicant says that it is common ground there is no 5 year housing land supply and that in any case that is a minimum requirement. It adds that it has been suggested that the shortfall here is "marginal", but: even a 0.1 YHLS shortfall is enough to trigger the tilted balance, and this cuts both ways as the Council's housing delivery is just on the threshold of not needing a 20% buffer applied; Mr Hazelgrove considers the need "critical and substantial"; and in any case in previous decisions even "slight" shortfalls have been considered very important.[312] The applicant also says that the Council has consistently had an under-supply for many years, and it is having to grant permission contrary to its development plan and for a number of sites outside

[309] CD 20.10 paras 34-38
[310] CD19.1 paras 89-90, and W*ealden* as set out in CD23.1.5 para 6.15ff
[311] CD23.1.3 para 4.20
[312] CD19.8 para 134

the LBD in order to increase supply.

578. It has been suggested that 5 year housing land supply would be resolved if the Hawkhurst Golf Course scheme were approved. The applicant says, however:

(i) It is not just 5 year housing land supply that matters. The Council is under an obligation imposed by Framework para 68 to plan for up to 15 years ahead. As the Local Plan is out of date, the Council has adopted a figure for the eLP using the Standard Method. The OAN based on this method is 12,204 dwellings over the period from 2020-2038. This need is not challenged by NE. While others have in the eLP process contested the setting of a housing requirement that would meet the full OAN, it is highly unlikely to change[313]. The Council has concluded that to meet its full OAN it has to allocate sites for major development in the HWAONB. It has, therefore, a "pressing" need to continue to provide housing in the Borough not just this year, but every year up to 2038. If major development cannot take place in the HWAONB the Council would be unable to meet its OAN.

(ii) There are concerns about how swiftly the Hawkhurst Golf Course scheme could come forward and whether it could in fact be part of the 5 year housing land supply. The applicant for that development is not a developer or housebuilder, there is no provider for the proposed 55+ housing package, no provider for the affordable housing, it is outline permission with many reserved matters outstanding, there is a requirement to provide a relief road which would not be ready until 2025 at the very earliest, and the Golf Club is listed as an Asset of Community Value, albeit with an appeal outstanding. In contrast, the proposed development is a full application, owned by a reputable housebuilder, currently in the process of building out the TF scheme and could potentially commence in September 2022, and have last occupation by May 2025.

(iii) Development in Hawkhurst cannot help with local need in Cranbrook

579. Turning to the more local level, the applicant says that there is a pressing need for more local housing and local affordable housing. Cranbrook represents 5.7% of the Borough's population. If it were to take a proportionate share of the Borough-wide need, it would need 585 dwellings over the next 15 years.[314] With regard to affordable housing there are 925 households on the housing needs register, of which 175 applicants have specified they wish to live in Cranbrook, and 62 households have a local connection.[315] The Housing Needs Assessment Topic Paper, December 2021[316] suggests that the Borough-wide need, if the backlog is taken into account, is 391 dwellings per year. Completions are an average of 81.6 per year.[317] So, the applicant states, there is an acute need for affordable housing.

580. The eC&SNP says its own assessment carried out by AECOM suggests at least 610 net dwellings are needed in the parish between 2017-2033, and also 300 affordable homes for local businesses.[318] The applicant maintains that the local need, both generally and for affordable housing, cannot be met by permitted

[313] CD23.1.5 paras 6.65-6.71
[314] CD23.1.5 para 6.75
[315] CD23.1.5 para 6.78
[316] C14.2.4
[317] ID46 Table 26
[318] CD13.1 para 7.4 & 7.8

schemes such as the BKF and TF developments.

581. The applicant says that, taking all of that into account, it is not seriously disputed that the provision of housing and affordable housing is a significant benefit. The applicant adds that NE accepts that the provision of affordable housing attracts significant weight, and then as 40% is proposed rather than the minimum policy requirement of 35%, additional weight should be added.

582. Regarding local economy benefits, the second limb of Framework para 177(a), the applicant states that these have been set out by Mr Slatford[319] and are not challenged by NE. It adds that the highlights include that the development could support some £15.96M of indirect Gross Value Added per annum in total, which equates to around £29M direct, indirect and induced Gross Value Added in total per annum, although it should be noted that not all of this would be retained locally and the net additional expenditure to be generated by the scheme could be in the order of £3.1M per annum.

583. Turning to Framework para 177(b), the applicant says that there was a lot of discussion of alternatives during the planning session, which needs to be taken in detail. It says there are five introductory points.

584. First, the applicant says, the Court of Appeal in the *Wealden* case[320] has laid down the following principles applicable in considering para 177(b):

(i) While para 177(b) does not refer specifically to alternative sites, in many cases this will involve the consideration of alternative sites;

(ii) The focus of para 177(b) is on alternatives "outside the designated area" so outside of the AONB, not other possible locations for development in the AONB, albeit that it does also require consideration of ways of "meeting the need for it in some other way";

(iii) The Framework does not seek to prescribe for the decision-maker how alternative sites are to be considered under para 177(b) in any particular case. It does not say that this exercise must relate to the whole of a local planning authority's administrative area, or to an area larger or smaller than that. There is thus a considerable discretion accorded to a decision-make as regards the extent to which alternatives are considered. So where there is, for example, a local need for housing in a particular town the search for alternatives can properly be limited to that town;

(iv) Where the need in issue is area-wide the extent of the consideration of alternatives is context dependent. In the *Wealden* case there was both a district-wide need and a need in the town where the development was proposed, namely Crowborough. The District in that case was, as here, very largely AONB and so most of it was equally constrained. There the Inspector said "[e]ven if the search for alternative sites is taken wider than Crowborough, there is a lack of housing land to meet the full OAN … The existence of other sites, which collectively still fall short of the full OAN, does not amount to an alternative and there are no plans, through the duty to cooperate or otherwise, for neighbouring districts to provide for the shortfall". The Court of Appeal explicitly upheld the approach as being a lawful and proper one to take under what is now para 177(b).

[319] CD23.1.5 para. 4.8v
[320] CD23.1.5 paras 6.15-6.16, and CD20.05

(v) Mr Slatford rightly refused to accept that para 177(b) imposed a stringent test, as the Court of Appeal in *Wealden* had made clear that there is considerable flexibility in how alternatives are considered by a decision-maker.

585. Second, the applicant states, applying this to the present case and focussing for the moment on the Borough-wide position, the OAN for this Borough is 12,204 dwellings to 2038 and this is a highly constrained Borough. Approximately 70% of the Borough is AONB[321] and 22% is Green Belt[322] and there are also numerous other constraints, including a wide network of biodiversity sites and thousands of heritage assets[323]. The applicant says, therefore, that the potential area of search within the Borough is very limited to start with and the only settlement of any size outside the HWAONB, leaving to one side Tunbridge Wells and Southborough, is Paddock Wood. On that basis, the applicant says that to meet the need outside the HWAONB everything would need to be funnelled into Paddock Wood. It adds that that would not be an equitable or sensible distribution, and, in any event, it is already allocated up to capacity, as are Tunbridge Wells and Southborough. It also adds that these settlements are themselves surrounded and constrained by AONB.

586. Third, the applicant contends that the Framework does not say that the requirement to satisfy para 177(b) lies entirely with an applicant. The applicant adds that there is thus nothing to prevent reliance on work undertaken by the local planning authority on alternatives, such as in the context of the eLP here.

587. Fourth, the applicant states that Mr Slatford's view, as supported by Mr Hazelwood, was that the focus on alternatives should be on sites in and around Cranbrook, because there is a very clear need for housing in Cranbrook and "[t]he whole of Cranbrook town centre and the surrounding area lies within the AONB. While some areas within the parish lie outside the AONB, but these are away to the north and well outside the town centre/LBD"[324]. In cross examination Cllr Warne acknowledged that the Council's planning officers had rejected such remote northern locations as being unsustainable in terms of meeting the need in Cranbrook. If the focus is on the need for housing in Cranbrook itself, the applicant contends, then the search for alternatives has to be for alternatives in and around Cranbrook itself and providing housing in Hawkhurst or Paddock Wood does not meet that need.

588. Fifth, the applicant says that it was suggested that it was unduly focussed on the need for housing to 2038, and that because 85% of the allocations in the eLP are outside the HWAONB this shows that as matters stand now there are alternative development sites beyond the HWAONB. The applicant states, however, that that is contrary to the approach taken by the Inspector in the *Wealden* case and upheld by the Court of Appeal[325]. On that basis the applicant maintains that this is not a search for a single possible alternative site for the proposed development but rather for sufficient sites to meet the OAN, and as the sites in the eLP are all needed to meet the OAN, they are not alternatives.

[321] CD23.2.1 para 3.15, and CD12.8 p18
[322] ID02 para 6
[323] CD23.2.1 para 3.16
[324] CD23.2.1 para 4.12
[325] CD20.5, also CD19.1 para 89

589. Against that background, the applicant turns to the evidence of the Rule 6 parties on alternatives.

590. The applicant says that NE has led the opposition to the development and was the only Rule 6 party to call any professional planning evidence at the Inquiry, yet it has not sought to undertake any assessment of the availability of alternatives in Cranbrook, the Borough or indeed beyond. The applicant contends that this is a material omission. With reference to the Sonning appeal decision, the applicant states that that Inspector noted[326] that while the local planning authority in that case (which was opposed to the appeal) "questioned this assessment" it "never really suggested any alternative sites". It adds that the same is true here of NE.

591. NE's case on para 177(b) is a very limited one in the applicant's view, essentially confined to two points. First, the applicant says that NE criticises its assessment of alternatives submitted with the planning application[327] because it is limited to sites in and around Cranbrook rather than being Borough-wide. Second, it adds that, while it recognises that the Council has, as part of the evidence base for the eLP, undertaken a far more comprehensive Borough-wide analysis, NE says that this cannot be relied on because it is yet to be tested at examination. The applicant considers that these two contentions are flawed.

592. The applicant says that the case of CPRE on alternatives, advanced through Councillor Warne, has been to suggest that the work done in the course of the preparation of the eC&SNP means that "alternative sites were available to meet housing need in the Parish"[328]. The applicant adds that it does not much matter which is referred to, be it the published draft AECOM assessment[329] or the 'somewhat sketchy' details of the further assessment of alternatives later undertaken by the eC&SNP Steering Group. In respect to the former, the applicant adds that as it was a draft and never consulted on its weight must be limited. Regarding the latter the applicant says it was an exercise which was undertaken by non-professionals, was never published nor ever consulted on, such that it attracts minimal weight. The applicant maintains that in the end Cllr Warne did not put forward any particular site as an alternative and no sites were allocated in the eC&SNP.

593. The applicant considers that Mr Hazelgrove's evidence[330] shows that all of the sites referred to in Cllr Warne's evidence have since been considered and rejected in the SHELAA[331] and/or refused planning permission. It adds that the Parish Council objected to planning applications made in respect of many of these sites. The applicant considers that at the end of cross examination, Cllr Warne was able to put CPRE Kent's case no higher than that amongst all these sites there could possibly still now be some that might still deliver some housing albeit she could not quantify this. The applicant maintains that she accepted in terms that as matters stood many of these sites had been ruled out by the SHELAA assessment and/or refusals of planning permission. The applicant goes on to say that when it was put to her that what remained, if anything, on these sites could

[326] CD19.10 para 115
[327] CD3.12
[328] CD23.3.3 at para 5.4
[329] CD13.2
[330] ID52 and ID53
[331] CD14.2.8

not possibly meet the need for housing identified in the eC&SNP, she did not seek to demur from that conclusion. Mr Slatford supported this analysis noting that many of the sites assessed as 'amber' by AECOM were either already allocated in the eLP or had been found unsuitable.

594. Mr Cook undertook an analysis of possible alternative sites identified by AECOM.[332] He concludes overall that none could come forward with less harm to the HWAONB than the application site.[333] The applicant says that no other party has offered evidence contradicting this and adds that Ms Farmer simply attempted to re-define the point by suggesting it is clear much of the landscape surrounding Cranbrook is sensitive and development would better be achieved through small sites only. The applicant also considers that Mr Cook was not challenged on his analysis by NE. It adds that although CPRE Kent's advocate asked Mr Cook some questions the applicant considers that this reinforced the strength of his analysis even though he suggested that this part of his analysis should only be accorded moderate weight.

595. Having dealt with the position of the other Rule 6 parties, the applicant says that the position in relation to alternatives, for the purposes of Framework para 177(b), is as follows:

596. First, in the course of preparing its eLP, the applicant maintains that the Council has undertaken a comprehensive and extensive process of site selection. The Council, following a call-for-sites, assessed in detail around 500 sites through the SHELAA process. Full details of the submitted sites, as well as those contained in previous Local Plans that were not yet implemented, and additional sites identified by officers are set out in the SHELAA[334]. It also presents information about each site, its suitability, availability, achievability, with overall conclusions on their appropriateness for allocation within the Local Plan. The applicant adds that the conclusions have regard to the findings of the Sustainability Appraisal[335].

597. The applicant says that the SHELAA process sought to give weight to the conservation and enhancement of the HWAONB, with the Council seeking to maximise the scope for development outside the HWAONB[336]. The Council "concluded that all reasonable alternatives for locating development outside of the AONB are being pursued. Furthermore, it is evident that development to provide for homes and jobs at sustainable settlements within, or surrounded by, the AONB will need to be in the AONB"[337].

598. The applicant goes on to say that the Council has sought throughout to reduce the number of allocations in the HWAONB, which have reduced from 49 to 32 overall, and from 19 major developments down to 11. For all the proposed major developments the HDA LVIA was commissioned to look at the landscape effects, as discussed above, as were other studies such as on grassland[338]. The applicant maintains that the end result of that process, in the Reg 19 version of

[332] The Site Assessment is at CD13.2
[333] CD23.1.7 para 12.1-12.13
[334] CD14.2.8
[335] CD23.1.15 para 6.105 contains summary
[336] For example, CD14.2.2, p51
[337] CD14.2.2 p52
[338] CD23.1.15 paras 6.108-6.109

eLP submitted for examination, is that the application site is among those that have been proposed for allocation in order to meet the OAN of the Borough.

599. Thus, the applicant says, the position is that there is an extensive and publicly available evidence base that the Council has been working on over many years to identify all possible, suitable locations for housing growth. That work is thorough, robust and comprehensive in the applicant's view[339]. It adds that an applicant for planning permission could not have hoped to undertake so comprehensive a process. In its opinion, a call for sites process can only really be done by the Local Planning Authority, and the same is true for the whole SHELAA process. The applicant adds that it would be odd, given the work done, had it sought to replicate this work, and there is no reason why it would do so.

600. While this evidence base is yet to be examined, the applicant says that the evidence is available and is highly material. It adds that it can properly be relied on and, in the applicant's view, the process was the subject of no sustained criticism by any party at the Inquiry. While the weight to be given to the eLP is affected by the stage it has reached, the applicant says that the same is not true for the evidence base.

601. This, the applicant says, is supported by the Gate Farm appeal decision[340] where considerable weight was given to the findings of the HDA LVIA, which is part of the evidence base for the eLP. The Inspector in that case described it "as an independent, professional review" and that it was of "some significance to the appeal" being something that cannot "be unduly discounted". He said that the context was "an up-to-date, professional assessment of the potential to accommodate major development in Cranbrook and elsewhere and submitted to the Inquiry by the Council as local plan evidence …". The applicant maintains that the same can be said of the SHELAA process, and the Council's consideration of sites more generally.

602. The applicant adds that, while Mr Hazelgrove was reticent at times to place undue reliance on this extensive evidence base, it is notable that:

(i) He said that where a site was dropped between the Reg 18 and Reg 19 stages, as many were, it can be assumed that this was for a good reason and that the site was not therefore an alternative;

(ii) He has relied on the SHELAA to assess the availability of sites; and

(iii) He looked[341] extensively at possible alternative sites, including those dropped from the Reg 18 Plan, those considered in the AECOM report in the context of the eC&SNP and others before concluding that "based on the available evidence … there is no scope for developing sustainably located housing for Cranbrook outside the AONB that delivers the same level of benefits as the Turnden scheme"[342]

603. The applicant's assessment of alternatives submitted with the application[343] was an additional piece of work on top of the Borough-wide assessment undertaken by the Council in the context of the eLP. The applicant's assessment

[339] CD23.1.15 para 6.92
[340] CD19.8 paras 92 & 98
[341] CD23.2.1 paras 4.11-4.41
[342] CD23.2.1 para 4.43ff
[343] CD3.12

is focussed on sites in Cranbrook and discounts a number of possible alternatives based on factors such as access, sustainability and HWAONB impact[344]. The Council has not contested that analysis. The applicant considers that the only criticisms ventured of this work by the Rule 6 parties was on behalf of NE by Ms Kent, who raised two issues, that the exercise was confined to Cranbrook and that it did not look at smaller sites. In relation to the first point, the applicant says that Ms Kent accepted that, to the extent there is a need for housing in Cranbrook, this can only be met in and around Cranbrook. In relation to smaller sites, the applicant adds that, Ms Kent accepted that there were practical issues in delivering housing, especially affordable housing, on smaller sites. The applicant also contends that there is no evidence that any of these could deliver anything like the same scale of open space, planting, and BNG.

604. Turning to para 177(c), the applicant states that this involves assessing any detrimental effect on the environment, landscape and recreational opportunities and extent to which this can be moderated. The applicant accepts that this sub-paragraph deals only with any negative impacts and mitigation. It adds that positive effects are taken into account in the general 'basket' as per the *Wealden* approach.

605. The applicant starts on this matter with the overarching point that it sees NE's approach to be making an objection to this scheme "in principle", without engaging with the LVIA,[345] notwithstanding that its own witness accepted in oral evidence that the landscape impacts have to be assessed on a case specific basis and that a key tool in assessing landscape impact is an LVIA. The applicant says that Ms Kent, placed in what it describes as a 'somewhat untenable position', was forced to defend this on numerous 'wholly unsupportable bases'.

606. In this regard the applicant says that Ms Kent sought to justify NE's position on this matter: on the basis that NE could judge this on the principle of whether development in the HWAONB was acceptable, but she was forced to accept that was decided by para 177; by relying on prematurity, which is addressed below; and by suggesting NE has enough experience to understand the scale of development without looking in detail at the LVIA. The applicant contends that none of these points is a 'remotely credible justification for NE's position'. It adds that Ms Kent then reverted to saying that she had now engaged with it.

607. That, the applicant contends, was not the only bizarre aspect to NE's case, adding that NE also suggested that it does not object to sites once allocated, as with the BKF scheme, notwithstanding that legitimate concerns may still arise and that the para 177 test continues to apply even after allocation in a development plan. The applicant goes on to say that NE has continued to pursue the bizarre suggestion that major development is in principle objectionable in the AONB, notwithstanding that that is exactly what Framework para 177 is designed to decide, that the Housing Design Guide deals with major development, and that it seems irreconcilable with NE's request that the Council commission what became the HDA LVIA.

608. The applicant states that there is clearly a dispute between it and NE about whose landscape evidence should be preferred. Mr Slatford remains of the view

[344] CD23.1.5 paras 6.112 & 6.113
[345] CD6.12.1 p3

that Mr Cook's evidence and conclusions are correct – there would be no material adverse impact on the HWAONB, and landscape character of the area would be preserved and enhanced, and the overall proposals for the site are exceptional. It adds that, Ms Kent accepted that if the Secretary of State prefers the evidence of Mr Cook, that would be an important consideration in deciding whether there are exceptional circumstances. The applicant maintains that it is, in fact, very, very important. It adds that Ms Kent also accepted that she was wrong to suggest that the improvements to the Wider Land Holding are not reliant on development.

609. The applicant goes onto say that it is also important to a consideration of para 177(c) that the proposal does not negatively impact any recreational opportunities on the site. It adds, to the contrary, it positively improves them, which it says is an additional benefit to be taken into account.

610. Moving to other natural environment considerations beyond para 177, the applicant first deals with biodiversity and how that weighs in the planning balance. The applicant says that NE's advocate attempted to draw a distinction between the "great weight" accorded to conserving and enhancing landscape beauty in Framework para 176 and that biodiversity matters are considered merely "important considerations" in the AONB. The applicant states, however, that the decision-maker's duty is to have regard to the purpose of conserving and enhancing the natural beauty of the AONB, and that here references to conserving natural beauty include references to conserving its flora and fauna.[346]

611. The applicant stresses that the views of Mr Goodwin and Mr Slatford are that the application scheme would deliver exceptional ecological enhancements, going far beyond both the current policy requirements and even the anticipated legal requirement of a 10% BNG which would not, due to transitional provisions, apply to this application. The applicant maintains that even NE accepts that this scheme would deliver a BNG and has now accepted that this can form part of an exceptional circumstances 'basket'. The applicant says that the importance of protecting flora and fauna is made very clear in the HWAONB Management Plan.[347] Accordingly, the applicant says, it should attract significant weight.

612. Regarding air quality as part of the planning balance, the applicant says that air quality here complies with the Framework, Air Quality PPG, the Core Strategy, the eLP, and the Council's Hawkhurst air quality Planning Position Statement.

New Homes

613. The applicant says that the desperate need that this development would meet has been outlined above and also highlights that adjacent authorities, with similar constraints to this Council, are having difficulties meeting the housing needs in their area. Mr Slatford has set out the relevant paragraphs of the Framework and concludes these are met.[348] The applicant adds that it does not understand that to be seriously challenged by any party.

[346] CD21.06 & CD21.07 – Sections 85, 92
[347] Including pp 4, 16, 22, 25, 27, 43, and 60
[348] CD23.1.5 Section 7

Historic Environment

614. The applicant says that for the reasons outlined above the views of Dr Miele should be preferred to those of Ms Salter and Mr Page. Again, Mr Slatford outlines the relevant national policies and, drawing on the evidence of Dr Miele, he concludes that there is no harm to heritage interests or the historic grain of the landscape comprising the site. The development is, in the applicant's opinion, therefore consistent with national policy on the historic environment.[349]

615. The applicant adds that in the event that the evidence of Ms Salter and Mr Page were to be preferred, the same package of benefits relied upon under Framework para 177 is relied on under its para 202, and the balance is dealt with below.

Sustainable Transport

616. The applicant says that NE's position on this matter had relied on the objection of KCC, which is now withdrawn such that there is no basis on which NE can object on transport grounds. The applicant maintains that the site is very well located from a transport perspective, being within a reasonable proximity of the town centre and within easy walking/cycling distance of numerous local facilities. Drawing on the evidence of Mr Bird, Mr Slatford confirms that the development complies with national policies on sustainable transport.[350] Indeed, the applicant contends that the transport sustainability of the development is a benefit.

Design

617. The applicant states that, notwithstanding that design was not mentioned in the call-in letter and none of the Rule 6 parties explicitly raised it, the quality of the design of this proposal is important. It adds that for all of the reasons set out by Mr Pullan, Mr Slatford concludes that national policies on design in the Framework and the National Design Guide are met, alongside those of the HWAONB Management Plan, Housing Design Guide and Kent Design Guide. The applicant considers that no party is in a position to challenge that conclusion and it is commended.[351]

Prematurity

618. The applicant's last point on national policy concerns the suggestion that the application can be refused for prematurity reasons regarding the eLP, although apparently, not the eC&SNP. This is not an argument put forward by the Council, whose eLP process the development would allegedly undermine.

619. The applicant says that NE's case is not that the development is so substantial in scale that the test in Framework para 49(a) is satisfied. In that regard Mr Hazelgrove says that the quantum of development is very small compared to the requirements of the eLP – 165 houses compared to a need of 678 per annum. Rather, the applicant adds, the concern is that it would in effect set a precedent, a 'decision making paradigm' because the evidence and arguments underpinning the draft allocation of the site in the eLP also apply to other major draft allocations.

[349] D23.1.5 Section 8
[350] CD23.1.5 Section 9
[351] CD23.1.5 Section 10

Rightmove

620. The applicant contends that Ms Kent came up with some rather unconvincing explanations. It adds that the nuance was largely brought out during its advocate's cross examination of Mr Hazelgrove. The applicant says that the advocate suggested that because the Development Strategy Topic Paper[352] had referenced Framework para 177 in allocating sites, and because some of what the Council considered exceptional circumstances for the site allocation also appeared for other sites, if permission were granted for this development, then "it is inevitable … this decision will be rolled out for every other development in the AONB and the same arguments would succeed."

621. The applicant submits, however, that:

(i) This, NE admits, does not fall within para 49(a) – NE is forced to rely on circumstances outside of the specific situations set out therein and depend on the use of the word "usually" to argue that para 49(a) and (b) are not exhaustive. The applicant does not suggest they are exhaustive but while other situations may be conceivably possible, they are highly unlikely.

(ii) Notwithstanding this theoretical difficulty, this is misconceived where:

a. The Development Strategy Topic Paper refers to site specific assessments;[353]

b. There is no reason to think that, even taking into account cumulative effects, permitting the development in Cranbrook after a five week Inquiry examining site specific detail would have an impact on other allocations, such as those in Penbury or Hawkhurst. Indeed, neither Mr Hazelgrove nor Mr Slatford considered it would have any such impact.

c. NE's fears seem out of accordance with good planning judgement. A number of the sites it objected to have planning permission or are allocated.[354]

(iii) NE's approach is inconsistent with the Perrybrook decision.[355] In that case, the Secretary of State dismissed a prematurity argument in circumstances where the proposal was in keeping with the eLP and therefore could not be said to undermine it. The same applies here.

Richborough

Local Policy

Current Local Plan

622. The position of Mr Slatford and Mr Hazelgrove is that overall the development is in accordance with the statutory development plan.

623. The only professional planning witness called by any of the Rule 6 parties is Ms Kent and she seeks to argue that the development is not in compliance with the development plan as a whole.

624. The applicant adds that Ms Kent in her proof of evidence sets out 28 development plan policies that are agreed to be relevant to this development, alleging breaches of 6 only: Policies CP1, CP4, CP12 and CP14 of the Core Strategy, AL/STR/1 of the Site Allocations LP and EN25 of the Local Plan. On

[352] CD14.2.2
[353] CD14.2.2 p53 Table 3
[354] CD14.1.4 - AL/RTW 17, AL/CRS1 and AL/BM1 have planning permission; AL/CRS 2 is the Corn Hall allocation; and AL/HA 4 was refused against Officer's recommendation and is on appeal
[355] CD9.3, in particular para 19 of the Secretary of State's letter and para 15.52 of the Inspector's Report

that basis the applicant says that it is agreed by all that the development is compliant with the remaining 22 relevant policies, albeit that the housing requirement for the Local Plan is derived from the long ago revoked South East Regional Strategy.

625. The applicant goes on to say that of the six policies alleged to be breached by Ms Kent:

(i) One is from the Local Plan, a plan adopted 15 years ago with an evidence base that is older still; and

(ii) Four are from the Core Strategy, which was adopted 11 years ago and covered a period that started in 2006.

626. These, the applicant contends, are thus very old Plans, that pre-date even the 2012 version of the Framework. The weight to be given to such policies is dependent on their consistency with the Framework. The applicant adds that the housing need evidence on which these Plans were based is completely out of date.

627. The applicant adds, moreover, that because the agreed position between all the parties is that there is no 5 year housing land supply in accordance with the relevant footnote to Framework para 11, the policies which are most important for determining the application are deemed to be out-of-date so as 'to engage the presumption in favour of sustainable development'.

628. In relation to Framework para 11(d)(ii) the applicant's position is that the benefits clearly outweigh any harm[356]. Para 11(d)(i) provides that "the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed". The relevant footnote further explains that this applies to "policies referred to are those in this Framework (rather than those in development plans) relating to: … an Area of Outstanding Natural Beauty, … designated heritage assets …". The applicant says that the effect of this is that if it is concluded that the development complies with Framework paras 177 and 202, then there is not a clear reason for refusing planning permission and 'the presumption' continues to apply[357].

629. With these points in mind, the applicant turns to the six development plan policies that NE alleges are breached.

Policy CP1 – Delivery of Development

630. This Policy is alleged to be breached by Ms Kent on the basis that the site lies outside the LBD, to which the applicant says:

(i) Policy CP1 is concerned with how allocations will be made, it is not a development management policy such that it is difficult to see how it can be breached. The relevant development management policy related to LBDs is LBD1. While Ms Kent cites this Policy, she does not allege any breach of it, instead alleging a breach only of Policy AL/STR1, which extends the LBD of Cranbrook to include the BKF site;

[356] CD23.1.5 para 11.8
[357] CD23.1.5 paras 11.5-11.7 and CD20.8

(ii) If Policy CP1 is considered on its own terms, then Policy CP1(1) refers to the possibility of allocation of greenfield sites adjacent to the LBD of small rural towns. In this regard Cranbrook is defined as such a town and the site is adjacent to the LBD, as altered by the Site Allocations LP, so there is compliance with this part of the policy; and

(iii) Policy CP1(4) explicitly contemplates sites coming forward that are not allocated.

631. While the applicant refutes this proposition, even if there is a breach of Policy CP1 the question arises as to what weight should be given to any such breach. The applicant says Ms Kent's proof of evidence fails to address the weight to be given to any of the policies she alleges are breached. Policy CP1 was considered in the recent Gate Farm appeal decision and the Inspector in that case found that it was out-of-date in terms of housing need and the expectations of the Framework and could attract only 'limited weight'[358]. Mr Hazelgrove's assessment for the Council, whose policy this is, is the same[359].

632. The applicant says that the suggestion by Ms Kent that this Policy carries substantial weight is thus wholly unjustifiable and she has offered no good reason for not having referred to the Inspector's view in the Gate Farm appeal decision or for disagreeing with it.

Policy CP4 - Environment

633. The applicant says that a potential breach of this Policy turns on the alleged landscape impacts. It adds that if Mr Cook's evidence is accepted there is no breach of this Policy, while if his evidence is not accepted in full then the extent of any breach of the Policy will turn on any precise findings made about residual landscape harm arising from the development.

634. The applicant maintains that it is important to note that the Council, whose policy this is, says through Mr Hazelgrove, that "CP4 (1)'s requirement to 'conserve and enhance' rural landscapes including the AONB is breached because of the significant LEMP-related enhancements within the scheme" and that "[t]he policy does not preclude development that would cause harm – after all, it is part of a policy document that seeks to deliver housing and other development on AONB sites (such as the adjacent Brick Kiln Farm)". He also says "Purely because the Turnden site is unallocated does not mean that it fails CP4(1) as the scope of the policy is not restricted to inside-LBD sites. Therefore elements of the proposal that relate to the LEMP works would 'conserve and enhance' the parts of the site which are not being built on – not just in a tokenistic way but in a comprehensive, long-term manner. CP4(2) is met as the applicant and [the Council has] demonstrably utilised the Landscape Character Assessment in coming to their respective judgements on the scheme."[360]

635. This view is strengthened, in the applicant's opinion, by the supporting text to the Policy[361] which says in terms "[t]his Policy seeks to ensure that the delivery of new development (such as for housing, retail and employment) is balanced against the need to conserve and enhance the character and distinctiveness of

[358] CD23.2.1 para 8.72, quoting from paras 141 and 142 of the decision
[359] See paras 8.114 and 8.115 and the table
[360] CD23.2.1 para 8.30
[361] CD11.4, paras 5.85-5.86

the Borough's natural and built environment".

Policy CP12 – Development in Cranbrook

636. The alleged breach of this Policy, the applicant says, is predicated on two things, the site being outside the LBD and alleged landscape impacts. It adds that the case Ms Kent made for a breach was that this Policy "clarifies that delivery of housing should be in line with the strategy set in CP1"[362]. As outlined above, the applicant considers that Policy CP1 attracts only limited weight such that this Policy must too, in the applicant's view.

637. The applicant adds that, in any event, the Council says, via Mr Hazelgrove[363], that "CP12 (1) requires that 'particular regard to preserving and enhancing the character of the Conservation Area and for the setting of the town within the High Weald Area of Outstanding Natural Beauty'" and that "[s]uch regard has been shown as these matters have been considered at length. This criterion does not preclude harm". He then goes on to say that "Mr Duckett concludes with regard to CP12 … that the setting to the town would include the Wider Land Holding for which there are identified benefits, both in terms of landscape and ecological enhancement. An overarching benefit would be the long-term management of the Wider Land Holding and the robust and permanent rural setting to the settlement edge that the Wider Land Holding would provide". The applicant agrees entirely.

638. Additionally in respect to this Policy the applicant says:

(i) Its opening words state that "Development at Cranbrook during the Plan period will support and strengthen its role as a small rural town …". The development would have this effect, in terms of both the provision of housing and also benefit to the local economy as outlined above; and

(ii) The weight to be given to this Policy is in any event limited as it is out of date in relation to housing[364] and also because of its links to Policy CP1 which is also out of date, as outlined above.

Policy CP14 – Development in the villages and rural areas

639. The applicant says that the alleged breach of this Policy made by Ms Kent is driven by alleged landscape impacts and on the basis that the site is in a rural area. To this the applicant says:

(i) Ms Kent alleges breach of Policies CP12 and CP14, but both cannot be applied as one deals with development in Cranbrook and the other with development in rural areas. One or other can apply, but not both;

(ii) Insofar as CP14 is the applicable policy it provides at CP14(1) that "New development will generally be restricted to sites within the Limits of Built Development of the villages in accordance with Core Policy CP1". The language is clear that this is only "generally" the case not that it must always be so. The policy builds in flexibility;

(iii) CP14(6) provides that this is a policy that seeks to protect the countryside for its own sake, so it is not consistent with the Framework, see below;

[362] CD23.5.2 para 3.56
[363] CD23.2.1 para 8.31
[364] CD23.1.5 para 11.13

(iv) The supporting text at para 5.276 emphasises that the overall thrust of the Policy is "to provide flexibility to enable development to meet the individual needs and support the individual identities of the small rural towns areas". The development is directed at meeting the needs of Cranbrook; and

(v) In terms of weight, the Policy was given "very limited weight" by the Inspector in the Gate Farm appeal decision[365], because it is out of date in terms of housing need and it seeks to protect the countryside for its own sake, an objective which is out of line with the Framework. Moreover, it is also explicitly linked to Policy CP1 which is itself out of date. Mr Hazelgrove, on behalf of the Council, also concludes that it attracts only very limited weight[366].

Policy AL/STR/1 – Limits to Built Development

640. The applicant says that the alleged breach of this Policy is predicated on the site being outside the LBD, but that the Policy can attract only limited weight given that it is out of date in terms of housing supply, a view it says is supported by the Council[367]. Policy AL/STR/1 updates Policy LBD1, which the Gate Farm appeal decision concluded could carry only very little weight.

Policy EN25

641. The alleged breach of this Policy is, says the applicant, driven by landscape issues. Mr Slatford's view is that this Policy is complied with. The applicant considers that it does not preclude development beyond the LBD and is in essence a general policy concerned with landscape character and setting.[368]

Overall

642. Having regard to the development plan as a whole, the applicant says that the view of Mr Slatford and Mr Hazelgrove that there is compliance overall is compelling.

Emerging Local Plan

643. The applicant states that no party seriously disputes that the development is in accordance with the allocation in the eLP, and that this is a material consideration weighing in favour of the grant of permission. It adds that, in light of the remaining objections, which will have to be considered by the examining Inspector, Mr Slatford and Ms Kent agree that it can be accorded more weight, now that it has been submitted, than it could receive when they wrote their proofs of evidence, but the weight that can be given to it remains limited. Mr Hazelgrove suggests it should attract moderate weight.

Draft Neighbourhood Plan

644. The applicant says that this Plan is at an early stage and there are currently major objections outstanding from parties, including the Council and applicant. The applicant says that itself, the Council and NE[369] suggest the Reg 14 version

[365] CD23.2.1 para 8.72, quoting paras 139 and 140.
[366] CD23.2.1 para 8.114 in the table
[367] CD23.2.1 paras 8.75 and 8.76
[368] CD23.1.5 paras 11.13 -111.17
[369] CD23.5.2 para 4.107-4.108, for instance

attracts limited weight. In the applicant's view the Reg 16 version[370] is a working draft that has no status at all and to which the Council has submitted over 213 comments. The applicant adds that, as much has been made by CPRE Kent regarding the extent to which 'the community' supports some of the policies contained therein, it notes that 2.8% of those in the neighbourhood commented on the eC&SNP. The applicant goes on to contend that, although the development would not accord with the eC&SNP, as a material consideration that can only attract very limited weight.

Benefits

645. The applicant says that there are 'many, many benefits of this development', with a full list set out in paras 4.8 and 14.7 of Mr Slatford's proof of evidence. As a 'potted summary' it refers to: the provision of housing; 'contributions' secured via the S106 Agreement; affordable housing above the policy requirements; additional footpaths; new public amenity space above and beyond policy requirements; the reinstatement of lost hedgerow and field boundaries; the creation of new woodland and enhancement of existing woodland; a significant BNG; economic benefits; and the incorporation of a variety of energy saving measures. The applicant says these are significant, with many agreed with the Council and NE.[371]

Other Matters

646. The applicant adds, having heard much from Rule 6 parties purporting to represent the community, how the community is opposed to this application and some of its effects, it received only 75 letters of objection and some 40 letters of support.

Overall Conclusion and the Planning Balance

647. Overall, the applicant contends that this is sustainable development in an accessible location in close proximity to a settlement that has a range of facilities and services.

648. The applicant adds that the development is in accordance with relevant national policy. While the site is in the HWAONB, it says that it commends Mr Slatford's analysis as follows:

(i) There is no material harm to the HWAONB. It would be preserved and enhanced in this area;

(ii) There is an agreed need for development, a local need for new homes and particularly affordable homes. The development would deliver 165 high quality homes, including 66 affordable homes (a 40% provision in excess of policy requirements) and commits to providing four purpose built wheelchair accessible affordable homes, which is also not required by policy. This is of significant public benefit;

(iii) There are no proposed ways to meet this need through alternative sites. 70% of the Borough is within the HWAONB, so sustainable options for meeting the agreed housing need, both locally and Borough-wide, are limited. Adjacent boroughs are struggling to meet their own need;

[370] ID48
[371] CD9.01 para 8.1 and CD9.02 Section 8 respectively

(iv) The site is therefore allocated in the eLP – a matter to be considered albeit of limited, but increasing, weight. There was also extensive technical work undertaken coming to that conclusion, which can be relied on for these purposes; and

(v) There are numerous other public benefits to consider: the BNG, landscape enhancements, and recreational benefits are truly exceptional, and are supported by other benefits, such as highway improvements, footpath and cycle connections, and economic benefits, that weigh in the balance. No other site has been suggested that could or would deliver extensive public benefits.

649. The applicant says that it should be concluded, therefore, that there are exceptional circumstances in this case.

650. That, it adds, is the case absent the fact that the Council does not have a 5 year housing land supply, but it does not. The applicant says that the tilted balance, therefore applies. It goes onto say that, bearing in mind the leading experts have considered the alleged other harms on matters such as heritage, transport and air quality and found no adverse impacts arise, there are no further adverse impacts which significantly and demonstrably outweigh those benefits. The development is therefore, in the applicant's view, in accordance with relevant national policy.

651. The applicant adds that, it is also, for the reasons outlined, in accordance with the Local Plan.

652. The applicant also says, in any case, the extent that there might be found to be adverse impacts, do not significantly and demonstrably outweigh the benefits. Therefore, the scales are tipped in favour of granting this permission. The Council agrees that permission should be granted.

653. The applicant respectfully asks that the Secretary of State grants permission.

The Case for Other Parties Who Gave Evidence at the Inquiry

The Case for Philippa Gill & June Bell[372]

654. First, the Inquiry was taken on a virtual walk of the area starting at footpath C115. They say it is the only footpath crossing the Turnden site that provides immediate access for Hartley locals and is highly valued by many residents for that reason. One of the pleasures of walking on the PROW is that as soon as one turns into the tree-lined narrow and dark path off the 'thundering' A229 one enters a rural and peaceful place. They add that walking further on, encountering the first tall oak and the dense hedgerows one's eyes move to the widening landscape and around, following the gardens of the properties on Hartley Road. The fences are open and untidy, the meadow creeping in unchallenged.

655. Next, they say, one's eyes stop at the new development of Jarvis Homes, which although a small urban development of seven executive houses, is intrusive with a clear, hard delineation to the field boundaries. They consider that it jars the senses, acting as a reminder of the proposed developments at

[372] ID7 - Ms Gill and Ms Bell spoke jointly on behalf of Hartley Save Our Fields

Turnden and the BKF sites, leaving a bitter taste of bigger things to come and a sense of loss of the landscape and the historic farmstead at Turnden. To the left they note the burnt remains of Turnden Farmhouse and imagine the replacement housing that they consider would dominate the view. They pose the question 'what will we gain here in this adjoining field?' The answer, they say, is a species rich grassland and three benches, but add that the community already has that, minus the seats. They add, 'and the spoil – isn't that going here?' and ask for thought to be given to the loss of the soil, the wildlife, the biodiversity and the enjoyment of local children who, they consider, will not be walking here for a few years.

656. They then turn to the longer views of the distant blue, wooded ridges of Greensand Ridge to the north, which they consider to be a prominent reference point, anchoring the viewer in the landscape. They add that use of the PROWs has sustained the community through the hard times of Covid, referring to enjoyable, precious moments seeing a familiar landscape evolve through the seasons. They refer to meeting people on these paths and are reminded of those who used to walk these paths and routeways many centuries ago. The proposed developments will, they say, result in the permanent loss of these historic agricultural fields and the wonderful views.

657. Birdsong, grasshoppers, crickets and the rustling of the leaves, they say, mark the way as one moves on, and a clump of meadow vetchling can even be seen growing through an old fence post. Although not far from the settlements of Hartley and Cranbrook, they consider that the setting is rural and tranquil, removed from the vicissitudes of modern life. The footpath moves on towards the wooded ghyll, so typical of the HWAONB. They are dark and muddy with different plants and trees towering over, with still ponds visible, as the walk continues on through fields that lead down to the Crane Valley and the Ancient Woodland.

658. They say that on their regular walks they have learned to read and understand the local topography - these fields are connected to the wider landscape of woodland and field structure and are of a rural and human scale character which are intrinsic to the character and outstanding natural beauty of the HWAONB. They add that the historic farmland is so close to the Crane Valley, its proximity to the streams was vital in the process of making broadcloth which in turn facilitated the medieval development of Cranbrook with its high-quality built environment encompassing local vernacular architecture. They say that there is here a real sense of remoteness from Cranbrook and that the fields tell the human story of the nature of local farming, a mixture of pastoral and arable, hops, orchards and woodland which one can still see and experience today.

659. Continuing up to the ridge and into the Hartley Lands Farm orchards and back along the footpath towards Mount Ephraim, one can look across the Crane Valley towards the two proposed developments their thoughts turn to the permanent loss of the agricultural fields and the incursion of built development into the rural setting. They say that some local people no longer walk the PROWs around the BKF site because they think sorrowfully about the change of experience and the loss of the landscape. The replacement with two significant housing developments will, in their view, cause damaging degrees of landscape and visual harm together with the perceptual loss of natural beauty and tranquillity.

Richborough

660. The landscape will be managed with urban park land, estate boundaries and hard landscaping with amenity land for the new residents. They say that whatever exhortations have been made about encouraging the use of permissive paths by the wider local community, this is countered by the deleterious change in the character from a rural/agricultural one to a managed setting for significant residential development. The development will, they add, evoke a proprietorial sense rather than a communal one and the aesthetic of enjoyment will be completely different - the PROWs will be bordered by roads, houses and infrastructure and the enjoyment of the rural landscape will be lost forever to local residents. They consider that the cumulative effect of two major adjoining developments with their associated noise, bustle, cars, pollution will affect and shatter any hopes of peace and tranquillity in people's sensory and intellectual appreciation of the landscape.

661. They add that it is not only the parishioners along Hartley Road who feel bereft at the prospect of losing this unique amenity. Residents at Bakers Cross will be spared the daily exposure to the destruction of the rural landscape by the excavators and earthmovers as construction proceeds, yet the impending loss of the rolling High Weald landscape just minutes away from the backdoor saddens residents.

662. They go on to say that their usual route takes them through the densely populated Frythe housing estate, along the sunken footpath between the houses to emerge in front of the medieval Pest House, a place where the sick were kept in isolation during times of epidemic. Less than 10mins from Golford Road and one has already left the pavements, the cars and noise behind. Following the distinctive 'Walk Though Time' way markers, along the wide tree lined track leading up towards The Freight, a stunning example of a 17th Century hall house. Filtering right on the footpath towards Mount Ephraim and the last of the habitable farmsteads for now. They add that WC116 takes one into the open countryside and farmland that supported the trade of the town. The path follows the boundaries of the characteristic 'patchwork quilt' fields, parallel to the Crane Valley. This expanse of rural life is, they say, a pleasing and welcome contrast to the 1960s modernism, one leaves behind just minutes earlier.

663. Slowing to absorb the tranquil vista and share sightings of the birds flying into view, they say that they invariably reflect on the providence of having this unfettered pleasurable space during the dire days of social distancing and restrictions on using the car to take exercise. They add that chance meeting of known and unknown neighbours on these well used paths is cheering and reminds them of bygone days when these ancient route-ways were trod by lonesome pig farmers and traders going from den to den or church as was the origin of Cranbrook town.

664. Walking the opposite way, at this elevated position looking down over the Ancient Woodland bordering the Crane Brook and over to the land at Brick Kiln Farm and at Turnden, they say sadly these days these farmlands are referred to by their site names. They add that the uplift they feel walking this countryside is tested as they scan the treescape for gaps, trying to calculate how much urban intrusion they will see from this exact same spot if the proposed development is permitted. Existing holes and gaps in the high canopies do not fill them with hope. They wonder whether it is due to Ash die back, whether it been monitored and how much more of the tree canopy is to be lost. They refer to how

transparent the tree screen is during winter when the leaves drop.

665. This, they say, invariably evokes disturbing memories of emerging from the heart of Tenterden, following the High Weald Trail along Bells Lane and Six Fields Lane to what was a picturesque vista of pasture land and orchards to this shocking scene of construction detritus. They add that it is dismaying to have walked this section barely a year earlier, missing the A4 planning notices, and having no idea what was to happen!

666. Continuing on WC116, past the orchards and the junction with WC115, towards Hartley Road, one soon emerges on Swattenden Lane, crossing cross to Charity Farm Shop where refreshments can be found.

667. At other times, to visit friends in Orchard Way, they say that they take the WC115 towards Hartley Road, making the most of the tranquillity and vista across this land towards the Greensand Ridge to the north. They say that they hasten their steps as the traffic noise builds approaching the A229, to dodge the traffic as they cross to their destination.

668. The network of footpaths from hamlet to town via a choice of different pedestrian routes is, in their view, exceptional and a valued asset of the parish, appreciated not only by residents but visitors to the area. 'Cranfest', two days of music and a market, brought new faces into town. They add that two campers staying at Charity Farm, had followed the WC116 then taken WC95 and WC94 to emerge on the High Street, were delighted to be able to walk to the event via picturesque PROWs through the open countryside, crossing the brook and passing through ancient woodland to then find more living history on the quaint attractive High Street. Even more enjoyable was, they add, those visitors could take a different route back, picking up the Cranbrook 'Walk Through Time' route starting at the Council Offices, taking in Stone Street, turning up the Hill past the iconic Windmill and then treading the steps described earlier through the Frythe Estate, Freight Lane and WC116. They pose the question, would this still be the case if the footpaths were presenting views of two large, incongruous housing estates, robbing users, new and old, of the intrinsic rural character of this landscape and obliterating its historic relationship to the town?

669. They explained that they are representatives of Hartley Save Our Fields, a group of concerned people who came together to protect the area around Hartley and the Crane Valley. Their statements of the 'lived experience' expand on the Hartley Save Our Field statement to the Planning Inspectorate dated 16 June 2021 item 3 'Social sustainability and the Impact of site on the enjoyment of the landscape, recreational opportunities and views'.

670. These, they say, are not insular personal views but reflect and echo the voices of many in the community who have taken time to attend exhibitions, consider and decipher lengthy planning documents then complete feedback forms for not only this specific application but the Reg 18 consultation of the eLP. They say that the strength of community objection to the scale and impact of this proposed development, which would completely and permanently change the character of Cranbrook has been clearly expressed in formal responses to events and consultations including but not limited to:

- Berkeley Homes Public Consultation Event a week before Christmas 2019, 168 new dwellings - the majority of the 36 respondents did not agree with Access and Quantum;

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- The Council's Reg 18 Consultation September-November 2019, for 124-134 new dwellings - 88% of the respondents objected to AL/CRS4 Turnden Farm;
- The Council planning portal regarding this planning application - 72 neighbours strongly object to the proposed development, with only one neighbour in support of the application to see the speed limit on Angley Road reduced to 30mph from Hartley Dyke to the roundabout at Cranbrook Common;
- Helen Grant MP has endorsed that the community concerns reflect her concern for the significant harm to the landscape and historical importance of the town in formal letters to both the Council's Planning Officer and to the Planning Inspectorate;
- The Cranbrook and Sissinghurst Parish Council has recommended refusal for many reasons but leading with the significant harm and damage to the HWAONB, and include the loss of the medieval field patterns and good quality agricultural land;
- The Cranbrook and Sissinghurst Neighbourhood Plan Steering Group recommended refusal giving a list of reasons leading on detrimental impact to the historic landscape and significant environmental harm; and
- The Inquiry heard the evidence of Liz Daley, transport witness for CPRE Kent, who has lived and worked in the parish for 33 years, 25 years of which virtually on the site of this application, providing a genuine lived experience of the limitations in public transport and the hazards of access and crossing the A229 20m from her front door. It is not based on predictions or aspirations.

671. They say that it has been shocking to the community, to find that the applicant has used social media to launch a 'Turnden Homes' marketing campaign ahead of the Inquiry, offering the option to register support only and no open response box to register objections, concerns or queries.

672. They add that they hope the genuine concerns and objections of people who live, work and are committed to protect and conserve the uniqueness of our historic town and its rural setting are listened to.

673. They conclude that these are the wrong houses in the wrong place.

The Case for Tim Kemp[373]

674. Mr Kemp explained that he spoke on behalf of himself only, although he is the Chairman of the CVLT and was formerly a Parish Councillor and the Chairman of the Cranbrook and Sissinghurst Neighbourhood Development Plan. He also explained that he is an architect, set out a summary of his professional background and asked that his comments be considered in conjunction with his letter to the Council's Chief Executive made at the application stage.

675. He says that despite the recent addenda updates to the design documentation since he first reviewed this scheme in 2020, there has been no attempt by the applicant to address the profound shortcomings in this design proposal and procurement thereof. Design proposals for planning applications within the HWAONB are, he adds, expected to follow the Housing Design Guide with investment in outstanding design talent in order to deliver outstanding architecture which may justify the substantial loss to the asset by its

[373] ID6

development and provide an architectural legacy which contributes to and does not dilute the value of the AONB designation.

676. He states that the Guide, which was commissioned by the Joint Advisory Committee, of which the Council is a member, is intended to raise the standard of new settlement design above and beyond the familiar pastiche housing estates that are routinely generated by big developers. However, in his view, whilst the applicant repeatedly refers to the Guide, it is clear that the guidance has not been understood in this case. A core requirement of the Guide is that a design proposal is developed through analysis. This means, he adds, that developers are expected to analyse the elements of the landscape in great detail and depth in order to first identify and then weave the natural and urban strands into a place narrative that is recognisably of the High Weald and, in this instance, recognisably Cranbrook.

677. He went on to say that the Guide clarifies that the Design and Access Statement is not a document that should solely explain the conclusions of or rebrand a standard approach, but instead demonstrate how the analysis of the locality has informed and driven the design through a series of creative and evolutionary steps to form the concept.

678. Regarding settlement forms and hierarchy he says that, in this case the Design and Access Statement fails to analyse the settlements of the locality in any depth and so fails to identify the relevant forms, densities and hierarchies as follows:

- The historic map analysis of the site should identify all lost natural features with a view to reinstating them within the scheme, including ditches, ponds, hedgerows, shaws, woodlands, orchards and so on;
- Similarly, the historic map analysis of the locality should identify the relevant settlement typologies and the relationship of those settlements to ancient routeways and each other and distil the critical elements that are definitive of the HWAONB identity. To make clear, those everyday settlement characteristics which are not typical of the HWAONB and which did not give rise to the asset's original designation, should be filtered out at this early stage; and
- Developers often refer to 'edge of settlement' design, which has no place in the AONB as it is a universal and suburban generalisation. The challenge set by the guide is to identify and strengthen the core characteristics of the High Weald, recognising that landscape is a fusion of both the land and the settlement of the land. Countryside and settlement are not separate things, and a new development should be of such an outstanding quality that screening by contour or vegetation should not be necessary.

679. He adds that in this locality, there are four relevant settlement types that are easily recognisable:

1) Cranbrook town Conservation Area with its rows of houses and businesses closely packed.
2) Wilsley Green Conservation Area with its cottage rows and larger detached dwellings
3) Sissinghurst village Conservation Area with its tightly packed rows of farmhouses, cottages, businesses and chapel
4) Farmsteads adjacent to ancient routeways and open countryside

680. He went on to say that the modern settlement parts of these places are largely

generic, not definitive of the High Weald and should generally be avoided. If the clutter of later suburban additions is removed, he said, the essential relationship of settlement and countryside can be seen clearly. He adds, moving from settlement scale to streetscape, plots and volumes, the developer is expected to demonstrate a thorough understanding of plot size, building typologies and mix within these settlement types before trying different ways of generating a new settlement. None of this, he says, will be possible without a thorough survey in plan and elevation of each building typology.

681. It is not acceptable, in his view, to leap from simply taking a few photographs of old buildings to then using them to justify standard mid-20th Century housing typologies with the odd material shuffle here and there. He adds that the expectation here in Cranbrook is that the architect will recognise the inherent wisdom of traditional row houses and their cost and energy advantages - in an epoch before insulation, communities huddled together for warmth. In modern times, he says, there is an urgent need to reduce our built and carbon footprints, and to reduce the surface area to volume ratio in order to raise energy efficiency, whilst leaving more space for nature. Row houses are cheaper to build and so the saving may be reinvested to raise the energy specification of each dwelling.

682. He also states that given that the best energy standard is Passivhaus and knowing that the additional build cost is between 5-10% more than building to current building regulations, with an 80-90% reduction in energy consumption, it is reasonable to expect the applicant to connect these facts and build them into a viable low-energy concept.

683. Regarding access roads and plot logic he says that characteristic settlements of all scales in the High Weald are typically either linear or compound linear, with burgage or cottage plots extending at right angles to the highway and with cottage rows extending along lanes between plots. These roads tend to follow the contours of a locality in order to minimise the effort of moving about, in a time before internal combustion engines, whilst following the higher ground to keep the foundations dry. In his view the road network in this proposal follows no recognisable High Weald form and is completely unacceptable and its logic means that plots lack the requisite density, resulting in an unnecessary and avoidable loss of natural habitat with suburban street layouts which are the antithesis of the Guide's direction.

684. Regarding mixed use he says that all the settlement typologies which define the HWAONB designation were originally working settlements with many cottages being the ancient equivalent of modern live-work accommodation. He adds that the eC&SNP has quantified an urgent need for affordable business units and yet none can be seen anywhere in either of the schemes at Turnden or indeed anywhere in the adjacent proposed developments on the BKF and Corn Hall sites. In his view, in the context of the Localism Act, that really is not good listening by the Council.

685. In respect to materials, he says that across all rural and rural urban settings, from medieval to modern times, there exist examples of handmade and machine made materials which can inform the landscape character of the High Weald with rich and representative colours and textures. He asks, why then is the palette of the proposed materials so limited and the detailing so undeveloped? A new settlement in the HWAONB has, in his opinion, so many forms, materials and

Rother Council

details to work from. He adds, there is a natural vibrancy in this region which needs to be recognised if a design proposal is to be the best it can be.

686. Concerning the procurement of outstanding architecture, he considers that the current design team has proved itself unable to develop a concept that accords with the principles of the Housing Design Guide and to a standard which compensates for the loss of this farm to development. He adds that it cannot be ignored that the real strength of the current architect is in ecology and that their evident weakness is in developing architectural concepts. He added that it cannot be ignored that there is apparently no architect of stature willing to provide an expert witness statement in defence of this scheme.

687. In terms of taking 'the next step', he says that for a project in an internationally recognised and protected medieval landscape, such as this, and in order to justify the loss, a design team of proven and outstanding talent will need to be found. He adds that that architect will know how to analyse the locality in accordance with the expectations of the HWAONB Unit and Greg Clarke's statement that the Framework should raise the experience of ordinary architecture to bring it in line with our national creative strengths in other media such as music, art, literature, film and fashion. According to policy in AONB, he says, development should be exceptional and prioritise local need. Instead, he adds, this design proposal is a defiant statement of business as usual – yet another reworking of mid-20th Century suburbia.

688. In summary he says:

1) There is no AONB contextual analysis of any depth in the Design and Access Statement;
2) The proposal demonstrates a very poor understanding of the expectations of the Housing Design Guide;
3) The critical land boundaries have not been suitably identified for preservation and reinstatement in order to tessellate the site and protect or enhance its core rural identity;
4) The geometry and hierarchy of the road system is alien to the locality resulting in an excessive development footprint lacking the appropriate density;
5) The constituent elements of the local settlements are not understood and have therefore neither been reproduced nor have they been successfully transformed into a fresh contemporary architecture. The design team has summarily failed to harvest any conceptual yield from the diversity of rural urban and agricultural architectural forms which define this locality and the broader AONB designation;
6) The eC&SNP evidenced need for affordable business accommodation has not been met; and
7) The potential for cost neutral and substantially improved energy efficiency has not been recognised, which means the proposal ultimately fails to address the burgeoning climate emergency and suitably safeguard our global ecology.

689. In conclusion he says that the proposed design of this development embodies all of the problems that the Housing Design Guide was commissioned to address and, against AONB policy widely, fails to prioritise local needs.

Richborough

The Case for Laura Rowland[374]

690. The following statement was read out on Ms Rowland's behalf at the Inquiry.

691. "I am grateful for the opportunity to have my views heard on the potential new development at Turnden. I have lived on Hartley Road for nearly six years and have seen lots of change in the immediate area. Our Edwardian semi has itself been surrounded by a new housing development of seven homes which has changed the landscape greatly. We used to have views directly to fields and woodland, but that has diminished with the new houses and garages. We moved from London to Kent to have a better quality of life for my children, and for them to have a more rural childhood. When we moved my son was nine months old and we only had one car. My husband would take the car to work with him on days he needed to be in the office in West London. The commute was much easier and quicker by car than public transport. We are a twenty minute drive from the nearest train station.

692. "I have recently returned to work as a teacher but was unable to find work in Cranbrook or the surrounding area. There are no buses to the village where I work, and I need to drive twenty minutes to get there. The buses are so infrequent, even from Hartley to Cranbrook, and with young children, catching a bus at a certain time is difficult. When I was without a car I would walk to Cranbrook on days when the weather was good. The road itself is very, very noisy, busy, and fast. You can't hold a conversation with someone as you walk. The walk from my house to Cranbrook takes around 25 minutes. I remember on one occasion walking to the Cranbrook playground at the Ball Field and it started raining as I left. It rained very hard, and we ended up being soaking wet when we got home!

693. "When I had my second child, I would take her and my son in a double buggy to walk the dog. It was really quite a scary experience, particularly where the pavement narrows from the Turnden entrance to the public right of way entrance. I would have my buggy and dog and then a massive articulated lorry would come thundering up Hartley Road at the same time. I would hold my breath for a moment and go as far to the brambly hedgerow as I could. I would notice cars would change their position on the road as they saw me walking along, instinctively moving towards the middle of the road to give me some more room. You might wonder why I would walk this route at all? The answer is that I had no choice! Going the other direction meant you encounter lots of cars parking on the pavement, blocking your way through.

694. "When the ground wasn't too muddy at the public right of way footpath or too overgrown, I would always choose to walk across the beautiful field at Turnden, it was safe to let my children toddle around when they started walking and they both loved looking at the wildflowers, insects and hearing the birds. This area is an absolute oasis for people who live in the area. It is a chance to step away from the relentless traffic of Hartley Road and appreciate nature, calmness and stillness for a while. Whilst the new housing development of Jarvis Homes has already changed the feel to this area it is nothing to what Berkeley Homes are proposing with dumping the spoil from their excavations to this place. I cannot underestimate the importance this walk has to me and my family, and how we

[374] ID8

have used it over the years. It has been amazing seeing my son being able to identify a woodpecker call or my daughter's excitement at spotting a rabbit here. To think that this will be gone is heart-breaking. To say that we live in the countryside, there is very little accessible green space that is available within a child's walking distance. I hope that my family's experiences have given useful insight into what life is like living in Hartley."

Written Representations

Representations Made at the Call-In Stage

695. There are nine further individual written representations including from local residents, the local Member of Parliament, Hawkhurst Parish Council, Hartley Save Our Fields and Burwash Save Our Fields. While these largely raise considerations and objections to the proposal on grounds similar to those made at the Inquiry, additional matters include the adequacy of local service and infrastructure, the safety and efficiency of the Hawkhurst crossroads, inconsistency of the proposals with published Council policy and objectives, local decision-making and accountability, affordability of and need for the proposed homes, climate change, effect on the social and sociological structure of the local population, the extent of economic benefits, details of CVLT's proposals for the site, the conduct of Council officers and the applicant's motives.

696. The applicant has also submitted 35 letters in support of the proposed development[375]. They are all the same letter type generated via a website set up on behalf of the applicant. Although the covering letter from the applicant states that *these letters have been gathered primarily from local people in the Borough of Tunbridge Wells who have visited a website*, the source of each letter is unclear as the addresses on the letters are redacted.

Representations Made at Application Stage[376]

697. The representations made in respect to the planning application up to the point that it was reported to the Council's Committee for determination were attached to the Call-In questionnaire and summarised in the Council officer's reports on the appeal development[377]. The reports indicate that approximately 92 letters of objection were received and that some of these are from the same contributors, while some are from organisations representing large numbers of people and wider interests, such as Cranbrook & Sissinghurst Parish Council, the Cranbrook Conservation Area Advisory Committee, Hartley Save Our Fields, the Neighbourhood Development Plan Group and the Rule 6 parties to the Inquiry. The reports provide analysis of the matters raised in the objections, which are generally on grounds repeated by interested parties at the Call-In stage, including those made during the Inquiry. The officer's reports also set out the majority of the responses from wider consultative bodies to the application.

Conditions

698. The Council and the applicant jointly submitted an updated schedule of conditions, which replaces the earlier version contained with their SoCG. This

[375] ID28
[376] CD6 series
[377] CD7.1 & 7.2

followed the Inquiry session on conditions, which led to a final schedule of 38 suggested conditions[378].

Obligations

699. In summary, the S106 Agreement and its DoM[379] contain planning obligations in respect to:

- The provision of on-site affordable housing at a rate of not less than 40% of the total number of dwellings developed;
- On-site open space and children's play space;
- Permissible paths within the development;
- The implementation and long term funding and maintenance of the LEMP;
- The carrying out of other sustainable transport obligations in the event that neighbouring developments do not come forward; and
- Payments to provide or support the provision / facilitation of:
  - Libraries, Adult Learning and Social Care at the proposed Cranbrook Hub;
  - Expansion of Cranbrook Primary school;
  - Waste transfer station, North Farm;
  - Additional resources for Youth Service in the Cranbrook area;
  - The relocation of the three existing general medical practices in Cranbrook being Orchard End Surgery Crane Park Surgery and/or Old School Surgery;
  - Improvements to the local community facilities at the Crane Valley play area at Crane Lane and/or for the proposed Cranbrook Hub, such as future indoor play/recreation facilities;
  - Off-site PROW improvements;
  - Off-site highway works in the event that they are not delivered as planned in association with the TF and/or BKF developments in respect to:
    - Improvements to two bus stops on Hartley Road;
    - Provision of pedestrian crossing facilities at the junction of Hartley Road and the High Street;
    - A reduction in the speed limit and associated measures on the A229;
  - A scheme of improvements to the signalling system at Hawkhurst Crossroads to include:
    - Upgraded method of control to MOVA;
    - Replacement of existing signal equipment to allow the addition of Puffin pedestrian technology, for example, pedestrian kerbside and on-crossing detection;
    - Provision of selective vehicle detection to allow for simple bus priority.

700. The Council has provided a 'CIL Compliance Statement for contributions' (the Planning Obligations Statement) in support of all of the obligations[380]. It addresses the application of statutory requirements to the planning obligations within the S106 Agreement and sets out the relevant planning guidance and policy justification.

[378] ID32
[379] CD7.5 and ID66 respectively
[380] ID65

Rich Brough

701. After the S106 Agreement was entered into a scheme of improvements to the traffic lights at Hawkhurst crossroads was identified which would improve signalling and traffic flow at that junction. The DoM would secure the implementation of these improvements, introduce requirements to carry out other sustainable transport obligations in the event that neighbouring developments do not come forward, and remove an obligation to pay a sustainable transport contribution. This latter omission is explained in the SoCG between the applicant and KCC[381]. In summary, that payment would no longer be required on the basis that the new requirements to improve the Hawkhurst crossroads would reduce delay for all vehicles, including buses, and allow the introduction of bus priority, which would both improve bus journey times and reliability.

Inspector's Conclusions

702. The numbers in square brackets in this section are references to previous paragraphs in the Report which are particularly relied upon in reaching the conclusions.

Main Considerations

703. Having regard to the letter of call in, including the matters on which the Secretary of State particularly wishes to be informed about for the purposes of his consideration of the application, the relevant policy context and the evidence to the Inquiry, the main considerations that need to be addressed are:

- The extent to which the proposed development is consistent with Government policies in the Framework for:
  - Conserving and enhancing the natural environment, including its effect on the High Weald Area of Outstanding Natural Beauty (1), on biodiversity (2) and on air quality (3);
  - Delivering a sufficient supply of homes, including whether the Council can demonstrate a Framework compliant supply of deliverable housing sites (4);
  - Conserving and enhancing the historic environment, including its effect on heritage assets (5); and
  - Sustainable transport promotion (6);
- The extent to which the proposed development is consistent with the development plan, and the weight to be attributed to the policies in the emerging development plan; and
- Whether any harm and/or development plan conflict arising would be outweighed by other considerations.

704. In broad terms, in the seven following subsections, which are initially based on points (1) to (6) above followed by a planning balance type subsection (7), I conclude against the relevant development policies in each topic based subsection (1-6) and then in the final subsection (7) deal with the weight to be attached to these policies and other material considerations.

(1) High Weald Area of Outstanding Natural Beauty [53, 65-89, 108-177, 188-201, 279-337, 417-494]

[381] CD9.20

705. Framework para 176 states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs. It adds that the conservation and enhancement of wildlife and cultural heritage are also important considerations in AONBs and that the scale and extent of development within them should be limited.

706. Para 177 of the Framework goes onto say, amongst other things, that when considering applications for development of this type within an AONB, permission should be refused other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. On this basis, regardless of any negative landscape and visual impacts of the proposed development or its effects on the HWAONB, the starting point is that planning permission should be refused.

707. I therefore deal firstly with the HWAONB effects, including any landscape and visual impacts, here in this subsection and deal with *exceptional circumstances* and *public interest* in the terms of para 177 as part of the *Planning Balance* subsection as these require the assessment of wider considerations. I would also note that this subsection should be read in conjunction with the *Biodiversity* and *Historic Environment* subsections below given that the conservation and enhancement of wildlife and cultural heritage are also important considerations in AONBs and as these subsections consider the effects of the proposed development on biodiversity and the historic landscape respectively.

708. There is a very substantial amount of evidence concerning the effect of the proposed development on the HWAONB, with four witnesses having had their evidence tested at the Inquiry[382]. From all I have read, seen and heard during that process, including during my site visit, I find the evidence of Mr Duckett, the Council's witness, to be the soundest in terms of its assumptions, methodology and conclusions and that it provides a reasonable and broadly reliable assessment of what would be the proposed development's effects in this regard [279-337]. I set out the main reasons for this conclusion below.

709. Regarding the baseline for landscape assessment purposes, the BKF and TF developments both have planning permission. Given the likely level of investment made in these schemes to date and their likely value, there is very good reason to believe that both will be implemented and completed. Within the context of the existing nearby development, including along Hartley Road / Orchard Way, once the BKF development is completed there would be the perception of housing from Cranbrook to the application site at Turnden. Given their respective nature and position adjacent to the application site, both the BKF and TF developments would have a strong influence on the proposed Development Area part of the site. [65-78, 108-112, 124-143, 191, 194-198, 301-306, 437-438]

710. In that regard I recognise that the consented TP development could be fairly said to retain a dispersed character, as has been suggested by opponents to the appeal scheme, including NE and the HWAONBU [66, 70-74, 110-111, 137]. Nonetheless, it would be a housing development, not a farmstead, and of course the farmhouse has now been lost. Mr Hazelgrove, who was also the case officer for those planning applications, also confirmed that the acceptability of the TP

[382] Ms Farmer for NE, Ms Marsh for HWAONBU, Mr Duckett for the Council and Mr Cook for the applicant

Rich Borough

scheme was not dependent on the currently proposed Development Area remaining undeveloped. [305, 413, 425, 447]

711. Cranbrook is largely positioned on the valley floor but there are parts of the settlement located above the 100m contour. Much of the proposed development, like the approved development at the TF site, would be above this contour. Nonetheless, the proposed Development Area of the site is well-contained within the landscape due to the existing topography and mature trees / hedgerows. Consequently, there are limited views out across the Crane Brook valley and in from the wider HWAONB particularly from the east, south and west. [302-304]

712. The site's character and appearance has been affected by the most recent, but now ceased, equestrian use, including the continued presence of rather dilapidated and prominent timber fencing and structures, as well as the artificially flat landform associated with what was a manège. There is no clear evidence to support the submissions that there has been improvement to the grassland. Indeed the evidence of those who have had access to the site at large, rather than just the publicly accessible sections, indicates that it is in something of an interim state, pending the outcome of this planning application process, and that it has not recovered or improved significantly since the equestrian use ceased. In addition to these detracting features, the site experiences traffic noise from the A229, although this reduces away from this road on the lower slopes of the valley. [77, 122, 131, 151, 284, 301, 445, 490]

713. Regarding sensitivity, Mr Duckett uses the LUC Sensitivity Study from 2018 in preference to the more dated Landscape Capacity Study from 2009. This appears appropriate bearing in mind that the 2009 document does not have regard to the planned development of the BKF site and employs outdated methodology. Moreover, the purpose of the LUC Sensitivity Study is to provide an assessment of the extent to which the character and quality of the landscape around four settlements, including Cranbrook, is, in principle, susceptible to change as a result of introducing particular types of development. It was not obtained to inform any particular proposed / planned development and appears to be impartial. [67, 73, 280, 307-310, 443-448]

714. The site lies within the Cr2 area of the LUC Sensitivity Study. For the purposes of this document the proposed development is characterised as *small-scale development* for which the range of Sensitivity is between Medium High and High. The Sensitivity conclusions state that "Adjacent to the allocated AL/CR4 development on the edge of Cranbrook, around Turnden, and in remaining open gaps along Hartley Road, proximity to existing / intended development means that sensitivity is slightly lower"[383] compared to the rest of the Cr2 area. While there is guidance on potential mitigation / enhancement measures relating to openness around the Turnden farmhouse, this pre-dates the fire at the farmhouse and its de-listing. Accordingly, a lower sensitivity rating for the Development Area of medium / high appears appropriate. [67, 73, 280, 307-310, 443-448]

715. Mr Duckett's approach and assessment also appears to have due regard to the special qualities of the HWAONB with appropriate reference to the HWAONB Management Plan, including the five defining components of character, as well as

[383] CD12.22, page 125

the issues and objectives, identified therein: Geology, landform, water systems and climate; Settlement; Routeways; Woodland; and Field and heath. The site displays some of the qualities of the HWAONB.[311-328, 442] While not exhaustive, notable site qualities are set out briefly below.

716. While the site features ponds and the land slopes down to the Crane Brook this is fairly gradual such that the site makes a moderate contribution to the first of the five HWAONB components of character. Regarding Settlement, allowing for the BKF development, the Development Area of the site would be contiguous with Cranbrook, while Hartley is located roughly to the west beyond the TF development. There are also remnants of historic farmsteads within and adjacent to the site, including what is left of Turnden farmhouse and the ponds at Hennicker Pit. Regarding Routeways, PROW WC115 crosses the site and the A299 runs to the north. [312-319]

717. In respect to Woodland, there is Ancient Woodland in the south-east portion of the site and mature woodland around Hennicker Pit, as well as mature trees and a number of gappy hedgerows within the site. Regarding Field and heath, the evidence indicates that some of the fields around Turnden Farm relate to a post-medieval field system, albeit that the field pattern is rather indistinct due to the extent of loss of internal field boundaries. [320-327]

718. Any development of the scale and kind here-proposed would have an impact on any undeveloped site, especially within an AONB. Nonetheless, the proposed development responds positively to the five HWAONB components of character. For instance, in line with Objectives G1-G3 of the HWAONB Management Plan, ditches and water courses would be restored, surface water run off rates would be comparable with the existing situation, and the LEMP would respond to climate change and provide adaptable land management. [312]

719. While the proposed development would involve the movement of soil/spoil across the site, these works would respect the generally prevailing topography and also address the uncharacteristic landform elements associated with the former equestrian use of the site. [312]

720. Regarding 'Settlement', the effects of the proposed development on the relationship between Cranbrook and Hartley was considered at length during the Inquiry process. While the proposed development would fill the gap between the BKF and TF sites and there is development to the north of Hartley Road [68-82, 124-128, 199-201], it would also retain the undeveloped space around this side of Hartley to the west of Turnden and in some respects consolidate the sense of separation between the two settlements, for instance through the woodland planting and land management arrangements that are planned. Notwithstanding the submissions to the contrary, the wider landscape strategy would also enhance the legibility of the historic landscape through, for instance, the restoration of woodland shaws and historic field hedgerow pattern. These and other matters are also discussed further in the *Historic Environment* subsection below. [313-318]

721. Accordingly, I broadly agree with Mr Duckett that the relationship between Cranbrook and the neighbouring hamlet of Hartley would remain largely unaffected taking into account the development that is already consented, and that the proposed development would align with significant aspects of HWAONB Objectives S1-S3. These concern reconnection of settlements, residents and their supporting economic activity with the surrounding countryside, protection of

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the historic pattern and character of settlement, and enhancement of architectural quality and ensuring that development reflects the HWOANB's character. [313-318]

722. Although not creating physical separation as such, setting most of the proposed built form back some distance from the A299 in a similar manner to that planned at the BKF development, would support a sense of separation and have a mitigating effect in terms of its landscape and visual impact. [314] Nonetheless, this effect would be tempered as the site access would offer views of the development and as the wider highway works would be likely to signal the presence of the development and act as urbanising features in their own right.

723. In the context of Settlement as a characteristic of the HWAONB, I do not accept criticism of the kind that describes the proposed development as having a *generic layout and design of new housing developments failing to respond to, or reinforce AONB character.* As Mr Pullan's evidence illustrates, the design of the proposed development is of a high standard and has evolved having thoughtful regard to its context. Given that the HWAONB Management Plan notes declining affordability in the top five issues under the Settlements topic, the development would make a significant contribution to supporting the Management Plan through the delivery of affordable housing. [318, 417-428]

724. Regarding 'Routeways', although some works are proposed, for instance to the A299, the historic pattern of routeways would remain and the hedge to this road would be largely re-instated. Additional permissive routes would enhance the social wellbeing of the community by extending the network, and Tanner's Lane would be reinstated. The proposed development would, in those regards, align with Objectives R1 and R2 of the HWAONB Management Plan. [319, 472]

725. In respect to 'Woodland', the Ancient Woodland and Hennicker Wood would be retained. There would also be active long term management of the site, as well as new, characteristic, planting. These aspects of the scheme would be consistent with Objectives W1-W2 of the HWAONB Management Plan, concerning maintenance of the existing extent of woodland, particularly ancient woodland, and enhancement of the ecological quality and functioning of woodland at a landscape scale. The scheme would also provide better access through Hennicker Wood, which relates to the original farmstead, thereby reducing the potential for erosion or damage to the woodland habitat. This would support Objective W3 in seeking to protect the archaeology and historic assets of AONB woodlands. [320-321]

726. Regarding 'Field and Heath', some 14ha of the site would be set to grazing by livestock, managed as species rich meadow or managed as woodland. Uncharacteristic structures associated with the equestrian use would be removed, whereas more characteristic historic field and hedgerow patterns would be restored, and their management secured via the S106 Agreement and conditions. A range of habitats are proposed or provided for, including species rich meadow, new hedgerows and managed woodland. The hedgerows would also reinstate historic field boundaries. A large portion of the site would return to agricultural use. There is also no convincing evidence of individual archaeological features or heritage assets within the fields. Overall, therefore, the proposals align with HWAONB Management Plan Objectives FH1-FH4, concerning agricultural use, field pattern, hedgerows and woodland, ecology and historic assets. [322-327, 548]

727. In respect to visual effects, Mr Duckett's evidence, as summarised in the table on page 41 of his proof of evidence[384], indicates that after 15 years the effect on public views as a result of the development would be fairly limited. Given the medium / high sensitivity of the site to development and its fairly contained nature, those conclusions appear reasonable, broadly for the reasons he has identified in his evidence [329-336]. Nonetheless, in my opinion, views from the A299 south across the site, between the TF and BKF developments from the proposed access points would be a little more affected than Mr Duckett has concluded. As indicated above, this is because more open views would be available via the access and as the highway works would also act as an urbanising visual prompt, signalling the presence of development to the south of the road.

728. Similarly, Mr Duckett's conclusions regarding the effects of the development and proposed works in terms of their landscape impact also appear to be broadly reasonable and accurate. He has looked at the effects of the proposals on the Development Area of the site, the wider site and the HWAONB beyond the site separately. [329-336] While his approach has been criticised, including by NE [86-87], his methodology, assumptions, assessment and judgements appear to me to be reasonable and appropriate.

729. Broadly for the reasons Mr Duckett has identified, I consider that in respect to the Development Area at completion the magnitude of change would be high / medium leading to substantial / moderate adverse effects, which would reduce to no greater than moderate adverse after 15 years. I also broadly agree that for the rest of the site the effects would be moderate / minor beneficial on completion and moderate beneficial after 15 years given the range and quality of benefits proposed. Taking the site as a whole, I also agree with his conclusion that the overall effects of the application proposals on the HWAONB within the site would be moderate adverse at completion and minor adverse / neutral after the 15 year establishment period. I also agree that the effects on the wider HWAONB would be largely Neutral. [329-336]

730. I note the criticism of Mr Duckett's approach in this regard in terms of sites potentially being enlarged to try to justify inappropriate development, including from NE [87]. Nonetheless, I see nothing wrong, as a matter of principle, with devoting a large part of an application site to non-built form, including landscape enhancement. In this case the fairly modest size of the Development Area compared to the Wider Land Holding and the associated landscape improvements are unusual, especially as only some 20% of the site would be built on. Indeed, the GLVIA refers to mitigation offsetting or compensating for identified harm, and that enhancement which improves the landscape resource or visual setting of the site or wider area over and above the baseline condition are an integral part of the scheme and can legitimately be assessed as part of the proposal. [336]

731. The Secretary of State may also wish to note that Mr Duckett's written evidence also provides a response to objections relating to the HWAONB and landscape and visual impact considerations that have been made to the proposals[385]. While prepared prior to the Inquiry, such that they may not

[384] CD23.2.2
[385] CD23.2.2 Section 10, including Summary Section 7, and CD23.6.6

respond to every concern raised, in my view this evidence provides useful points of reference with which I broadly agree.

732. In conclusion on this main consideration, while the application proposals would affect the HWAONB, any harm arising would be limited, particularly in the longer term. Accordingly, in this regard, it would comply with Core Policies 4 and 12 of the Core Strategy and with Local Plan Policy EN1 and criterion 1 of Policy EN25. However, there would be conflict with criterion 2 of Policy EN25, as it would cause at least some detriment to the landscape setting of settlements, and with Core Policy 14 in terms of its criterion 6, including the protection of the countryside for its own sake.

733. I return to whether the proposed development accords with Framework policies relating to AONBs, including para 177, in the *Planning Balance* subsection below.

(2) Biodiversity [53, 56, 99-100, 109, 147-177, 183, 261, 312, 338-360, 402-403, 455, 536-562, 564]

734. Three witnesses gave evidence at the Inquiry on this topic area for the applicant, the Council and the HWAONB Unit, Mr Goodwin , Mr Scully and Ms March respectively [147-177, 338-360, 536-562]. I generally favour the evidence of Mr Scully and Mr Goodwin, notably in respect to their approach to the assessment of the site's biodiversity baseline and the use of the Biodiversity Metric 2.0, as a matter of principle and in terms of the detail of how it has been employed in this case. I set out the main reasons for this below.

735. The evidence of those who have surveyed or at least accessed the whole site is broadly consistent regarding the baseline. It indicates that the dominant habitat on site is semi-improved grassland. There is a broader range of views on its condition from such sources. For instance, the September 2020 survey commissioned by the Council to inform the eLP process by Greenspace Ecological Solutions Ltd[386] suggests that the grassland is of moderate quality, rather than poor condition, and the survey commissioned by the applicant that contributes to the ES for the application by BSG Ecology dated August 2020[387] suggests that it is of poor condition. [148-151, 171, 345-349, 537-542, 550-551]

736. Like the Council's witness, Mr Scully, I favour the BSG Ecology condition analysis, not least, as the applicant puts it, because that survey was *directly on point and made for the purposes of this application*, whereas the Council commissioned survey is *necessarily broader*. Analysis of the wider evidence also supports the position that the grassland is at the lower end of the scale for poor semi-improved grassland, as it is largely one homogenous type, excluding small areas around the water bodies, dominated by a few fast growing species, and with very few forbs. [148-151, 171, 345-349, 537-542, 550-551]

737. BNG assessments have been undertaken using Metric 2.0. NE has confirmed that the DEFRA Metric and supporting guidance available at the time of the assessment for this planning application is the most appropriate tool for calculating BNG in this case. Of course, it is only a tool and like any such device has its limitations. Provided that these are understood and that it remains the

[386] CD16.11
[387] CD5.6.7

servant of professional judgement, Metric 2.0 has the potential to be a very useful aid to the assessment and understanding of BNG. [169-175, 340-350, 554-561]

738. The way the Metric has been used in this case, including the approach to the baseline, has also been criticised HWAONBU. However, NE has not challenged the way that it has been used by the applicant or the outputs that it has submitted. These matters have also been reviewed by Mr Scully on behalf of the Council and by Kent Wildlife Trust and neither have identified any significant shortcomings. Therefore, notwithstanding the criticism, in my view the way the Metric has been used appears to be robust and has been the subject of independent verification. [169-175, 340-350, 554-561]

739. As outlined above, the inputs for the baseline relating to the assessment of the habitat type and condition appear to be correct. There is a further question over how to translate the baseline surveys into the UK Habitat Classification system for use in the Metric. I see no reason why the translator embedded within the Metric should not be used. In any event, the alternative method discussed at the Inquiry, which is a longer process using translation tables, produces the same outcome. In this regard there also appears to be good reason to adhere to the approach adopted on behalf of the applicant in this respect, particularly that the g4 'modified grassland' UK Hab Code of the UK Habitat Classification should be used rather than g3c 'other neutral grassland' for the reasons set out by Mr Goodwin. [149-151, 169-175, 346-350, 537-542, 550-551, 554-561]

740. It also seems clear that the inclusion of the Ancient Woodland in the initial Metric work undertaken on behalf of the applicant was simply an error. It should not be included, again as Mr Goodwin's evidence explains. Its removal increases the BNG output from the Metric. [151, 169, 173, 350, 554, 557, 559]

741. Criticism was also made of how the proposed movement and relocation of soil is assessed via the Metric, including that it focusses on grassland rather than soil. Yet, as Mr Scully explained during the Inquiry, effects on soil are taken into account in the Metric. The wider evidence also indicates that the proposed works offer the opportunity to improve soil conditions in terms of habitat creation. Consequently, in my view, subject to controls that could be secured via planning conditions, there is potential to protect or enhance soils in the terms of Framework para 174 a). [152-159, 163, 171, 354, 356, 550, 553, 559]

742. Overall, therefore, the output of the latest Metric produced by Mr Goodwin appears to be a good indicator of the likely BNG offered by the proposals, broadly reflective of what are likely to be the effects of the proposed development, including the mitigation measures. I would stress that I do not see that output as anything more than a broad indicator of likely BNG. Nonetheless, within the context of and alongside the wider evidence, there is a clear indication that the proposed development would provide at least 10% BNG. Moreover, the BNG aspects of the proposals could be adequately secured and controlled by planning conditions and the S106 Agreement, including via the LEMP.

743. The evidence refers to the Environment Bill, including the prospect of mandatory biodiversity gain. The Environment Act 2021 has now received Royal Assent but its provisions relating to mandatory biodiversity gain are not yet in force [174, 554-555, 561]. Nonetheless, the policy within the Framework to encourage net gain for biodiversity continues to apply. The evidence shows, as summarised above, that this scheme would deliver BNG in accordance with that Framework

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policy, including paras 174(d), 179(b) and 180(d), and would be very likely to comfortably exceed 10% BNG as mooted in the Environment Bill and targeted in the eLP [36].

744. The evidence also shows that the proposed measures also meet the requirements of the HWAONB Management Plan and, as Mr Scully described, they would represent something of a step change compared to past practice [343, 561].

745. It has also been suggested that if the proposals were not to proceed that the existing woodland and grassland at the site would do better from a biodiversity perspective compared to the net effect of the proposals. However, there would be no means of securing any such potential benefits. Moreover, if planning permission were to be refused it seems likely that the site would be put to equestrian or agricultural use such that any such benefits would be likely to be limited at best. [149-168, 352, 545-550, 562]

746. Moreover, beyond the enhancements that would lead to the BNG, subject to the proposed mitigation, the ES and addendum identify no significant residual biodiversity effects of the proposed development, including in respect to the various protected species that are present at the site as well as habitat and the Ancient Woodland. I have found no good reasons to disagree. The mitigation identified would be secured via the planning obligations of the S106 Agreement / DoM and conditions. On this basis the proposed development would accord with Circular 06/2005. [52-53, 147-177, 338-360, 536-562]

747. In summary therefore, in addition to having no significant residual biodiversity effects, the proposed development would secure significant BNG such that it would accord with the Framework, including paras 174, 179 and 180, and development plan policy, as well as the eLP, in this regard.

(3) Air Quality [53, 184, 214-227, 259, 520-535]

748. CPRE Kent is the only main party to the Inquiry opposed to the application to have called a witness, Dr Holman, on air quality [184, 214-227, 259]. The other two Rule 6 parties do not appear to raise objections to the scheme on grounds of air quality [53, 56, 107]. The Council states that it has nothing to add to the applicant's evidence on this matter and commends it to the Secretary of State [362]. The Council has also produced a Planning Position Statement for proposed developments which may impact on air quality in Hawkhurst[388].

749. There is a freestanding SoCG on air quality between the applicant and CPRE Kent[389], which helpfully narrows the areas of disagreement on this matter. While there is a great deal of agreement between Dr Holman and the applicant's witness, Dr Marner, there are a number of matters within this SoCG and the wider evidence that are, in my view, of particular note, which I summarise below.

750. The evidence indicates that nitrogen dioxide (NO_2) pollution at Hawkhurst is the only potentially significant air quality issue and that it arises mostly from road traffic on Cranbrook Road. Notwithstanding WHO guidelines, the value of 40µg/m^3 for NO_2 is identified in The Air Quality (England) Regulations 2000. This value is expressed as an objective rather than as a limit. While roadside NO_2

[388] CD12.14
[389] CD9.8

concentrations are decreasing at a national level and at Hawkhurst, the NO_2 40µg/m^3 objective was exceeded close to Cranbrook Road in 2018 and 2019. As a consequence an AQMA will be declared. [215-216, 530-521]

751. Applying the applicant's methodology, which is based on a model that the evidence indicates was found to be acceptable by Defra as part of the Hawkhurst AQMA work, with the proposed development the 40µg/m^3 objective would be achieved at the Hawkhurst crossroads at some point in time between 2023 and 2025. During that period no more than three homes would be affected. The predicted increase in levels associated with the proposed development relative to levels that are predicted without the scheme would be small, with no more than an approximately 2% increase in NO_2 concentrations as a result of the development relative to the objective. As such any exceedance of the 40µg/m^3 objective would be primarily a consequence of the existing situation. In any event, the forecast predicts that the 40µg/m^3 objective would be met at all receptors by 2025 with or without the development.[390] [215, 521-522]

752. There is disagreement between the witnesses over meteorological data, traffic data and cumulative effects, and uncertainty associated, for instance, with future vehicle emissions and modal shift. Nonetheless, the methodology and assumptions made in the AQA prepared as part of the application submissions appear to be reasonable in those and all other respects. [221-223, 523-532]

753. It also appears to be consistent with government guidance, for example, in terms of the approach to traffic data and cumulative effects relative to the Air Quality section of the PPG. The evidence also indicates that this, as well as the approach to meteorological data, is consistent with the approach Dr Holman took in an AQA in Hawkhurst she produced for another, separate matter in 2020. [221-223, 523-532]

754. The evidence indicates that the effects of the proposal would not be significant. This is because any exceedance of the NO_2 objective forecast would be short term and few receptors would be likely to be effected. Moreover, the effect on concentrations resulting from the development over and above the baseline would be no greater than 0.6µg/m^3. On this basis, beyond the measures that are incorporated into the development proposals, such as the Travel Plan, onsite cycle storage and electric vehicle charging infrastructure, and the works to Hawkhurst junction, no further air quality mitigation would be warranted. [224-225, 533-535]

755. The evidence indicates that air quality will continue to improve at Hawkhurst in any event. While the proposed development would be likely to have a small effect on the timing of that improvement, for the reasons outlined above, its likely overall effect would not be significant such that it accords with the Framework, including paras 8(c), 174(e), 185, and 186, and with the development plan, including Core Strategy Core Policy 5, in that regard. [53, 184, 214-227, 259, 520-535]

756. However, as eLP Policy EN 21 requires that sensitive receptors are safeguarded at all times, there would be conflict with this Policy, albeit to a very limited extent. Policy EN 22 of the eLP would also be breached given that the

[390] CD2.6 Table 8

S106 Agreement would not secure contributions to mitigate the identified impact, albeit that, for the reasons outlined above and in the particular circumstances of this case, such a payment would not be necessary.

(4) Housing Delivery [53-54, 94, 184, 187, 243-246, 255, 263, 381-384, 388-389, 392, 577-581]

757. The evidence indicates that the Council cannot currently demonstrate a Framework compliant supply of deliverable housing land and that supply amounts to 4.89 years. The data and circumstances that lead to this figure are set out in the Council's latest Five-Year Housing Land Supply Statement 2020/21 as qualified in the Addendum SoCG.[391]

758. There are a few considerations that lead to this housing land supply figure that may be of particular assistance in understanding how it is arrived at. The most recently adopted element of the development plan, the Core Strategy, is more than 5 years old. Accordingly, housing land supply must be calculated using the Standard Method, which leads to the supply figure of 4.93 years in the Council's latest Housing Land Supply Statement. This is qualified by the subsequent removal of 25 units from supply within the relevant 5 years period, which in turn leads to the figure of 4.89 years.

759. The shortfall is identified as 52 homes in the latest Housing Land Supply Statement to which the 25 removed units should be added. This results in a total current shortfall over the 5 years period in question of 77 homes.

760. This five year housing land supply figure of 4.89 years was not seriously challenged during the Inquiry process and I have found no reason to conclude that it is incorrect. I also note that a shortfall of this sort of magnitude was, in a fairly recent appeal decision concerning a nearby site, described as slight[392]. This seems a reasonable description. I also note that housing delivery in the Borough appears to have improved in recent times. There is, nonetheless, a shortfall. [94, 184, 244, 263]

761. The proposed development would deliver 165 dwellings, of which 66 would be affordable homes. There is uncertainty over the ownership of a small area of land on the BKF site which, at least in theory, could cast doubt on the delivery of one of the links proposed between the application development site and the development permitted on that neighbouring site. Nonetheless, were planning permission to be granted for the application scheme there is no good reason to believe that that landownership matter, or any other consideration, would cause a significant delay to the delivery of the housing here proposed bearing in mind that alternative links would be available. [211, 373, 518]

762. On that basis, the development would be very likely to address and exceed the identified 5 years housing land supply shortfall of 77 homes. For plan-making the Framework also requires the Council to plan for up to 15 years ahead. Using the Standard Method, the OAN across the eLP period 2020-2038 is a total of 12,204 dwellings. This figure was not contested during the Inquiry, but of course it may well change during the plan-making process. Whatever the final adopted figure proves to be, the proposed development would also make an important contribution to achieving that target, as well as to the Government's objective of

[391] CD12.16 and CD9.1.1, paras 2.1 to 2.10 respectively
[392] CD19.08, para 133

significantly boosting the supply of houses. [381, 578, 585]

763. Regarding affordable housing, the Council's most recent Housing Needs Assessment Topic Paper[393] refers to three separate studies, all of which show that there is a substantial need for affordable housing in the Borough. The evidence also indicates that the Housing Register, which covers need that is presented to the Council as housing authority, fluctuates between 870 and 970 households, included some 918 households in August 2021 and that of those households 175 applicants have specified they want to live in Cranbrook whilst 62 households have a local connection to Cranbrook. [54, 184, 245, 248, 384, 389, 458, 579]

764. There is, therefore, a clear need for both market and affordable housing in the Borough. The proposed development would make a significant contribution to the delivery of both.

765. I return to the effect of the Council not currently being able to demonstrate a five year supply of deliverable housing land in terms of the operation of Framework para 11 in the *Planning Balance* subsection below.

766. In the context of housing delivery, it should also be noted that the proposed development is clearly at odds with the spatial strategy for new housing as set out in the adopted development plan. As such, given that the site is in the countryside beyond the LBD of Cranbrook and that the proposed development does not meet any of the relevant exception criterion, it conflicts, in this regard, with Core Policies 1, 12 and 14 of the Core Strategy, Policy LBD1 of the Local Plan and the associated Policy AL/STR1 of the Allocations LP. [21, 24, 28-29]

(5) Historic Environment [53, 72-74, 108-112, 121-133, 138, 145, 184, 186, 190, 198, 202-208, 363-370, 495-512]

767. At the time the application was reported to the Council's Planning Committee it was common ground between the applicant and the Council that the proposed development would lead to less than substantial harm to the significance of designated heritage assets in the terms of the Framework. [53]

768. The Council's case remains that there would be less than substantial harm to the significance of the Conservation Area, the Grade II* listed Goddards Green Farmhouse, and the Grade II listed Barn at Goddards Green and The Cottage as expressed via the evidence of its witness Ms Salter [363-370]. CPRE Kent's witness, Mr Page, also maintains that there would be harm to the Conservation Area as a result of the proposed development [202-208].

769. In contrast, the applicant's position has changed significantly in light of the evidence of its heritage witness, Dr Miele, such that it now maintains that there would be no harm to any heritage assets [495-512]. I have also come to the conclusion that the proposed development would not harm any heritage assets on the basis that I largely agree with Dr Miele's evidence. I also largely agree with his evidence and conclusions regarding historic settlement pattern and fieldscapes. I set out below the main reason why I favour Dr Miele's evidence relative to that of the other witnesses. I deal firstly with historic settlement pattern and fieldscapes matters and then return to the Conservation Area and listed buildings.

[393] CD14.2.4

770. While Turnden is a historic farmstead, the loss of the listed building has substantially reduced its contribution to the historic settlement pattern to the extent that it no longer makes a significant contribution in that regard. Moreover, as Dr Miele identifies, in this part of the HWAONB *the pattern of historic settlements … in the setting of Cranbrook and outlying collections of buildings, has been disrupted and therefore has such a low sensitivity to the kind of change now proposed … that there is no material harm to that pattern …* . [413, 507]

771. Regarding fieldscapes, it is first noteworthy that Dr Miele, like Mr Duckett, has visited and surveyed the site at large in contrast to the witnesses who appeared at the Inquiry for parties who are opposed to the development. Dr Banister, whose work was cited to support the case made against the proposed scheme, has not visited and surveyed the site at large either. While her work is helpful and of value, it does not extend into the same level of detail that Dr Miele's does and nor is it as recent. As a consequence, it is shown by Dr Miele's evidence to have shortcomings, such that it attracts considerably less weight than that of Dr Miele. [504-509]

772. For similar reasons, Historic England's consultation comment that *surviving historic landscape character of dispersed farmsteads surrounded by a network of field systems is a non-designated heritage asset*, attracts limited weight compared to Dr Miele's evidence. [504-508]

773. The ES for the development does refer to there being evidence of consolidated strip fields[394]. The evidence has been reviewed by Dr Miele. He has gone to considerable lengths to try to find such evidence and in spite of this, in my view, there remains no remaining compelling evidence of consolidated strip fields either on site or in the parish. While the evidence indicates that the basic fieldscape framework is medieval, there have been significant changes to the fieldscape over time, including the removal and straightening of some boundaries as well as the loss of the farmstead building to which they related. This has led to the material erosion of the character and quality of the fieldscape as historic landscape, such that the proposed development would not harm any significant historic landscape resource and all of the individual features which could be of potential interest would be retained. [504-508]

774. Furthermore, the proposed reinstatement of hedgerows along historic boundaries and of the shaw in the southern fields would be beneficial to the time-depth character of the HWAONB. The proposed re-creation of Tanner's Lane would also be beneficial in heritage terms as it would reinstate a historic feature in the local landscape. [509]

775. Regarding the Conservation Area and four listed buildings identified at para 11 above I have found no reason to disagree with the ES's assessment of their significance[395]. The Conservation Area Appraisal[396] also notes 11 distinctive features of the Conservation Area under the heading *Summary of the Conservation Area's Special Features*. It is from these features[397] that the Conservation Area's significance derives.

[394] CD5.8, including CD5.8.1 and CD5.8.3
[395] CD5.8.2 paras 7.50 to 7.54 inclusive
[396] CD12.10
[397] In the interest of brevity I do not recite them in full here – they can be found at para 3.1 of CD12.10

776. The Grade 2* Goddards Green Farmhouse is located some 240m north of the site on the opposite side of the A299. Its significance stems primarily from its historic and architectural interest as a fine 15th/16th Century cloth hall and farm, having a good assemblage of historic farm buildings, with high communal, aesthetic, evidential and historic value. It also has strong group value with The Barn at Goddards Green Farmhouse and other unlisted historic farm buildings in the same group, as well as some group value with The Cottage and the War Memorial. The significance of The Barn principally derives from its associations with Goddards Green Farmhouse and from its historic and architectural interest as an attractive 17th Century 5-bay timber-framed and weatherboarded barn with a plain tiled roof.

777. Whilst much of the historic landholding of Goddard's Green Farmhouse lay to the north of what is now the A299, after 1781 the three northernmost fields of the site formed part of its landholding such that it has a historic tenurial/use relationship with part of the site, together with further fields to the north-east, now largely built over by the modern Orchard Way and Green Way / Goddards Close estate.

778. The Grade II Cottage is located at the junction of the A299 and High Street some 140m to the north of the site. Its significance stems mainly from its historic interest and to some extent its architectural interest as a modest 18th Century roadside cottage, drawing significance from its relationship to Hartley Road, Goddard's Green Farmhouse and the War Memorial, as well as from the surviving undeveloped setting to its rear.

779. None of the listed buildings are within the site or adjacent to it. The site is not within the Conservation Area nor adjacent to it. Indeed the closest part of the Conservation Area stands some 300m to the north-east of the site, with the BKF site intervening. Consequently, the proposed development could only potentially affect the significance of the Conservation Area and that of these listed buildings through any effect it might have on their respective settings. [11, 53, 499, 510]

780. None of the main parties appears to have concluded that there would be any harm caused to the Grade II War Memorial as a result of the proposed development. I have also found no reason to disagree with the assessment set out in the ES which concludes that the development would have a neutral impact on this listed building.

781. I agree with Dr Miele's conclusion that the proposals would cause no harm to the character or appearance of the Conservation Area, primarily due to a lack of intervisibility. Having been tested, the evidence indicates that the site does not possess any characteristic which contributes meaningfully to the appreciation of the Conservation Area's special interest. Although the Conservation Area Appraisal does make reference to specific areas of green space that are important to the Conservation Area, the site is not mentioned amongst them or at all in the Appraisal. Farmsteads were generally independent of towns and not part of the town economy. There is no evidence of a specific link between Turnden Farmstead and Cranbrook. Accordingly, the site does not contribute in any significant sense to the experience of the Conservation Area by reason of views or its uses. [511]

782. The development of the BKF site, which abuts the Conservation Area, would diminish any relationship the Conservation Area and application site have. Even

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if the BKF development were not to proceed, the extent of open land remaining would provide an adequate landscape buffer between the site and the nearest part of the Conservation Area, such that the ability to appreciate what is special about the Conservation Area and what the landscape contributes to that special interest / significance would be undiminished. [511]

783. The same broad principles apply to the respective and combined relationships between the relevant listed buildings and the site, such that there would be no material impact on the settings of these listed buildings as a result of the proposed development. Consequently, it would preserve these listed buildings and their settings, as well as the features of special architectural and historic interest which they possess. [512]

784. For these reasons the development would not conflict with the development plan, including Core Policy CP 4 of the Core Strategy and Policy EN5 of the Local Plan, in terms of its effect on the historic environment and would also accord with the Conservation Area Appraisal and Section 16 of the Framework.

(6) Sustainable Transport [53, 184, 209-213, 371-374, 513-519, 616, 701]

785. Although KCC, as Local Highway Authority, had concerns about the proposed development, these have now been resolved as set out in the Highways SoCG[398]. [53, 513, 701]

786. There is nothing in the evidence that seriously calls into question the proposed development's effect in terms of it having any significant impact on highway safety. Indeed the proposed vehicular access works have been the subject of a stage 1 safety audit and agreed by KCC. It also seems likely that works proposed to the A299 in the vicinity of the site, such as limiting overtaking through the introduction of islands and reduced carriageway width, may improve highway safety. [53, 513]

787. Other highways safety measures, including a reduction in the speed limit, would also come with the TF and BKF developments. While these would come about irrespective of the application scheme, such that they do not carry weight in favour of the scheme as such, they do nonetheless, provide context to the proposals. [514]

788. The evidence also indicates that the proposed improvements at the Hawkhurst crossroads would bring benefits to its users in the form of reduced delays even allowing for the additional traffic from the development, including increased bus priority. Notwithstanding the concerns raised in this regard, including those of CPRE Kent, these are matters that have been reviewed and accepted by KCC as Local Highway Authority as set out in the Highways SoCG. In this regard I also see no reason why the Hawkhurst Golf Club appeal referred to by CPRE Kent should have a bearing on the determination of this application as the proposed works to Hawkhurst crossroads have been identified as being necessary to facilitate and mitigate the proposed development based on what is known at this stage. [184, 212-213, 249-252, 513, 515, 517, 701]

[398] CD9.20

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789. Overall, therefore, there is no good reason to believe that the proposed development, alone or in combination with other development, would have a significant effect on highways safety other than in a positive sense.

790. I note the evidence of Ms Daley, CPRE Kent's witness on transport, particularly in respect to the practicality and expense of using modes of transport other than the private car in this area to access work and facilities locally and further afield. Interested parties have also raised similar concerns. I recognise that these alternative options are not ideal. [209-210]

791. Nonetheless, the wider evidence does indicate that the site is reasonably well located in terms of its accessibility. I would particularly draw the Secretary of State's attention to Section 3 of the Highways SoCG, which provides a helpful summary of walking, cycling and public transport options, links within and external to the site, and local facilities relative to the site. KCC has confirmed via that SoCG that, provided the improvements to the walking and cycling routes summarised therein are secured, it considers that the site has good quality walking and cycling links to nearby bus stops, Cranbrook town centre and local amenities. The SoCG between the Council and applicant also states that the site is in an accessible location, having regard to local bus routes, schools, shops and services[399].

792. For example, the site is located within reasonable proximity to Cranbrook town centre, roughly a 20 minute walk, 6 minute cycle and 6 minute bus journey away. There is also a wide range of facilities fairly nearby, including schools, supermarkets, shops, leisure and medical facilities. Most local facilities are within some 2km of the centre of the site and the majority of which are within some 1.6km. Nonetheless, I recognise that factors such as topography and traffic, including vehicle speeds, may discourage some people from walking and cycling, and that local public transport services have their limitations. It should also be borne in mind that the High Weald Academy appears to be closing, albeit that it seems likely that it will become a Special Educational Needs Centre. Its closure would result in a need for students to travel further afield to access state secondary education. Of course this would affect all students and staff not just residents of the proposed development. [209-210, 371-374, 514-516]

793. Notwithstanding such constraints and limitations and while they may not suit everybody at all times, there are currently reasonable alternatives available to the private car, including pedestrian, cycle and bus infrastructure and services, as illustrated in the Highways SoCG. These would be enhanced with the delivery of the application development and with the planned neighbouring development. As outlined in the *Housing Delivery* subsection, while the deliverability of one of the four planned pedestrian links via the BKF site was questioned during the Inquiry, there is good reason to believe that it would be secured, but if it were not, good alternatives would be available. Suitable cycle storage facilities are also included within the detail of the proposed development. The proposed Travel Plan would support the use of these alternative modes of transport such that there is a good prospect of achieving the shift toward sustainable travel envisaged within Section 9 of the Framework. [209-211, 373, 371-374, 514-516, 518]

[399] CD9.1, para 7.11

794. For these reasons, therefore, the development would promote sustainable transport in the terms of the Framework and accord with relevant development plan policy in that regard.

(7) Other Issues and the Planning Balance

795. Before dealing with the overall planning balance there are a few other matters that also need to be taken into consideration. These include the weight carried by policies of the development plan where I have found conflict, the effect of granting planning permission on the eLP, particularly in terms of development effecting the HWAONB, and whether the proposed scheme accords with Framework policy on AONBs, including para 177. I deal with this latter matter first as many of the associated issues inform what follows.

AONB – Exceptional Circumstances and Public Interest [57-60, 91-101, 179-183, 228-248, 375-404, 566-611]

796. Framework para 176 states, amongst other things, that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.

797. The application proposals would result in major development in an AONB. Consequently, with reference to Framework para 177, the starting point is that planning permission should be refused. Only if there are found to be exceptional circumstances to justify the development and only if it is found to be in the public interest can the requirements of para 177 be met.

798. While they are self-evident, it is worth pausing to flag two relevant aspects of para 177. The first is that it is a high test, and rightly so given the importance of AONBs. The second is that, while it may be preferable for any new development sites to come forward initially via the plan-led process, para 177 provides a mechanism by which major development can be delivered in AONBs via the development management process regardless of whether the site in question is allocated in the development plan or not, but only if that high test is met.

799. The Glover Report[400] although relevant, is not government policy. This is in spite of the Framework having been revised since the Report's publication. Consequently, although the possibility remains that it might affect government policy in the future, at this stage it attracts very limited weight only given the degree of uncertainty over whether it will affect policy and, if it does, in what regard and to what extent.

800. When assessing whether there are exceptional circumstances in the context of para 177, the relevant legal authorities indicate that, while it is not a conventional balancing exercise, all of the benefits of the development in question can be taken into account, each benefit does not have to be exceptional alone and nor do they have to be unlikely to occur in a similar fashion elsewhere.

801. Market housing and affordable housing could in theory be developed elsewhere instead of at the application site. Yet some 70% of the Borough is within the HWAONB while a further approximately 22% of it is Green Belt. There are also a range of other constraints, such as biodiversity resources and heritage assets, which further limit the land that might be suitable for development within the Borough. This is reflected in the work and evidence that has informed the eLP.

[400] CD16.9

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802. The eLP itself attracts only limited weight at this stage and, of course, the housing requirement may well change in the final adopted version. Nonetheless, the evidence base illustrates why the Council has approached housing allocation in the way it has, as reflected in the eLP. That work shows, conceptually at least, that there are very likely to be other sites in the Borough where housing of the scale and type here proposed might be delivered. However, as the proposed housing allocation sites in the eLP are all needed to meet the OAN as it currently stands, they cannot be considered to be alternatives to the application site. Moreover, there can be no guarantee that these proposed allocations will be included in the final adopted version of the local plan. Indeed, the evidence indicates that if major development cannot take place in the HWAONB the Council would not be able to meet the current 12,204 OAN housing figure.

803. In short, there is a need for housing to be delivered at the Borough level, the ability to respond to that need is heavily constrained, and the proposed development would contribute to meeting that need.

804. An assessment of housing need in the Parish undertaken as part of the ongoing work towards a neighbourhood plan, suggested at least 610 net dwellings are needed between 2017-2033. The applicant has added that if housing need were to be distributed across the Borough proportionate to existing populations, Cranbrook's 'proportionate share' of the Borough-wide need would be 585 dwellings over 15 years. While there is no policy requirement for a calculation or approach of this type, and it does not follow that localised needs will necessarily reflect Borough-wide need, I see this as a helpful benchmark, especially in the context of the broadly comparable 610 figure referred to above. For the reasons set out in the *Housing Delivery* subsection above, there is also good reason to believe that local housing need will include a significant proportion and total of affordable housing need.

805. Accordingly, it appears likely that the clear need for both market and affordable housing in the Borough will be reflected in need in the Cranbrook area. Supplying new homes elsewhere in the Borough, such as at Tunbridge Wells, Southborough, Paddock Wood and Hawkhurst, would not directly address such local need. While the planned development at the TF and BKF sites would go some way to responding to the likely level of local need in Cranbrook, it also seems most likely that it would fall some way short of meeting such need.

806. Cranbrook and its surroundings are within the HWAONB. There are areas within the Parish that lie outside the HWAONB, but these are located well away from Cranbrook's LBD and have been rejected by Council officers as being unsustainable for housing development in terms of meeting the need in Cranbrook. NE has not undertaken any assessment of the availability of alternative sites. CPRE Kent maintain, with reference to work undertaken for the eC&SNP, including a draft assessment produced by AECOM[401], that there are alternative sites available to meet housing need in the Parish.

807. However, the evidence of Mr Hazelgrove, the Council's planning witness, strongly indicates that the sites referred to in the evidence of Cllr Warne, CPRE Kent's witness, are unlikely to be suitable for housing development bearing in

[401] CD13.2

mind that they have all either been rejected during the SHELAA[402] process or refused planning permission. I also note that the Parish Council objected to several of those planning applications. The evidence of Mr Cook, the applicant's witness, also suggests that none of the sites identified in the AECOM assessment could come forward with less harm to the HWAONB than the application site[403] and I have found no good reason to disagree.

808. In contrast the Council has undertaken a comprehensive and extensive process of site selection across the Borough, including in this area, as part of the eLP process. Of course the eLP has yet to be examined. Nonetheless, parts of its evidence base were before the Inquiry in this case, and they offer valuable insight into housing need and likely site availability to meet that need, including locally. For example, the SHELAA process took account of the need to conserve and enhance the HWAONB, leading the Council to seek to deliver as much as possible of its planned housing outside the HWAONB. Furthermore, the sites proposed for major development within the HWAONB that remain in the current version of the eLP, including the application site, have been the subject of detailed assessment, for instance in terms of their landscape and biodiversity effects, as discussed in the respective preceding subsections.

809. The applicant's assessment of alternatives sites in the Cranbrook area is also helpful in this regard, particularly in the context of the Council's Borough-wide assessment outlined above. I also note that it is not contested by the Council.

810. There is, therefore, a very compelling case for the need for development of this type and in Cranbrook. Given the absence of evidence to support the existence of realistic genuine alternatives, it is also reasonable to conclude that this particular proposed development is needed. In addition to the considerable benefits associated with delivering market and affordable housing, the proposed development would also bring a number of other benefits. NE and CPRE Kent both acknowledge that there would be benefits associated with the development, as summarised in their respective SoCG.

811. The benefits include that the scheme would provide additional footpaths connecting to the existing network and to those planned at the TF and BKF sites. It would also provide substantial new publicly accessible amenity space. These measures would enhance recreational opportunities. There would be significant BNG. Hedgerows and field boundaries would be reinstated. There would also be new woodland planting and management of existing woodland. All of which would be to the benefit of the environment and the landscape. Consequently, I see no reason why BNG should not be included within the assessment of exceptional circumstances. Indeed, while I have focussed on the matters most directly related to para 177 and the HWAONB, and as outlined above, all of the benefits of the development can be taken into account.

812. I have found that the development would cause some harm to the landscape and scenic beauty of the HWAONB, which attracts great weight. There would also be very limited harm to air quality. However, given the limited extent of harm, including to the HWAONB, in the context of the area's particular housing needs and constraints alongside the wider benefits that would be delivered, these

[402] CD14.2.8
[403] CD23.1.7, Section 12

considerations amount to exceptional circumstances to justify development in the HWAONB in this location and the development would be in the public interest.

813. I would stress that this conclusion is not just a consequence of unmet housing need. Rather it is a unique combination of factors including market and affordable housing need, there being no adopted strategy to fully address current and on-going housing need, uncertainty over when, if and in what form the eLP might be adopted, the constrained nature of the Borough and the apparent lack of available alternative sites, and the limited extent and degree of harm that would arise from the proposed development. It is these matters, combined with the other identified benefits that would be delivered, that come together to form the exceptional circumstances required to justify this proposed development in the terms of para 177 of the Framework.

Prematurity and the Emerging Local Plan [56, 63, 102-103, 294-296 & 618-621]

814. None of the main parties advanced a case that the development is so substantial alone that to grant permission would undermine the plan-making process in the terms of Framework para 49. However, there remains the possibility that if planning permission were to be granted it might lead to other sites identified for development in the eLP being permitted, including for major development in the HWAONB, thereby undermining the plan-making process. Moreover, it might predetermine the fundamental consideration of the eLP in terms of setting the Development Strategy, and the scale and location of new development on the basis that the evidence and arguments underpinning the site as a draft allocation apply to other draft allocations for major development in the HWAONB. However, I do not see these as significant dangers in practice such that they attract very limited weight at the most.

815. While there are a number of reasons for this conclusion, it is primarily because, clearly, each of the sites in question differs. While they may have some features, attributes and characteristics in common, they are by their nature unique. Consequently, the site specific evidence within the eLP evidence base which has led to them being included in the eLP as proposed housing allocations also differs and it is on this basis that the proposed allocations will be assessed when the eLP is examined. If planning applications were to be made for any such site, be it within the HWAONB or elsewhere, it would be supported by material specific to that site and to the development proposed in that case. Any such application would, like this application, have to be assessed and determined on its individual merits, including having due regard to Framework para 177 in respect to major development in the HWAONB.

816. Consequently, if planning permission were to be granted in this case, I have found no good reason to believe that it would have any significant effect on the plan-making process of the eLP.

Development Plan [20-30, 53, 263-265 & 406-407]

817. I have identified above that the proposed development would conflict with Policies LBD1 and EN25 of the Local Plan, Core Policies 1, 12 and 14 of the Core Strategy, and Policy AL/STR 1 of the Site Allocations LP. These are all listed amongst the most important policies for determining the application by Mr Hazelgrove, the Council's planning witness. I have found no reason to disagree with him on this matter.

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818. In terms of how they relate to matters of character and appearance, including effects on the HWAONB, Local Plan Policy EN25 criteria 2 and Core Policy 14 criterion 6, concerning landscape setting and countryside protection, are both broadly consistent with the Framework such that I have given them full weight for the purposes of this assessment.

819. However, given that the Council cannot currently demonstrate a Framework compliant supply of deliverable housing land, Policy LBD1 of the Local Plan, Core Policies 1, 12 and 14 of the Core Strategy and Policy AL/STR 1 of the Site Allocations LP carry no more than limited weight in respect to the roles they play in the Council's spatial strategy and the negative effect they have in terms of constraining housing delivery, and as such they are out of date in regard to those matters.

Other Matters

820. I have taken into account all of the representations made up to the point that the Inquiry closed [654-697]. I would note though that I have given limited weight only to the 35 letters submitted by the applicant in support of the proposed development [696]. I have done so on the basis that the source of each letter is unclear as the addresses are redacted, such that they have not affected my overall assessment of the development or my recommendation below.

821. I also note the identified and alleged conflict with the eLP and the eC&SNP. However, as neither document currently carries any greater than limited weight, any such potential policy conflict would not carry sufficient weight to alter the outcome of the planning balance. I am also mindful that the application site is a proposed housing allocation within the eLP. [32, 35 & 53]

Planning Balance

822. Framework para 11 sets out how the presumption in favour of sustainable development is to be applied. It indicates that where the policies which are most important for determining the application are out-of-date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, including AONBs and designated heritage assets, provides a clear reason for refusing the development proposed or 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 mechanism is commonly referred to as the 'tilted balance'.

823. As outlined above, there would be no harm to designated heritage assets. Although there would be some harm to the HWAONB, it would be limited. While harm to the landscape and scenic beauty of the HWAONB attracts great weight under Framework para 176, exceptional circumstances exist to justify this development, which would also be in the public interest in the terms of Framework para 177. I have found no other significant potential conflict with policies in the Framework that protect areas or assets of particular importance. Consequently, no such policies of the Framework provide a clear reason for refusing the proposed development, such that the 'tilted balance' is engaged.

824. There would be harm resulting from the development, most notably in relation to the HWAONB and to air quality. Harm to the landscape and scenic beauty of the HWAONB attracts great weight. However, for the reasons outlined in the

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Exceptional Circumstances subsection above, the combined adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole bearing in mind the substantial combined weight of those benefits, particularly those associated with housing delivery. Accordingly, the scheme would be sustainable development in the terms of the Framework for which there is a presumption in its favour.

825. I am mindful that the Secretary of State may come to a different conclusion on various aspects of the evidence, which have the potential to require a different approach to Framework para 11. The various scenarios are too numerous to helpfully set out and work through here. Nonetheless, it may be of assistance to briefly explain that if the Secretary of State were to find that the development would harm the significance of one or more heritage asset, I would suggest that any such harm would be no greater than the Council's heritage witness, Ms Salter, has identified as set out in her evidence[404]. In that scenario, I would add that that would not alter the outcome of the balancing exercise under para 11 for reasons broadly in line with those set out in Mr Hazelgrove's evidence, such that the application scheme would remain sustainable development in the terms of the Framework.

826. To draw this section to a close I refer back to the points the Council puts by way of introduction to its case, which neatly summarise some of the key considerations that make this not only an acceptable development but a good development. It is not an overstatement to say that it is rare for a scheme to deliver such a package of exceptional benefits, on a site located adjacent to a second tier settlement, delivering much needed housing, including affordable housing above the rate required by the development plan, in a highly constrained area, and which delivers landscape enhancements with limited associated harm, as well as biodiversity enhancements, while developing only a small proportion of the overall site and in doing so provides a strong long term settlement edge. [261]

Conditions

827. Conditions to be imposed on a grant of permission were discussed at the Inquiry and were agreed between the Council and the applicant[405]. I have considered these in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly as contained in the attached Annex. My conclusions are summarised below.

828. In order to provide certainty, a condition requiring that the development is carried out in accordance with the approved plans would be necessary, as would a condition to control the phasing of development. I have adjusted the wording of the 'approved plans' condition on the basis that many of the other conditions could result in minor deviation from some aspects of the detail included in those 'approved plans' while remaining within the confines of the development as proposed. Consequently, without such amendment there would be potential conflict between that condition and some of the other conditions.

829. The submission and approval of a Construction/Demolition Environmental Management Plan would also be necessary to safeguard the living conditions of

[404] CD23.2.3
[405] ID32

local residents and in the interests of highway safety. Conditions to control foul and surface water drainage and management would be necessary in the interests of flood prevention and biodiversity, as well as to protect the environment and to secure acceptable living conditions for residents.

830. To ensure that the development harmonises with its context, a condition would be necessary to control the design and location of utility meters, the pumping station and enclosure, and below ground water booster tank and equipment. For the same reason conditions would also be necessary to control materials used on the exterior of buildings and structures, as well as the details of boundary treatment / means of enclosure and of refuse/recycling areas. In the interests of highway safety and to secure suitable access arrangements, including emergency access, conditions would also be necessary to control the details of the site access and of on-site roads, footways, cycleways, parking areas and associated works and infrastructure, and to secure off-site highway works.

831. Conditions to control the detail and delivery of play areas and open space would be necessary to ensure that residents of the development would have adequate suitable facilities close to their homes. To help create a secure and safe environment a condition would be necessary to control the implementation of crime prevention measures. Conditions to control ground levels and external lighting, to protect retained trees and hedges, to deliver and manage new planting and landscaping, to secure compliance with the LEMP and to control the proposed movement / depositing of spoil would all be necessary to ensure that the development harmonises with its context and in the interests of biodiversity. I have adjusted the wording of several conditions relating to lighting to avoid unnecessary duplication. Also in the interests of biodiversity, conditions would also be required to secure measures to protect wildlife, including birds, dormice and bats, and their habitat.

832. A condition to safeguard against unsuspected contamination that might affect the site, along with any requisite remediation, would be necessary to protect the health and well-being of future occupiers and off-site receptors as well as in the interests of biodiversity. To promote sustainable modes of transport and reduce the need for travel and in the interests of highway safety, conditions to secure the implementation of a Travel Plan and to ensure the delivery of the proposed cycle storage would also be necessary. While securing the proposed refuse storage and bin collection facilities would be necessary to protect the character and appearance of the area as well as the living conditions of residents, and in the interests of highways safety, I have omitted the suggested freestanding condition as these matters appear to be addressed via Condition 9 as amended.

833. A condition to secure energy efficiency measures would be necessary to reduce carbon release and to safeguard the environment. Given the sensitive location of the development in the HWAONB and the associated need to carefully manage the effects of any additional development the withdrawal of a number of permitted development rights would, exceptionally, be necessary in this case. A condition would also be necessary to ensure that features of archaeological interest are properly examined/recorded.

834. To protect the living conditions of residents in terms of privacy, a condition to control outlook from the specific windows would be necessary. A condition to secure a scheme of wayfinding, heritage, arboriculture, and ecological

interpretation as a form of public art, would be necessary to ensure that information on the heritage, arboriculture and ecology of the site is recorded and made suitably accessible as part of the development. In the interests of air quality, a condition to control the type of boilers / heating systems used in the proposed homes would also be necessary.

835. The Secretary of State may also wish to note that the conditions are intended, alongside the planning obligations, to secure the mitigation measures identified in each chapter of the ES, including via the LEMP, the Construction/Demolition Environmental Management Plan, and the Travel Plan. I have also included within some of the conditions wording along the lines of 'unless otherwise approved in writing by the Local Planning Authority' on the basis that potential change would be minor, thereby giving the Council reasonable scope to agree changes that remain firmly within the confines of the development as proposed.

Obligations

836. I have considered the S106 Agreement and the associated DoM in light of Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations. Having done so, I am satisfied that the obligations therein would be required by and accord with the policies set out in the Council's Planning Obligations Statement. Moreover, for the reasons outlined above and those set out in that Statement, and to secure elements of the mitigation identified as being required in the ES, I also consider that those obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms. [699-700]

Overall Conclusion

837. The proposed development would cause some harm to the landscape and scenic beauty of the HWAONB, which attracts great weight. There would be associated conflict with Local Plan Policy EN25 and Core Strategy Policy 14. There would also be very limited harm to air quality. Although the site is located outside of the LBD of Cranbrook such that the development would also be at odds with the currently adopted spatial strategy for new development in the Borough, contrary to Local Plan Policy LBD1, Core Strategy Core Policies 1, 12 and 14, and Site Allocations LP Policy AL/STR 1, this attracts limited weight given that the Council cannot currently demonstrate a Framework compliant supply of housing land.

838. However, given the limited extent of harm including to the HWAONB, in the context of the area's particular housing needs and constraints alongside the wider substantial benefits that would be delivered, exceptional circumstances exist to justify the proposed development and it would be in the public interest. In the current circumstances, therefore, the combined adverse impacts would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

839. Accordingly, the application scheme would represent sustainable development in the terms of the Framework, which is a material consideration that, in the particular circumstances of the case, outweighs the conflict with the development plan as a whole.

Rainbow Court

Recommendation

840. I recommend that planning permission is granted, subject to the conditions set out in the attached Annex.

G D Jones

INSPECTOR

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Appearances

FOR THE APPLICANT:

James Maurici, of Queens Counsel	Instructed by Claire Dutch, Ashurst LLP
He called	
Colin Pullan BA(Hons) DipUD	Head of Urban Design and Masterplanning, Lambert Smith Hampton - *Design*
Andrew Cook BA(Hons) MLD CMLI MIEMA CENV	Executive Director, Pegasus Group – *Landscape & Visual*
Chris Miele PhD MRTPI IHBC	Senior Partner, Montagu Evans LLP – *Heritage*
David Bird BSc CEng MICE	Director, Vectos - *Transport*
Tim Goodwin BSc(Hons) MSc MIEnvSc MCIEEM MIALE	Director, Ecology Solutions – *Biodiversity*
Ben Marner BSc(Hons) PhD MIEnvSc MIAQM CSci	Director, Air Quality Consultants Ltd – *Air Quality*
Simon Slatford BA(Hons) MRTPI BPI	Senior Director, Lichfields - *Planning*
Olivia Barton[406]	Ashurst LLP

FOR THE LOCAL PLANNING AUTHORITY:

Emmaline Lambert, of Counsel	Instructed by Head of Mid Kent Legal Services
She called	
Brian Duckett BSc(Hons) BPhil CMLI	Managing Director, Hankinson Duckett Associates – *Landscape & Visual*
Debbie Salter BA(Hons) MA IHBC	Conservation & Urban Design Officer, Tunbridge Wells Borough Council – *Heritage*
David Scully CMLI BA(Hons) DipLA MA Cert	Landscape & Biodiversity Officer, Tunbridge Wells Borough Council – *Biodiversity*
Richard Hazelgrove BA(Hons) MA RTPI(Licentiate)	Principal Planning Officer, Tunbridge Wells Borough Council – *Planning*

FOR NATURAL ENGLAND:

Andrew Byass, of Counsel	Instructed by Natural England
He called	
Alison Farmer BA(Hons) MLD CMLI	Director, Alison Farmer Associates Ltd – *Landscape & Visual*
Helen Kent BA(Hons) MSc PGDip MRTPI MIEMA	Associate Director of Planning, LUC – *Planning*

[406] Ms Barton contributed to the session on S106 Agreement/DoM only

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FOR THE HIGH WEALD AONB UNIT:

Claire Tester	Instructed by the High Weald AONB Unit
She called	
Sally Marsh BSc MSc FLI	Director, High Weald AONB Unit – *Landscape & Visual and Biodiversity*[407]

FOR CPRE KENT:

John Wotton	Instructed by CPRE Kent
He called	
Stuart Page RIBA	Conservation Architect – *Heritage*
Liz Daley	Local Resident - *Transport*
Claire Holman BSc(Hons) PhD CSci CEnv FIEnvSc FIAQM	Director, Air Pollution Services – *Air Quality*
Nancy Warne	Parish Councillor – *Planning*

INTERESTED PERSONS:

Philippa Gill	Hartley Save Our Fields
June Bell	Hartley Save Our Fields
Tim Kemp	Local Resident

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Documents[408]

Core Documents

No.	Document	Date
0.	Principal Plans	
0.1.1	19183 – S101J (Site Location Plan)	January 2020
0.1.2	19183 - C108E - Parking Plan	September 2020
0.1.3	19183 – P106D – Proposed Site Layout Boundary Treatment	February 2020
0.1.4	19183 – P108V - Proposed Site Layout Open Space	February 2020
0.1.5	19183 - C101K - Coloured Site Layout	August 2020
0.1.6	19183 – SK106B – Proposed Site Location Plan Indicating LEMP Area	January 2021

[407] Ms Marsh was called twice, once for each of the topic areas of *Landscape & Visual* and *Biodiversity*
[408] All Core Documents (CDs), Inquiry Documents (IDs) and the parties' closing submissions can be found at this link: https://tunbridgewells.gov.uk/planning/applications/public-inquiries-core-documents/turnden-core-documents?root_node_selection=397474&search_page_397475_submit_button=Show+documents

No.	Document	Date
0.1.7	19183 - SK107C – Proposed Site Layout showing LEMP and Wider Land Holding Area	January 2021
0.1.8	19183 - C102C - Coloured Street Scenes AA BB CC	August 2020
0.1.9	19183 - C103B - Coloured Street Scenes DD EE	August 2020
0.1.10	19183 - C104D - Coloured Street Scene FF	August 2020
0.1.11	19183 - C111B - Coloured Perspective View from Hartley Road	September 2020
0.1.12	19183 - C105C - Coloured Street Scene GG	August 2020
0.1.13	19183 - C112B - Coloured Perspective View across The Green	September 2020
0.1.14	19183 - C113A - Coloured Aerial View	September 2020
0.1.15	6958_010-E Landscape Proposals to Woodland Buffer	August 2020
0.1.16	6958_011-A Lighting Strategy	August 2020
0.1.17	6958_012 Illustrative Landscape Masterplan	March 2020
0.1.18	6958_SK017-E Betterment Plan	June 2020
0.1.19	19012 P200 I3 Bulk Earthworks Bund Plan	March 2020
0.1.20	19012 P201 I3 Bulk Earthworks Bund Sections	March 2020
0.1.21	19012 P100 P4 Proposed Site Levels Plan - Key Plan	January 2020
0.1.22	19012 P120 P1 Proposed Contour Plan	August 2020
0.1.23	19072-001 Rev D - Site Access General Arrangement Plan	29 September 2020
0.1.24	19072-003 Rev A – Proposed Road Hierarchy Plan	7 September 2020
1. Application documents		
1.1 *Application form and covering letters*		
1.1.1	Covering letter– submission of planning application	6 March 2020
1.1.2	Application form	11 March 2020
1.1.3	Covering letter – soil level changes and Landscape and Ecology Management Plan	23 April 2020
1.2 *Full list of current plans*		

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No.	Document	Date
1.2.1	19183 – S102 (Site Topographical Survey)	March 2020
1.2.2	19183 - P101AH - Proposed Site Layout Roof Level	December 2019
1.2.3	19183 - P105E - Proposed Site Layout - Materials Layout	February 2020
1.2.4	19183 - P107B - Proposed Site Layout Refuse Strategy	February 2020
1.2.5	19183 – P110-D - 5H1b – Proposed Plans and Elevations – Plots 1, 4, 15 & 126	5 February 2020
1.2.6	19183 – P111-B - 4H7 – Proposed Plans and Elevations – Plots 2 & 14	6 February 2020
1.2.7	19183 – P112-C – 4H7 - Proposed Plans and Elevations – Plots 3, 9	6 February 2020
1.2.8	19183 - P113-D - 4A1 - Proposed Plans and Elevations - Plot 5	13 January 2020
1.2.9	19183 - P114-B - 4H7 - Proposed Plans and Elevations - Plot 6	6 February 2020
1.2.10	19183 - P115-B - 4H7 - Proposed Plans and Elevations - Plot 7	6 February 2020
1.2.11	19183 - P116-B - 4A1 - Proposed Plans and Elevations - Plot 36	13 January 2020
1.2.12	19183 - P117-C - 4C - Proposed Plans and Elevations - Plot 35	11 February 2020
1.2.13	19183 - P118-D - 3H9b-3H1 - Proposed Plans and Elevations - Plots 10-11 & 16-17	January 2020
1.2.14	19183 - P119-C - 3H10 - Proposed Plans and Elevations - Plots 12, 25, 129, 159	6 February 2020
1.2.15	19183 - P120-D - 3H10 - Proposed Plans and Elevations - Plot 13	6 February 2020
1.2.16	19183 - P121-B - 3A.1.2 - Proposed Plans and Elevations - Plot 19	11 February 2020
1.2.17	19183 - P122-A - 4C - Proposed Plans and Elevations - Plot 20	11 February 2020
1.2.18	19183 - P123-B - 3A.1.2 - Proposed Plans and Elevations - Plots 21, 127	11 February 2020
1.2.19	19183 - P124-B - 3H10-4H18 - Proposed Plans and Elevations - Plots 22-23	January 2020

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No.	Document	Date
1.2.20	19183 - P125-C - 4C - Proposed Plans and Elevations - Plots 24 & 162	11 February 2020
1.2.21	19183 - P126-B - 3E.1 B – 3E.1 - Proposed Plans and Elevations Plot 26-27, 28-29, 136-137, 151-152	January 2020
1.2.22	19183 - P127-D - 3A.1.2 - Proposed Plans and Elevations - Plot 30, 32, 33, 37, 138, 158	11 February 2020
1.2.23	19183 - P128-D - 3A.1.2 - Proposed Plans and Elevation - Plot 31	11 February 2020
1.2.24	19183 - P129-A - 4C - Proposed Plans and Elevations - Plot 34	11 February 2020
1.2.25	19183 - P130-E - 4A1 - Proposed Plans and Elevations - Plots 134, 149	13 January 2020
1.2.26	19183 - P131-D - 3H10 - Proposed Plans and Elevations - Plots 81 & 82	January 2020
1.2.27	19183 - P132-B - 3H1 - Proposed Plans and Elevations - Plots 83-84 & 147-148	January 2020
1.2.28	19183 - P133-C - 3H1 - Proposed Plans and Elevations - Plots 104-106	January 2020
1.2.29	19183 - P134-B - 3H1 - Proposed Plans and Elevations - Plots 107-108	January 2020
1.2.30	19183 - P136-D - 3H10-4H18 - Proposed Plans and Elevations - Plots 111-112	January 2020
1.2.31	19183 - P137-E - 4C - Proposed Plans and Elevations - Plots 128 & 157	11 February 2020
1.2.32	19183 - P138-B - 3H1 - Proposed Plans and Elevations - Plots 121-125	January 2020
1.2.33	19183 - P139-C - 4C - Proposed Plans and Elevations - Plot 8	11 February 2020
1.2.34	19183 - P140C - 3A1.2 - Proposed Plans and Elevations - Plot 109	January 2020
1.2.35	19183 - P141C - 3H9 - Proposed Plans and Elevations - Plot 131	January 2020
1.2.36	19183 - P143B - 3H1 - Proposed Plans and Elevations - Plot 135	January 2020

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No.	Document	Date
1.2.37	19183 - P146B - 4H7 - Proposed Plans and Elevations - Plot 150	6 February 2020
1.2.38	19183 - P144D - 3E.1b - Proposed Plans and Elevations – Plot 141	January 2020
1.2.39	19183 - P147D - 4A1 - Proposed Plans and Elevations - Plot 153	13 January 2020
1.2.40	19183 - P148B - 4H7- Proposed Plans and Elevations - Plot 154	6 February 2020
1.2.41	19183 - P149F - 5H1 - Proposed Plans and Elevations - Plots 155 & 165	20 February 2020
1.2.42	19183 - P150D - 4A1 - Proposed Plans and Elevations - Plots 156 & 163	13 January 2020
1.2.43	19183 - P151C - 3E1.b - Proposed Plans and Elevations - Plot 160	January 2020
1.2.44	19183 - P153D – 4C - Proposed Plans and Elevations – Plots 113 & 114	11 February 2020
1.2.45	19183 - P152C - 3H9 - Proposed Plans and Elevations - Plot 161	January 2020
1.2.46	19183 - P154B - 4H7 - Proposed Plans and Elevations - Plot 164	6 February 2020
1.2.47	19183 - P155 - 4C - Proposed Plans and Elevations - Plot 110	11 February 2020
1.2.48	19183 - P156 - 3A1.2 - Proposed Plans and Elevations - Plots 130 & 133	January 2020
1.2.49	19183 - P157 - 3A1.2- Proposed Plans and Elevations - Plot 132	January 2020
1.2.50	19183 - P158 - 3H10 - Proposed Plans and Elevations - Plots 139 & 140	January 2020
1.2.51	19183 - P165D - 2BFG - Proposed Plans and Elevations - Plots 38-39 & 92-93	January 2020
1.2.52	19183 - P166E - 2BFG - Proposed Plans and Elevations - Plots 18 & 55	January 2020
1.2.53	19183 - P170E - HT2A - Proposed Plans and Elevations – Plots 52-54, 70-72, 85-87, 94-96	January 2020

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No.	Document	Date
1.2.54	19183 - P171D - HT4A & HT2A - Plans and Elevations - Plots 62-64	January 2020
1.2.55	19183 - P172D - HT3A & HT2A - Proposed Plans and Elevations Plots 65-67	January 2020
1.2.56	19183 - P173F - HT2A - Proposed Plans and Elevations Plots 68-69	January 2020
1.2.57	19183 - P174E - HT2A - Proposed Plans and Elevations Plots 79-80, 100-101	January 2020
1.2.58	19183 - P175E - HT4A & HT3A & SOHT3B - Plans and Elevations Plots 88-91	January 2020
1.2.59	19183 - P176C - HT3A4P - Proposed Plans and Elevations - Plots 97-99	January 2020
1.2.60	19183 - P177D - HT3A4P - Proposed Plans and Elevations - Plots 102-103	January 2020
1.2.61	19183 - P178D - HT2A - Proposed Plans and Elevations - Plots 142-146	January 2020
1.2.62	19183 - P180D – Proposed Floor Plans - Apartment Building A – Plots 115-120	January 2020
1.2.63	19183 - P182D – Proposed Elevations - Apartment Building A - Plots 115-120	July 2020
1.2.64	19183 - P183D – Apartment Building B (Plots 56-61) & Plot 56, Proposed Plans	January 2020
1.2.65	19183 - P184C – Apartment Building B (Plots 56-61) & Plot 56, Proposed Elevations	January 2020
1.2.66	19183 - P185C – Proposed Floor Plans - Apartment Building C – Plots 73-78	January 2020
1.2.67	19183 - P186D – Proposed Floor Elevations - Apartment Building C - Plots 73-78	January 2020
1.2.68	19183 - P187C – Proposed Ground & First Floor Plans – Building D - Plots 40-51	January 2020
1.2.69	19183 - P188C – Proposed Second Floor & Roof Plans – Building D – Plots 40-51	January 2020
1.2.70	19183 - P189C – Proposed Elevations - Building D - Plots 40 -51	January 2020

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No.	Document	Date
1.2.71	19183 - P190B - Proposed Elevations - Building D - Plots 40 -51	February 2020
1.2.72	19183 - P160C - Proposed Plans and Elevations - Detached Garages	January 2020
1.2.73	19183 - P161C - Proposed Plans and Elevations - Detached Car Barns	January 2020
1.2.74	19183 - P162E - Proposed Plans and Elevations - Detached Car Barns & Substations	February 2020
1.2.75	6958_002-H Landscape Proposals Hardworks 1 of 2	February 2020
1.2.76	6958_003-G Landscape Proposals Hardworks 2 of 2	February 2020
1.2.77	6958_004 Landscape Proposals Soft works 1 of 6	February 2020
1.2.78	6958_005 Landscape Proposals Soft works 2 of 6	February 2020
1.2.79	6958_006 Landscape Proposals Soft works 3 of 6	August 2020
1.2.80	6958_007 Landscape Proposals Soft works 4 of 6	August 2020
1.2.81	6958_008 Landscape Proposals Soft works 5 of 6	August 2020
1.2.82	6958_009 Landscape Proposals Soft works 6 of 6	August 2020
1.2.83	6958_101 Illustrative Sections AA & BB – Pond 1A	August 2020
1.2.84	6958_102 Illustrative Sections AA & BB – Pond 1B	August 2020
1.2.85	6958_103 Illustrative Sections AA & BB – Pond 2	August 2020
1.2.86	19012 P202 I2 Bulk Earthworks Bund Sections	March 2020
1.2.87	19012 P203 I2 Bulk Earthworks Additional Sections	July 2020
1.2.88	19012 P101 P5 Proposed Site Levels Sheet 1	January 2020
1.2.89	19012 P102 P4 Proposed Site Levels Sheet 2	January 2020
1.2.90	19012 P103 P4 Proposed Site Levels Sheet 3	January 2020
1.2.91	19012 P104 P4 Proposed Site Levels Sheet 4	January 2020
1.2.92	19012 P105 P5 Proposed Site Levels Sheet 5	January 2020
1.2.93	19012 P106 P5 Proposed Site Levels Sheet 6	January 2020
1.2.94	19012 P107 P5 Proposed Site Levels Sheet 7	January 2020

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No.	Document	Date
1.2.95	19012 P108 P4 Proposed Site Levels Sheet 8	January 2020
1.2.96	19012 P109 P4 Proposed Site Levels Sheet 9	January 2020
1.2.97	19012 P110 P4 Proposed Site Levels Sheet 10	January 2020
1.2.98	19012 P111 P3 Proposed Site Levels Sheet 11	March 2020
1.2.99	19012 P112 P3 Proposed Site Levels Sheet 12	March 2020
1.2.100	19072-TK06 – Fire Tender Swept Path Analysis	6 October 2020
1.2.101	19072-TK03-RevE – Refuse Vehicle Swept Path Analysis	5 October 2020
1.2.102	19-012-P01 – Proposed Drainage Strategy Plan – P5	February 2020
1.2.103	19-012-P02 Exceedance Flow Plan-P6	January 2020
1.3	*Reports submitted with original application*	
1.3.1	Planning statement	March 2020
1.3.2	Covering letter – minor amendment to Design and Access Statement	30 April 2020
1.3.3	Design and Access Statement (revised)	March 2020
1.3.4	Ground Appraisal Report	June 2018
1.3.5	Statement of Community Involvement	March 2020
1.3.6	Covering letter	2 June 2020
1.3.7	Residential dwelling units supplementary information	N/A
1.3.8	Arboricultural Method Statement	27 February 2020
1.3.9	Arboricultural Impact Assessment	27 February 2020
1.3.10	Detailed Drainage Strategy	March 2020
1.3.11	Landscape Statement	March 2020
2.	Additional application documents post-original submission (May/June 2020)	
2.1	Covering letter – ecology and figure updates	12 May 2020
2.2	Biodiversity Net Calculation spreadsheet	N/A
2.3	Covering letter – updated detailed drainage strategy	19 May 2020
2.4	Detailed drainage strategy	May 2020

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No.	Document	Date
2.5	Covering letter – Air Quality Assessment	3 June 2020
2.6	Air Quality Assessment	June 2020
2.7	Letter – clarification regarding affordable housing	21 May 2020
2.8	Letter – response to various queries	2 June 2020
3.	Amended application documents (September 2020)	
3.1	Covering letter – revised submission (new/updated reports and drawings)	9 September 2020
3.2	Design and Access Statement Addendum	August 2020
3.3	Planning Statement Addendum	August 2020
3.4	Landscape and Ecological Management Plan 2020	26 August 2020
3.5	Arboricultural Method Statement (Revised)	26 August 2020
3.6	Arboricultural Impact Assessment (Revised)	25 August 2020
3.7	Landscape Statement	August 2020
3.8	Archaeology and Built Heritage Addendum	27 August 2020
3.9	Revised Built Heritage and Archaeology Addendum: Earth Movements	21 August 2020
3.10	Detailed Drainage Strategy	August 2020
3.11	Air Quality Technical Note – HGV Assessment	August 2020
3.12	Alternative Site Assessment	August 2020
3.13	Supplementary Note on Site Access Visibility	September 2020
4.	Additional application documents (submitted post-September 2020)	
4.1	Covering letter – responses to consultee comments	10 September 2020
4.2	Covering letter –highways, open space, s106 obligations and additional plans	20 October 2020
4.3	Covering letter – landscape scheme and associated management provisions	18 December 2020
4.4	Landscape and Ecology Management Plan	December 2020
4.5	Arboricultural Impact Assessment	10 November 2020

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No.	Document	Date
4.6	Arboricultural Method Statement	10 November 2020
4.7	Landscape Statement	December 2020
4.8	Detailed Drainage Strategy	November 2020
4.9	Biodiversity Metric Calculation Tool	26 August 2020
4.10	Biodiversity Net Gain Report	26 October 2020
4.11	Covering email - updated plans	12 January 2021
4.12	Landscape and Ecology Management Plan	March 2021
4.13	Email – response to consultation comments	9 December 2020
5.	Environmental Statement	
5.0	Environmental Statement: Main Report – cover and contents	March 2020
5.1	*Chapter 1*	
5.1.1	Chapter 1 - Introduction	March 2020
5.1.2	Appendix 1.1 - ES Author(s) CVs	March 2020
5.2	*Chapter 2*	
5.2.1	Chapter 2 – Site Description and Proposed Development	March 2020
5.2.2	Appendix 2.1 – Proposed Levels (original submission)	March 2020
5.2.3	Appendix 2.1 – Proposed Levels (Revised)	August 2020
5.3	*Chapter 3*	
5.3.1	Chapter 3 – Methodology and Scope of the EIA	March 2020
5.3.2	Appendix 3.1 - Scoping Report	March 2020
5.3.3	Appendix 3.2 - TWBC Scoping Opinion	March 2020
5.3.4	Appendix 3.3 - Response to TWBC Scoping Opinion	March 2020
5.4	*Chapter 4*	
5.4.1	Chapter 4 – Traffic and Transport	March 2020
5.4.2	Appendix 4.1 – Transport Assessment	March 2020
5.4.3	Appendix 4.2 – Travel Plan	March 2020

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No.	Document	Date
5.4.4	Appendix 4.3 – Transport Assessment Addendum	August 2020
5.4.5	Transport Assessment Addendum II	October 2020
5.4.6	Transport Assessment Addendum III	January 2021
5.5	*Chapter 7*	
5.5.1	Chapter 7 – Socio-economics	March 2020
5.6	*Chapter 9*	
5.6.1	Chapter 9 - Ecology	March 2020
5.6.2	Not used	
5.6.3	Not used	
5.6.4	Not used	
5.6.5	Not used	
5.6.6	Not used	
5.6.7	Appendix 9.3 (Addendum) – Phase 2 Ecological Appraisal (*confidential*)	August 2020
5.6.8	Not used	
5.6.9	Not used	
5.6.10	Not used	
5.6.11	Not used	
5.6.12	Appendix 9.5 – Biodiversity Net Gain Calculation Report (revised)	October 2020
5.6.13	Biodiversity Metric – Calculation Tool spreadsheet	August 2020
5.6.14	Not used	
5.6.15	Not used	
5.6.16	Appendix 9.7 (Addendum) – Ancient Woodland Assessment	August 2020
5.6.17	Appendix 9.8 (Addendum) – Cranbrook Soil Compatibility Report	August 2020
5.7	*Chapter 10*	

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No.	Document	Date
5.7.1	Chapter 10 – Landscape and Visual Impact (original submission)	March 2020
5.7.2	Chapter 10 – Landscape and Visual Impact (revised)	August 2020
5.7.3	Figure 10.4 (revised) – Zone of Theoretical Visibility Study and Viewpoints	May 2020
5.7.4	Figure 10.5 (revised) – Zone of Theoretical Visibility Study, Zone of Visual Influence and Viewpoints	May 2020
5.7.5	Appendix 10.1 – Glossary	March 2020
5.7.6	Appendix 10.2 – Methodology	March 2020
5.7.7	Appendix 10.3 – Visualisations and ZTV Studies	March 2020
5.7.8	Appendix 10.4 – National Planning Policy	March 2020
5.7.9	Appendix 10.5 – Brick Kiln Farm Parameters Plan (16/502860/OUT)	March 2020
5.7.10	Appendix 10.6 – Turnden Farmstead Masterplan (18/02571/FULL)	March 2020
5.7.11	Appendix 10.7 - Extracts from Landscape Character Assessment	March 2020
5.7.12	Appendix 10.8 – Study Area and Viewpoint Agreement	March 2020
5.7.13	Appendix 10.9 - Extract from Kent County Council Public Rights of Way online Map	March 2020
5.7.14	Appendix 10.10 - Extracts from High Weald AONB Management Plan	March 2020
5.7.15	Appendix 10.11 - High Weald AONB Cranbrook Character Map (original submission)	March 2020
5.7.16	Appendix 10.11 (Addendum) - High Weald AONB Cranbrook Character Map	August 2020
5.7.17	Appendix 10.12 - Initial Assessment of Effects on High Weald AONB (original submission)	March 2020
5.7.18	Appendix 10.12 (Addendum) - Initial Assessment of Effects on High Weald AONB	August 2020
5.7.19	Appendix 10.13 – Extract from Campaign for the Protection of Rural England (CPRE) Light Pollution and Dark Skies Map	March 2020

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No.	Document	Date
5.7.20	Appendix 10.14 – Viewpoint 1, Baseline Photomontage of Brick Kiln Farm and Turnden Farmstead	March 2020
5.8	*Chapter 11*	
5.8.1	Chapter 11 – Archaeology and Cultural Heritage	March 2020
5.8.2	Appendix 11.1 – Baseline Heritage Statement (original submission)	March 2020
5.8.3	Appendix 11.1 (Addendum) – Baseline Heritage Statement	August 2020
5.8.4	Appendix 11.2 – Desk Based Assessment (Archaeological) (original submission)	March 2020
5.8.5	Appendix 11.2 (Addendum) – Desk Based Assessment (Archaeological)	August 2020
5.9	*Chapter 12*	
5.9.1	Chapter 12 – Summary	March 2020
5.10	*Chapter 13*	
5.10.1	Chapter 13 – Glossary of Terms and Abbreviations	March 2020
5.11	*Non-Technical Summary*	
5.11.1	Environmental Statement – non-technical summary	March 2020
5.12	*Environmental Statement: Soil Movement Addendum*	
5.12.1	Environmental Statement: Addendum	April 2020
5.12.2	Appendix 2.1 – Existing and Proposed Site Levels	March 2020
5.12.3	Bulk Earthworks Turnden Farmstead Bund Sections (Drawing 19-012/P202 Rev I2)	March 2020
5.12.4	Bulk Earthworks Turnden Phase 2 Bund Sections (Drawing 19-012/P201 Rev I2)	March 2020
5.12.5	Spoil Heap Placement Overall Plan (Drawing 19-012/P200 Rev I2)	March 2020
6.	Key consultation responses	
6.1	*Consultee: Campaign for the Protection of Rural England*	
6.1.1	Campaign for the Protection of Rural England, Kent – Correspondence	7 May 2020

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No.	Document	Date
6.1.2	Campaign for the Protection of Rural England, Kent – Correspondence	27 October 2020
6.1.3	Campaign for the Protection of Rural England, Kent – Comments	25 January 2021
6.2	*Consultee: Cranbrook & Sissinghurst Parish Council*	
6.2.1	Cranbrook & Sissinghurst Parish Council – Consultee Comments	29 April 2020
6.2.2	Cranbrook & Sissinghurst Parish Council – Correspondence	30 April 2020
6.2.3	Cranbrook & Sissinghurst Parish Council – Correspondence	6 May 2020
6.2.4	Cranbrook & Sissinghurst Parish Council – "Section 2 Project Costs" – Appendix to correspondence dated 6 May 2020	N/A
6.2.5	Cranbrook & Sissinghurst Parish Council – Consultee Comments	6 October 2020
6.2.6	Cranbrook & Sissinghurst Parish Council – Consultee Comments	4 November 2020
6.2.7	Cranbrook & Sissinghurst Parish Council – Consultee Comments	19 November 2020
6.2.8	Cranbrook & Sissinghurst Parish Council – Correspondence	26 January 2021
6.3	*Consultee: Forestry Commission*	
6.3.1	Forestry Commission – correspondence	21 April 2020
6.3.2	Forestry Commission – correspondence	5 October 2020
6.4	*Consultee: Hawkhurst Parish Council*	
6.4.1	Hawkhurst Parish Council – correspondence	26 May 2020
6.4.2	Hawkhurst Parish Council – Letter - Attachment to correspondence dated 26 May 2020	26 May 2020
6.5	*Consultee: High Weald AONB Unit*	
6.5.1	High Weald AONB Unit – Letter with three appendices: • Appendix 1 – Detailed comments on the submitted documents;	12 May 2020

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No.	Document	Date
	• Appendix 2 – Report by Nicola Bannister on 'Hartley and Turnden, Cranbrook Historic Landscape Assessment' and responses to Archaeological Desk-Based Assessment and Addendum; • Appendix 3 – Report by Kate Ryland, BSc, CEnv, MCIEEM of Dolphin Ecological Surveys on the ecological information submitted.	
6.5.2	Not used	
6.5.3	Not used	
6.5.4	Not used	
6.5.5	Not used	
6.5.6	Not used	
6.5.7	High Weald AONB Unit – Letter	12 October 2020
6.6	*Consultee: Historic England*	
6.6.1	Historic England – Correspondence dated 17 April 2020	17 April 2020
6.6.2	Historic England – Email appending Letter from Historic England to TWBC regarding application	27 May 2020
6.6.3	Historic England – Letter following scheme revisions	18 September 2020
6.7	*Consultee: KCC Economic Development*	
6.7.1	KCC Economic Development – Correspondence	14 April 2020
6.7.2	KCC Economic Development - Appendix 1 to correspondence of 14 April 2020	9 April 2020
6.7.3	KCC Economic Development - Appendix 2 to correspondence dated 14 April 2020	14 April 2020
6.7.4	KCC Economic Development – Correspondence	21 September 2020
6.7.5	KCC Economic Development – Appendix to correspondence of 21 September 2020	21 September 2020
6.8	*Consultee: KCC Heritage*	
6.8.1	KCC Heritage – Correspondence	4 May 2020
6.8.2	KCC Heritage – Correspondence	5 October 2020

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No.	Document	Date
6.9	*Consultee: KCC Highways*	
6.9.1	KCC Highways – Correspondence	3 September 2020
6.9.2	KCC Highways – "Road Layout Appraisal CA 185 Vehicle Speed Measurement" – Attachment to correspondence dated 3 September 2020	N/A
6.9.3	KCC Highways - Correspondence	17 September 2020
6.9.4	KCC Highways – Technical Note prepared by Project Centre, "Review of ARCADY / PICADY / LINSIG Modelling" - Attachment to Correspondence dated 17 September 2020	September 2020
6.9.5	KCC Highways – Correspondence	22 September 2020
6.9.6	KCC Highways - Correspondence	16 December 2020
6.9.7	KCC Highways - Correspondence	7 January 2021
6.9.8	KCC Highways – Business case for the retention and/or enhancement of bus services in Cranbrook	N/A
6.10	*Consultee: KCC Public Rights of Way and Access Service*	
6.10.1	KCC Public Rights of Way and Access Service – Correspondence	27 April 2020
6.10.2	KCC Public Rights of Way and Access Service – "Extract of the Working Copy of the Definitive Map of Public Rights of Way for the County of Kent", Issue Date 27/04/2020 - Appendix to Correspondence dated 27 April 2020	27 April 2020
6.10.3	KCC Public Rights of Way and Access Service – Correspondence	2 October 2020
6.11	*Consultee: Kent Wildlife Trust*	
6.11.1	Kent Wildlife Trust – Correspondence	28 April 2020
6.11.2	Kent Wildlife Trust - Correspondence	20 May 2020
6.11.3	Kent Wildlife Trust - Correspondence	13 August 2020
6.12	*Consultee: Natural England*	
6.12.1	Natural England - Correspondence	3 June 2020
6.12.2	Natural England - Correspondence	13 October 2020

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No.	Document	Date
6.13	*Consultee: TWBC Conservation Officer*	
6.13.1	TWBC Conservation Officer – "Design and Heritage Consultation Response "	12 May 2020
6.13.2	TWBC Conservation Officer – "Design and Heritage Consultation Response - ADDENDUM"	6 October 2020
6.14	*Consultee: TWBC Landscape & Biodiversity Officer*	
6.14.1	TWBC Landscape and Biodiversity Officer – Consultee comments (Richard)	5 May 2020
6.14.2	TWBC Landscape and Biodiversity Officer – Consultee comments addendum (Richard)	1 June 2020
6.14.3	TWBC Landscape and Biodiversity Officer – Consultee comments addendum (Richard)	22 December 2020
6.14.4	TWBC Landscape and Biodiversity Officer – Correspondence	13 January 2021
6.14.5	TWBC Landscape and Biodiversity Officer – Correspondence	10 March 2021
6.15	*Consultee: TWBC Parking Services*	
6.15.1	TWBC Parking Services - Correspondence	7 April 2020
6.16	*Consultee: TWBC Tree Officer*	
6.16.1	TWBC Tree Officer – "Tree Officer Consultation" – Consultee comments	5 June 2020
6.16.2	TWBC Tree Officer – Correspondence	3 November 2020
6.16.3	TWBC Tree Officer – Correspondence	15 December 2020
6.17	*Consultee: Woodland Trust*	
6.17.1	Woodland Trust – Correspondence	28 April 2020
6.17.2	Woodland Trust – Correspondence	29 October 2020
6.18	*Consultee: TWBC Planning Environmental Officer*	
6.18.1	TWBC Planning Environmental Officer – Memorandum	2 May 2020
6.19	*Consultee: NHS Kent and Medway CCG*	
6.19.1	Letter – section 106 request	22 September 2020

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No.	Document	Date
6.20	*Consultee: TWBC Environmental Health Officer*	
6.20.1	TWBC Environmental Health Officer – Consultee comments	24 April 2020
6.20.2	TWBC Environmental Health Officer – Consultee comments	7 July 2020
6.21	*Consultee: TWBC Senior Scientific Officer*	
6.21.1	TWBC Senior Scientific Officer – Consultee comments	16 September 2020
6.22	*Neighbour response: Cranbrook & Sissinghurst Neighbourhood Development Plan Group*	
6.22.1	Correspondence – Cranbrook & Sissinghurst Neighbourhood Development Plan Group	10 May 2020
6.23	*Neighbour response: Hartley Save Our Fields*	
6.23.1	Correspondence – Hartley Save Our Fields	11 May 2020
6.24	*Neighbour response: Liz Daley*	
6.24.1	Correspondence – Liz Daley	7 May 2020
6.24.2	Correspondence – Liz Daley	5 June 2020
6.25	*Neighbour response: Philippa Gill*	
6.25.1	Comments – Philippa Gill	8 May 2020
6.25.2	Comments – Philippa Gill	15 October 2020
6.26	*Neighbour response: Philip Govan*	
6.26.1	Comments – Philip Govan	15 May 2020
6.27	*Neighbour response: June Bell*	
6.27.1	Comments – June Bell	21 April 2020
6.27.2	Correspondence – June Bell	3 June 2020
6.27.3	Comments – June Bell	13 November 2020
7.	Determination documents	
7.1	Committee Report	27 January 2021
7.2	Case officer update to Members at 27 January 2021 Planning Committee Meeting	N/A

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No.	Document	Date
7.3	Planning Committee Meeting Minutes	27 January 2021
7.4	Presentation to Members for 27 January 2021 Planning Committee Meeting	N/A
7.5	Section 106 agreement between Tunbridge Wells Borough Council, Kent County Council and Berkeley Homes (Eastern Counties) Limited	30 March 2021
8.	Call-in correspondence with PINS and Secretary of State	
8.1	Letter from Secretary of State to Applicant – decision to call in planning application 20/00815/FULL	12 April 2021
8.2	Letter from Ashurst to PINS – inquiries procedure	29 April 2021
8.3	Letter from PINS to TWBC – inquiry procedure	4 May 2021
8.4	Letter from PINS to Applicant – inquiry procedure	4 May 2021
8.5	Not used	
8.6	Letter from PINS – confirmation of Rule 6 status of HWAONB	17 May 2021
8.7	Letter from Ashurst to PINS – inquiry procedure	17 May 2021
8.8	Various email correspondence	April – June 2021
8.9	CPRE Kent Call In Letter	15 April 2021
9.	Call-in documents	
9.1	Statement of Common Ground between the Applicant and TWBC	18 June 2021
9.1.1	Statement of Common Ground between the Applicant and TWBC (Addendum)	24 August 2021
9.2	Statement of Common and Uncommon Ground between the Applicant, TWBC and Natural England	29 July 2021
9.3	Applicant's Statement of Case	June 2021
9.4	Tunbridge Wells Borough Council Statement of Case and appendices (unless included elsewhere in the CDs)	N/A
9.5	High Weald AONB Unit Statement of Case and Appendix	N/A
9.6	Natural England Statement of Case	17 June 2021

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No.	Document	Date
9.7	CPRE Kent Statement of Case and appendices (unless included elsewhere in the CDs)	17 June 2021
9.7.1	CPRE Kent Statement of Case – Appendix 4: Draft statement of Nancy Warne including AECOM Site Assessment July 2017, AECOM Housing Needs Assessment and AECOM Strategic Environmental Assessment July 2019	July 2017 and July 2019
9.7.2	CPRE Kent Statement of Case – Appendix 5 - Report of Dr Claire Holman of Air Pollution Services	14 June 2021
9.7.3	CPRE Kent Statement of Case – Appendix 6 - CPRE Kent's response to the pre-submission version of the Local Plan	N/A
9.7.4	CPRE Kent Statement of Case – Appendix 7 - the Secretary of State for Housing Communities and Local Government letter to Roger Gale MP on 21 April	21 April 2021
9.7.5	CPRE Kent Statement of Case – Appendix 8 - Draft statement of Liz Daley (including June Bells submission)	N/A
9.7.6	CPRE Kent Statement of Case – Appendix 1 – The transcript of the virtual Committee meeting on 27th January 2021	27 January 2021
9.8	Statement of Common Ground between Applicant and CPRE relating to Air Quality	12 August 2021
9.9	Planning Inspectorate Pre-Case Management Conference Note	19 July 2021
9.10	Planning Inspectorate Case Management Conference Summary Note	26 July 2021
9.11	KCC Economic Development Statement of Case Covering Email	4 June 2021
9.12	KCC Economic Development Statement of Case	N/A
9.13	KCC Economic Development Statement of Case Appendix 1	30 March 2021
9.14	KCC Economic Development Statement of Case Appendix 2	14 April 2020
9.15	KCC Economic Development Statement of Case Appendix 3	9 April 2020

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No.	Document	Date
9.16	KCC Economic Development Statement of Case Appendix 4	26 May 2021
9.17	KCC Economic Development Statement of Case Appendix 5	16 December 2020
9.18	Statement of Common and Uncommon Ground between the Applicant, TWBC and CPRE Kent	24 August 2021
9.19	Statement of Common and Uncommon Ground between the Applicant, TWBC and the High Weald AONB Unit	13 August 2021
9.20	Statement of Common Ground agreed between Kent County Council and Vectos (on behalf of Berkeley Homes)	August 2021
10.	National policy and practice guidance	
10.1	Comparison showing changes between the National Planning Policy Framework July 2021 against February 2019	20 July 2021 and February 2019
10.2	National Planning Practice Guidance: Design Process and Tools	1 October 2019 (last updated)
10.3	National Planning Practice Guidance: Determining planning applications	24 June 2021 (last updated)
10.4	National Planning Practice Guidance: Climate change	15 March 2019 (last updated)
10.5	National Planning Practice Guidance: Historic environment	23 July 2019 (last updated)
10.6	National Planning Practice Guidance: Natural environment	21 July 2019 (last updated)
10.7	National Planning Practice Guidance: Air Quality	1 November 2019 (last updated)
10.8	National Planning Practice Guidance: Transport evidence bases in plan making and decision taking	13 March 2015 (published)
10.9	National Planning Practice Guidance: Travel Plans, Transport Assessments and Statements	6 March 2014 (published)
10.10	National Design Guide	January 2021
10.11	National Model Design Code – Part 1	June 2021
10.12	National Model Design Code – Part 2	June 2021

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No.	Document	Date
11.	Development Plan policies	
11.1	Site Allocations Local Plan (adopted 2016) - Policy AL/STR 1: Limits to Built Development	July 2016
11.2	Site Allocations Local Plan (adopted 2016) – Policy AL/CR 4 (Land adjacent to the Crane Valley) and AL/CR 6 (Wilkes Field)	July 2016
11.3	Site Allocations Local Plan Adopted July 2016 - Cranbrook Proposals Map	July 2016
11.4	Tunbridge Wells Borough Council Core Strategy 2010 • Chapters 1-4 • Strategic Objective 1; • Strategic Objective 4; • Strategic Objective 7; • Core Policy 1: Delivery of Development; • Core Policy 3: Transport Infrastructure; • Core Policy 4: Environment; • Core Policy 5: Sustainable Design and Construction; • Core Policy 6: Housing Provision; • Core Policy 8: Retail, Leisure and Community Provision; • Core Policy 12: Development in Cranbrook; • Core Policy 13: Development in Hawkhurst; • Core Policy 14: Development in Villages and Rural Areas.	June 2010
11.5	Tunbridge Wells Borough Local Plan 2006 - Introduction and strategy chapters	March 2006
11.6	Tunbridge Wells Borough Local Plan 2006 – Policy CS4: Development contributions to school provision for developments over 10 bedspaces	March 2006
11.7	Tunbridge Wells Borough Local Plan 2006 • Policy EN1: Development Control Criteria	March 2006

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No.	Document	Date
	• Policy EN5: Conservation Areas • Policy EN10: Archaeological sites • Policy EN13: Tree and Woodland Protection • Policy EN16: Protection of Groundwater and other watercourses • Policy EN18: Flood Risk • Policy EN25: Development affecting the rural landscape	
11.8	Tunbridge Wells Borough Local Plan 2006 - Policy H2: Dwelling mix	March 2006
11.9	Tunbridge Wells Borough Local Plan 2006 - – Chapter 5 (Town, Neighbourhood and Village Centres (incorporating Retail Development): • Chapter 5, paragraph 5.1 – 5.38 • Chapter 5, paragraph 5.116 – 5.129	March 2006
11.10	Tunbridge Wells Borough Local Plan 2006 – Policy LBD1: Development outside the Limits to Built Development	March 2006
11.11	Tunbridge Wells Borough Local Plan 2006 - Policy R2: Recreation and Open Space over 10 bedspaces	March 2006
11.12	Tunbridge Wells Borough Local Plan 2006 • Chapter 11: Introduction • Policy TP1: Major development requiring Transport Assessment and Travel Plan • Policy TP3: Larger scale residential development • Policy TP4: Access to Road Network • Policy TP5: Vehicle Parking Standards • Policy TP9: Cycle Parking	March 2006
11.13	Inspector's Report to Tunbridge Wells Borough Council on the Examination into the TWBC Site Allocations Local Plan	9 June 2016
12. Other local policy and guidance		
12.1	Kent County Council Local Transport Plan 4	N/A

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No.	Document	Date
12.2	Rural Lanes SPD	January 1998
12.3	Recreation and Open Space SPD	July 2006
12.4	Affordable Housing SPD	October 2007
12.5	Renewable Energy SPD	April 2007
12.6	Renewable Energy SPD (update)	January 2014
12.7	2019 Energy Policy Position Statement	July 2019
12.8	Tunbridge Wells Borough: Landscape Character Assessment Supplementary Planning Document	December 2017
12.9	Tunbridge Wells Borough Local Plan – Farmsteads Assessment Guidance for Tunbridge Wells Borough	February 2016
12.10	Cranbrook Conservation Area Appraisal plus townscape map	June 2010
12.11	Kent Design Guide	N/A
12.12	Kent Design Guide Review: Interim Guidance Note 3 (Residential parking)	20 November 2008
12.13	High Weald AONB Management Plan 2019-24	2019
12.14	TWBC - Planning Position Statement for proposed developments which may impact on air quality in Hawkhurst	June 2020
12.15	High Weald Housing Design Guide	November 2019
12.16	Five-Year Housing Land Supply Statement 2020/2021	Position as at 1 April 2021
12.17	Legislation and Planning Policy in the High Weald AONB	July 2021
12.18	TWBC map showing position of site relative to Cranbrook Conservation Area	28 April 2021
12.19	Local Landscape Character Area (TWLCA) – LCA 4: Cranbrook Fruit Belt	February 2017
12.20	Local Landscape Character Area (TWLCA) – LCA 6: Benenden Wooded Farmland	February 2017
12.21	Local Landscape Character Area (TWLCA) – LCA 10: Kilndown Wooded Farmland	February 2017

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No.	Document	Date
12.22	Landscape Sensitivity Assessment of additional settlements in Tunbridge Wells Paddock Wood, Horsmonden, Hawkhurst, Cranbrook	July 2018
12.23	Landscape Character Assessment and Capacity Study: • Volume 1: Main Report • Volume 2: Tables 1-3 - Criteria • Volume 2, Figure 9: Table 7 – Character Area Landscape Capacity Evaluation Cranbrook	March 2009
13.	Neighbourhood plan	
13.1	Draft Cranbrook Neighbourhood Plan – Regulation 14 version	October 2020
14.	Draft Plan and relevant evidence base	
14.1	*General*	
14.1.1	Pre-Submission Local Plan – Regulation 19 Consultation: Section 2: Setting the Scene Policies: • STR 1: Development Strategy; • STR 2: Place Shaping and Design; • STR 6: Transport and Parking; • STR 7: Climate Change; • STR 8: Conserving and Enhancing the Natural, Built, and Historic Environment; • AL/CRS 1: Land at Brick Kiln Farm, Cranbrook; • AL/CRS 3: Turnden Farm, Hartley Road, Cranbrook; • AL/CRS 4: Cranbrook School; • EN1: Sustainable Design; • EN2: Sustainable Design Standards; • EN4: Historic Environment; • EN5: Heritage Assets;	N/A

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No.	Document	Date
	• EN9: Biodiversity Net Gain; • EN12: Trees, Woodland, Hedges and Development; • EN13: Ancient Woodland and Veteran Trees; • EN19: The High Weald Area of Outstanding Natural Beauty; • EN21: Air Quality; • EN 22: Air Quality Management Areas; • H1: Housing Mix; • H2: Housing Density; • H3: Affordable Housing; • TP1: Transport Assessments/Statements and Travel Plans; • TP3: Parking Standards; • STR/CRS 1: The Strategy for Cranbrook & Sissinghurst Parish; • STR/HA 1: The Strategy for Hawkhurst Parish	
14.1.2	Sustainability Appraisal of the Draft Local Plan: • Non-technical summary • Cranbrook and Sissinghurst	September 2019
14.1.3	Natural England's comments on Landscape Policies on the Rural Landscape and the AONB, Biodiversity and ecology policies	23 October 2018
14.1.4	Natural England Regulation 19 consultation response to TWBC Local Plan	4 June 2021
14.1.5	High Weald AONB Unit comments on Regulation 19 plan	N/A
14.1.6	CPRE comments on the Regulation 19 plan	N/A
14.1.7	Natural England final Regulation 18 consultation response to TWBC Local Plan	15 November 2019
14.2 *Evidence base: Housing*		
14.2.1	Distribution of Development Topic Paper	September 2019

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No.	Document	Date
14.2.2	Development Strategy Topic Paper	February 2021
14.2.3	Housing Needs Assessment Topic Paper	August 2019
14.2.4	Housing Needs Assessment Topic Paper	February 2021
14.2.5	Review of Local Housing Needs	December 2020
14.2.6	Housing Needs Study	July 2018
14.2.7	Housing Supply and Trajectory Topic Paper	September 2019
14.2.8	Strategic Housing and Economic Land Availability Assessment	January 2021
14.2.8(a)	Strategic Housing and Economic Land Availability Assessment – Site assessment sheets for Cranbrook & Sissinghurst Parish	January 2021
14.2.8(b)	Strategic Housing and Economic Land Availability Assessment – Site assessment sheets for Cranbrook & Sissinghurst Parish (addendum)	April 2021
14.2.9	Strategic Housing Market Assessment Update 2017	January 2017
14.2.10	Brownfield and Urban Land Topic Paper	January 2021
14.3 *Evidence base: Environment and landscape*		
14.3.1	Not used	
14.3.2	Development Constraints Study	October 2016
14.3.3	Green Infrastructure Framework	September 2019
14.3.4	Not used	
14.3.5	Not used	
14.3.6	Historic Environment Review – Part 1	January 2018
14.3.7	Historic Landscape Characterisation 2017 – Section I User Guide & Interpretation	June 2017
14.3.8	Historic Landscape Characterisation: Parishes of Hawkhurst, Cranbrook, Goudhurst, and Benenden 2015	August 2015
14.3.9	Tunbridge Wells – Landscape and Visual Impact Assessment of Proposed Allocation Sites within the High Weald AONB (Issue 3)	November 2020

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No.	Document	Date
14.3.9(a)	Tunbridge Wells – Landscape and Visual Impact Assessment of Proposed Allocation Sites within the High Weald AONB (Issue 3) –Cranbrook sites	November 2020
14.3.10	Landscape Sensitivity Assessment Report – Main Report	February 2017
14.3.11	Landscape Sensitivity Assessment Report – Sub Area Assessments Part 1	February 2017
14.3.12	Landscape Sensitivity Assessment Report – Sub Area Assessments Part 2	February 2017
14.3.13	Not used	
14.4	*Correspondence relating to Local Plan Inspector*	
14.4.1	Correspondence from Local Plan Inspector to Sevenoaks District Council	December 2019
14.4.2	Correspondence from Local Plan Inspector to Tonbridge and Malling Borough Council	December 2020
14.4.3	Correspondence from Tonbridge and Malling Borough Council to Local Plan Inspector	March 2021
15.	Heritage documents	
15.1	Historic England guidance note, Good Practice Advice in Planning Note 3 – The Setting of Heritage Assets	December 2017
15.2	Listed Building Details – The Cottage, Hartley Road	Entry on 28 April 2021
15.3	Listed Building Details – Cranbrook War Memorial, Angley Road	Entry on 28 April 2021
15.4	Listed Building Details – Barn at Goddard's Green Farm, Angley Road	Entry on 28 April 2021
15.5	Listed Building Details – Goddards Green Farmhouse, Angley Road	Entry on 28 April 2021
15.6	Not used	
15.7	Listed Building Details – Turnden (now delisted)	Listing date – 19 May 1986
15.8	Historic England Good Practice Advice Note, No. 2, 'Managing Significance in Decision-Taking in the Historic Environment'	July 2015
16.	Landscape and AONB documents	

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No.	Document	Date
16.1	Guidelines for Landscape and Visual Impact Assessment (GLVIA) third edition: • Glossary • Chapter 3 • Chapter 4 • Chapter 7	April 2013
16.2	National Landscape Character Areas: NCA 122 High Weald (NE 508)	N/A
16.3	Natural England Standard: Responding to consultations on development (NESTND037)	1 September 2016
16.4	HWAONB Cranbrook Landscape Character Maps: • GIS character component data • Ancient woodland map • Historic settlement map • Historic routeways map • Field & Heath map • Geology, landform, water systems & climate map	August 2018
16.5	Kent County Council, 'Natural Solutions to Climate Change in Kent'	18 March 2021
16.6	HWAONB: The Making of the High Weald	November 2003
16.7	CPRE – Beauty Still Betrayed: State of our AONBs (2021)	April 2021
16.8	An Independent Review of Housing In England's Areas of Outstanding Natural Beauty 2012-2017 Final Report, prepared by David Dixon, Neil Sinden and Tim Crabtree	November 2017
16.9	DEFRA: The Landscapes Review ('The Glover Report')	September 2019
16.10	Minutes of High Weald Officer Steering Group	25 November 2020
16.11	Grassland Assessment Survey of Selected Sites within the High Weald AONB	September 2020
16.12	Historic England, Farmstead and Landscape Statement: High Weald (National Character Area 122)	N/A

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No.	Document	Date
16.13	*England's statutory landscape designations: a practical guide to your duty of regard* (Natural England, 2010)	2010
16.14	Biodiversity Metric 3.0 documents: • Biodiversity Metric 3.0 - habitat condition assessment sheets with instructions • Summary of Changes from Biodiversity Metric 2.0 to Metric 3.0 • Biodiversity Metric 3.0 - User Guide, • Biodiversity Metric 3.0 - Technical Supplement • Biodiversity Metric 3.0 - Short User Guide	July 2021
16.15	Biodiversity Metric 2.0 documents: • The Biodiversity Metric 2.0 - User Guide • The Biodiversity Metric 2.0 - Technical Supplement • The Biodiversity Metric 2.0 - Calculation Tool: User Guide	July & October 2019
16.16	Natural England advice to TWBC on of LVIA in assessing candidate major development allocations sites within the High Weald AONB	1 May 2020
16.17	CIRIA, Biodiversity Net Gain: Good practice principles for development	2016
16.18	Biodiversity Net Gain: Good practice principles for development, A Practical Guide	2019
16.19	UK Habitat Classification Field Key	N/A
16.20	The UK Habitat Classification – Habitat Definitions Version 1.1	September 2020
16.21	Natural England Technical Information Note TIN050: Selecting Indicators of Success for Grassland Enhancement	20 January 2009
16.22	Nicola Bannister, Field Systems Character Statement: Field Systems in the High Weald	March 2017
16.23	Dr Ronald B Harris, Summary of Historic Settlement Development in the High Weald	September 2011
16.24	Forum Heritage Services, Historic Farmsteads & Landscape Character in the High Weald AONB	2008
16.25	Not used	
16.26	Zu Ermgassen et al, Exploring the ecological outcomes of mandatory biodiversity net gain using evidence from early-adopter jurisdictions in England	23 May 2021
16.27	Correspondence on BNG research between David Scully and Sophus Zu Ermgassen	29 January 2021
16.28	A landscape approach to field system assessment: Towards an assessment framework for fields in the planning system	March 2017
16.29	Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England, Natural England 2011	2 March 2011

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No.	Document	Date
16.30	An Approach to Landscape Character Assessment, Natural England 2014	October 2014
16.31	Commons, Greens and Settlement in the High Weald, Dr Nicola Bannister 2011	July 2011
16.32	JNCC (2010) Handbook for Phase 1 habitat survey	2010
16.33	A National Vegetation Classification (NVC) Survey Land East of Oxford Road, Calne, Wiltshire	N/A
16.34	Natural England (2013), National Vegetation Classification: MG5 grassland: Technical Information Note TIN147	2 April 2013
17.	Transport documents	
17.1	Institute of Highways and Transportation: Planning for Walking, 2015	March 2015
17.2	Institute of Highways and Transportation: Planning for Cycling, 2015	October 2014
17.3	National Travel Survey	5 August 2020
17.4	Manual for Streets (2007) (MS 2)	September 2010
18.	Recent planning permissions granted by TWBC / planning applications made to TWBC	
18.1	Turnden, Hartley Road, Cranbrook Kent (18/02571/FULL) – Decision Notice	26 February 2019
18.2	Turnden, Hartley Road, Cranbrook Kent (18/02571/FULL) – Officer's Report	13 December 2018
18.3	Turnden, Hartley Road, Cranbrook Kent (18/02571/FULL) – Natural England Consultation Comments	7 September 2018 and 21 November 2018
18.4	Brick Kiln Farm High Street Cranbrook Kent (16/502860/OUT) – Decision Notice	17 February 2020
18.5	Brick Kiln Farm High Street Cranbrook Kent (16/502860/OUT) – Committee Report	28 March 2018
18.6	Brick Kiln Farm High Street Cranbrook Kent (16/502860/OUT) – Design Principles	August 2017
18.7	Brick Kiln Farm High Street Cranbrook Kent (16/502860/OUT) – Parameter Plan Drawing number 7115-L-02 Rev M, Green Infrastructure	28 July 2017
18.8	Brick Kiln Farm High Street Cranbrook Kent (16/502860/OUT) – Master Plan Drawing 7115-L-26 Rev H	17 October 2017

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No.	Document	Date
18.9	Brick Kiln Farm High Street Cranbrook Kent (16/502860/OUT) – Natural England Consultation Comments	2 June 2016 and 13 October 2017
18.10	Wilkes Field Community Centre Cranbrook Kent (16/503953/FULL) – Decision Notice	7 September 2016
18.11	Wilkes Field Community Centre Cranbrook Kent (16/503953/FULL) – Officer's Report	31 August 2016
18.12	Brick Kiln Farm High Street Cranbrook Kent (20/00814/REM) – Withdrawal Notice	4 March 2021
18.13	Brick Kiln Farm High Street Cranbrook Kent (20/00814/REM) – Detailed Layout Plan Drawing 7115-L-100 AA	16 September 2020
18.14	Turnden, Hartley Road, Cranbrook Kent (18/02571/FULL) – High Weald AONB Unit Consultation Comments	27 September 2018
18.15	Turnden, Hartley Road, Cranbrook Kent (18/02571/FULL) – Design and Access Statement	August 2018
18.16	Turnden, Hartley Road, Cranbrook Kent (21/01379/FULL) – Design and Access Statement (Addendum)	April 2021
18.17	Turnden, Hartley Road, Cranbrook Kent (18/02571/FULL) – Replacement Farmhouse & Revised Layout Plan	April 2021
18.18	Turnden, Hartley Road, Cranbrook Kent (21/01379/FULL) – view of new farmhouse	N/A

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No.	Document	Date
18.19	Brick Kiln Farm High Street Cranbrook Kent (16/502860/OUT) – High Weald AONB Unit Comments via email	26 September 2017
18.20	Brick Kiln Farm High Street Cranbrook Kent (16/502860/OUT) – High Weald AONB Unit Consultation Comments	N/A
18.21	Brick Kiln Farm High Street Cranbrook Kent (20/00814/REM) – High Weald AONB Unit Comments	5 June 2020
18.22	Brick Kiln Farm High Street Cranbrook Kent (16/502860/OUT) – Landscape and Visual Appraisal Addendum	August 2017
18.23	Land Adjacent Wilsley Farm, Angley Road, Cranbrook, Kent (20/003816/FULL) – Decision Notice	6 April 2021
18.24	Land off Angley Road, Cranbrook, Kent (21/00519/FULL) – Decision Notice	27 May 2021
18.25	Land Adjacent Frisco Cottage, Hawkhurst Road, Cranbrook, Kent (21/00602/FULL) – Decision Notice	13 May 2021
18.26	Brick Kiln Farm High Street Cranbrook Kent (20/00814/REM) – Committee Report	27 January 2021
19.	Appeal and call-in decisions	
19.1	Steel Cross, Crowborough (WD/2013/2410/MEA) – Appeal APP/C1435/A/14/2223431	16 July 2015
19.2	Not used	
19.3	Land at Perrybrook (12/01256/OUT) – Appeal APP/G1630/V/14/2229497	31 March 2016
19.4	CABI International (P15/S3387/FUL) – Appeal APP/Q3115/W/16/3165351	31 August 2017
19.5	Old Red Lion Great Missenden – Appeal APP/X0415/W/18/3202026	4 September 2018
19.6	Land at Citroen Site, Capital Interchange Way (GLA/4279 & 01508/A/P6) – Appeal APP/G6100/V/19/3226914 (extracts only)	10 September 2020
19.7	Land to the west of Heartenoak Road, Hawkhurst (18/03976/OUT) – Appeal APP/M2270/W/20/3247397	6 November 2020

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No.	Document	Date
19.8	Land at Gate Farm, Hartley Road, Hartley, Cranbrook (19/02170/OUT) - Appeal APP/M2270/W/20/3247977	10 February 2021
19.9	Not used	
19.10	Little Sparrows, Sonning Common, Oxfordshire RG4 9NY (P19/S4576/O) – Appeal APP/Q3115/W/20/3265861	25 June 2021
19.11	Land south of High Street Milton-under-Wychwood – Appeal APP/D3125/W/3143885	26 July 2016
19.12	Land to the west of Leamington Road, Broadway, Worcestershire – APP/H1840/A/14/2224292	2 July 2015
19.13	Land south of Newhouse Farm, Old Crawley Road, Horsham – Appeal APP/Z3825/W/21/3266503	30 July 2021
20. Case law		
20.1	*R. (on the application of Prideaux) v Buckinghamshire CC* [2013] Env. L.R. 32	29 April 2013
20.2	*Bedford BC v SSCLG* [2013] EWHC 2847 (Admin)	26 July 2013
20.3	*Mordue v SSCLG* [2015] EWCA Civ 1243	3 December 2015
20.4	*R (Luton) v Central Beds* [2015] 2 P&CR 19	20 May 2015
20.5	*SSCLG v Wealden DC* [2018] Env LR 5	31 January 2017
20.6	*Hawkhurst PC v Tunbridge Wells DC* [2020] EWHC 3019 (Admin)	11 November 2020
20.7	*R. (Mevagissey Parish Council) v Cornwall Council* [2013] EWHC 3684 (Admin)	27 November 2013
20.8	*Monkhill Ltd v Secretary of State for Housing, Communities and Local Government* [2021] EWCA Civ 74	28 January 2021
20.9	*City and Country Bramshill Limited v SSCLG* [2021] EWCA Civ 320	9 March 2021
20.10	*Peel Investments (North) Limited v SSHCLG and Salford City Council [2020] EWCA Civ 1175*	3 September 2020
20.11	*Suffolk Coastal DC v Hopkins Homes Ltd; and Richborough Estates Partnership LLP v Cheshire East BC* [2017] UKSC 37	10 May 2017
20.12	*Wavendon Properties v SSHCLG & Milton Keynes Council* [2019] EWHC 1524 (Admin)	14 June 2019

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No.	Document	Date
20.13	*Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314	8 September 2017
20.14	*SSCLG and Knight Developments v Wealden District Council* [2017] EWCA Civ 39	31 January 2017
20.15	*R (on the application of Advearse) v Dorset Council* [2020] EWHC 807 (Admin)	6 April 2020
20.16	*Catesby Estates Ltd v Steer* [2018] EWCA Civ 1697	18 July 2018
20.17	*Compton PC v Guildford BC* [2020] JPL 661	4 December 2019
21.	Relevant legislation	
21.1	Not used	
21.2	Section 99 of the Natural Environment and Rural Communities Act 2006	2006
21.3	Section 38 of the Planning and Compulsory Purchase Act 2004	2004
21.4	Section 82 of the Countryside and Rights of Way Act 2000	2000
21.5	Section 84 of the Countryside and Rights of Way Act 2000	2000
21.6	Section 85 of the Countryside and Rights of Way Act 2000	2000
21.7	Section 92 of the Countryside and Rights of Way Act 2000	2000
21.8	Section 99 of the Countryside and Rights of Way Act 2000	2000
21.9	Section 66 of the Planning (Listed Buildings & Conservation Areas) Act 1990	1990
21.10	Section 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990	1990
21.11	Not used	
22.	Miscellaneous documents	

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No.	Document	Date
22.1	Hawkhurst Golf Club High Street Hawkhurst (19/02025/HYBRID)[409] – Decision Notice	19 April 2021
22.2	Hawkhurst Golf Club High Street Hawkhurst (19/02025/HYBRID) – Officer's Report and Appendix	19 April 2021
22.3	EPUK/IAQM, Land-Use Planning & Development Control: Planning for Air Quality	January 2017
23.	Proofs of Evidence	
23.1	*Applicant – proofs of evidence*	
23.1.1	Ben Marner – Air Quality	August 2021
23.1.2	Chris Miele – Historic Environment	August 2021
23.1.3	Colin Pullan – Urban Design	20 August 2021
23.1.4	David Bird - Transport	August 2021
23.1.5	Simon Slatford – Planning	23 August 2021
23.1.6	Tim Goodwin - Ecology	August 2021
23.1.7	Andrew Cook – Landscape and Visual	23 August 2021
23.2	*Tunbridge Wells Borough Council – proofs of evidence*	
23.2.1	Richard Hazelgrove – Planning	August 2021
23.2.2	Brian Duckett – Landscape	August 2021
23.2.3	Debbie Salter – Heritage	10 August 2021
23.2.4	David Scully - Biodiversity	23 August 2021
23.3	*CPRE Kent – proofs of evidence*	
23.3.1	Dr Claire Holman – Air Quality	20 August 2021
23.3.2	Stuart Page – Heritage	23 August 2021
23.3.3	Nancy Warne – Planning (Neighbourhood Plan)	N/A
23.3.4	Liz Daley – Transport	
23.3.5	Position Statement with respect to Conditions and Obligations	N/A

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[409] There is an appeal against non-determination in progress

No.	Document	Date
23.4	*High Weald AONB Unit – proofs of evidence*	
23.4.1	Sally Marsh – Landscape & Visual and Biodiversity	24 August 2021
23.5	*Natural England – proofs of evidence*	
23.5.1	Alison Farmer – Landscape and Visual	August 2021
23.5.2	Helen Kent – Planning	August 2021
23.6	*Rebuttal and Supplemental Evidence*	
23.6.1	Rebuttal Proof of Ben Marner (Air Quality)	September 2021
23.6.2	Rebuttal Proof of Tim Goodwin (Ecology)	September 2021
23.6.3	Supplement to Figure 5 of Colin Pullan Proof (BKF Exhibition)	September 2021
23.6.4	Richard Hazelgrove Supplementary Proof of Evidence	September 2021
23.6.5	Richard Hazelgrove Rebuttal Evidence	September 2021
23.6.6	Brian Duckett Landscape Rebuttal Evidence	September 2021
23.7	Chris Miele Addendum to Proof of Evidence	September 2021

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Inquiry Documents

Documents submitted during course of Inquiry (ID)	
1.	Opening statement - Applicant
2.	Opening statement – TWBC
3.	Opening statement – Natural England
4.	Opening statement – HWAONB
5.	Opening statement – CPRE
6.	Submission of Tim Kemp
7.	Submission of Hartley Save Our Fields
8.	Submission from local resident
9.	Colin Pullan - presentation
10.	TWBC Landscape Brick Kiln Farm comments
11.	Neighbourhood plan - viewpoints
12.	Alison Farmer - Composite Plan
13.	HSOF Location of Viewpoints for Photos 1 & 2
14.	Alison Farmer presentation
15.	Sally Marsh presentation
16.	Brian Duckett presentation
17.	Complaint made by AONB Unit
18.	Response to AONB Unit Complaint
19.	Email chain between Council and AONB Unit relating to complaint

20.	Technical Guidance Note by LVIA institute
21.	Andy Cook presentation
22.	Singleton Report – A History of Turnden
23.	Letter from Ashurst to PINs dated 8 September 2021
24.	Email from Claire Tester regarding Chris Miele Proof of Evidence dated 9 September 2021
25.	Email from Alison Farmer regarding Chris Miele Proof of Evidence dated 14 September 2021
26.	Chris Miele presentation
27.	Letter to Inspector from TWBC Portfolio Holder
28.	Ashurst letter to PINS dated 12 October 2021, enclosed letters of support
29.	Liz Daley Bus Timetable Comparison
30.	David Bird Presentation
31.	Manual for Streets 2007
32.	Revised and agreed conditions
33.	Department for Transport Decarbonising Transport Report (14 July 2021)
34.	Copy of BSG and Ecology Solutions Metric Comparison
35.	Wildflower Grasslands in the Weald
36.	UK Habitat Classification translator
37.	TWBC's GES grassland survey Appendices
38.	Natural England TIN060 Yellow Rattle
39.	Natural England TIN067 Arable reversion to species rich grassland
40.	Weald Native Origin Wildflower and Grass Seed
41.	Brick Kiln Farm landscape plan
42.	Brick Kiln Farm connectivity plan
43.	Sally Marsh presentation
44.	Turnden Deed of Variation to S106 Agreement, unsigned
45.	Extract from Housing Supply and Delivery PPG
46.	Authority Monitoring Report 2019-2020
47.	Draft Neighbourhood Plan Sustainability Appraisal (June 2019)
48.	Draft Neighbourhood Plan – Reg 16 version
49.	Nancy Warne presentation
50.	Nancy Warne – Inquiry Statement
51.	Errata sheet accompanying Proof of Evidence of Richard Hazelgrove
52.	TWBC response to Submission of AECOM SEA Report - text and appendices
53.	TWBC map response to submission of AECOM SEA report
54.	TWBC summary of working draft of Cranbrook & Sissinghurst Neighbourhood Plan
55.	CPRE Kent - updated statement on conditions and obligations
56.	CPRE Kent - submission re Hawkhurst Golf Course
57.	E-mails re conditions (TWBC and HWAONB Unit)
58.	Delegated report for planning permission 21/01379/FULL
59.	Decision notice for planning permission 21/01379/FULL
60.	SK107 Map Search Plan with Brick Kiln Farm Connectivity Plan Overlay
61.	SK110 Map Search Plan with Location Plan Overlay
62.	Email from Sarah Bonser on behalf of KCC formally withdrawing objection dated 4 November 2021
63.	TWBC Local Plan – Schedule of Minor Modifications
64.	TWBC Local Plan – Submission Version
65.	CIL Compliance Statement

Rightmove

Closing Submissions

- For the applicant
- For the Council
- For Natural England
- For the High Weald AONB Unit
- For CPRE Kent

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Annex: Recommended Conditions

Definitions (relating to the Conditions below)

'Initial Enabling Works' means: Initial infrastructure enabling and site set up works required for the development which include:

- Ecological enabling works required for the development which include ecology works, including ecological vegetation/hedgerow/tree works, clearance, management, mitigation, enhancement measures and compensatory habitat construction, and all works under Natural England licence;
- Site establishment and temporary welfare facilities and temporary site accommodation;
- Installation of construction plant;
- Utilities diversions and reinforcements insofar as necessary to enable the construction of the development to commence;
- Temporary drainage, temporary surface water management, power and water supply for construction;
- Archaeological investigations; and
- Contamination investigations.

'Above Ground Works' means: Development hereby permitted above the finished floor level approved under Condition 13.

Conditions

(1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

(2) The development hereby permitted shall be carried out in accordance with the following approved plans unless superseded by details approved under the terms of the following conditions:

Site Plans
- S101J - Location Plan
- C101-K Coloured Site Layout
- C108-E Parking Plan
- P101-AH Proposed Roof Level Plan
- P105-E Materials Site Plan
- P106-D Boundaries Plan
- P107-B Refuse Plan
- P108-V Open Space Plan

Housetypes
- P110-D - Plots 1, 4, 15 & 126 - 5H1b
- P111-B - Plots 2 & 14 - 4H7
- P112-C - Plots 3 & 9 - 4H7
- P113-D - Plots 5 - 4A1
- P114-B - Plots 6 - 4H7
- P115-B - Plots 7 - 4H7
- P116-B - Plots 36 - 4A1
- P117-C - Plots 35 - 4C
- P118-D - Plots 10-11 & 16-17 - 3H9b/3H1
- P119-C - Plots 12, 25, 129 & 159 - 3H10

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- P120-D - Plots 13 - 3H10
- P121-B - Plots 19 3A.1.2
- P122-A - Plots 20 - 4C
- P123-B - Plots 21, 127 - 3A.1.2
- P124-B - Plots 22-23 - 3H10/4H18
- P125-C - Plots 24 & 162 - 4C
- P126-B - Plots 26-27, 28-29, 136-137, 151-152 - 3E.1b/3E.1
- P127-D - Plots 30, 32, 33, 37, 138 & 158 - 3A.1.2
- P128-D - Plots 31 - 3A.1.2
- P129-A - Plots 34 - 4C
- P130-E - Plots 134 & 149 - 4A1
- P131-D - Plots 81 & 82 - 3H10
- P132-B - Plots 83-84 & 147-148 - 3H9b/3H1
- P133-C - Plots 104-106 - 3x3H1
- P134-B - Plots 107-108 - 2x3H1
- P136-D - Plots 111-112 - 3H10/4H18
- P137-E - Plots 128 & 157 - 4C
- P138-B - Plots 121-125 - 5 x 3H1
- P139-C - Plots 8 - 4C
- P140-C - Plots 109 - 3A.1.2
- P141-C - Plots 131 - 3H9
- P143-B - Plots 135 - 3H1
- P144-D - Plots 141 - 3E.1
- P146-B - Plots 150 - 4H7
- P147-D - Plots 153 - 4A1
- P148-B - Plots 154 - 4H7
- P149-F - Plots 155 & 156 - 5H1
- P150-D - Plots 155 & 165 - 5H1
- P151-C - Plots 160 - 3E1.b
- P152-C - Plots 161 - 3H9
- P153-D - Plots 113 & 114 - 4C
- P154-B - Plots 164 - 4H7
- P155 - Plots 110 - 4C
- P156 - Plots 130, 133 - 3A.1.2
- P157 - Plots 132 - 3A.1.2
- P158 - Plots 139 & 140 - 3H10
- P165-D - Plots 38-39 & 92-93 - FOG 2BFG
- P166-E - Plots 15 & 55 - FOG - 2BFG
- P170-E - Plots 52-54, 70-72, 85-87, 94-9 - Aff HT2A
- P171-D - Plots 62-64 - Aff HT4A & HT2A
- P172-D - Plots 65-67 - Aff HT3A & HT2A
- P173-F - Plots 68-69 - Aff HT2A
- P174-E - Plots 79-80 & 100-101 - Aff HT2A
- P175-E - Plots 88-91 - Aff HT4A HT3A & SO HT3B
- P176-C - Plots 97-99 - Aff HT3A4P
- P177-D - Plots 102-103 - Aff HT3A4P
- P178-D - Plots 142-146 - Aff HT2A

Apartment Types

- P180-D - Block A - Plots 115-120
- P182-D - Block A - Plots 115-120
- P183-D - Block B - Plots 56 & 57-61

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- P184-C - Block B - Plots 56 & 57-61
- P185-C - Block C - Plots 73-78
- P186-D - Block C - Plots 73-78
- P187-C - Block D - Plots 40-51
- P188-C - Block D - Plots 40-51
- P189-C - Block D - Plots 40-51
- P190-B - Block D - Plots 40-51

Garages and Car Ports
- P160-C Proposed Detached Garages
- P161-C Proposed Car Barns
- P162-E Proposed Car Barns and Substations

Street Scenes
- C102-C Coloured Street Scene AA, BB, CC
- C103-B Coloured Street Scene DD, EE
- C104-D Coloured Street Scene FF
- C105-C Coloured Street Scene GG

Landscaping Plans
- 6958-002-H Landscape Hardworks Sheet 1
- 6958-003-G Landscape Hardworks Sheet 2
- 6958_004-H Landscape Soft works 1 of 6
- 6958_005-J Landscape Soft works 2 of 6
- 6958_006-I Landscape Soft works 3 of 6
- 6958_007-J Landscape Soft works 4 of 6
- 6958_008-G Landscape Soft works 5 of 6
- 6958_009-F Landscape Soft works 6 of 6
- 6958_010-E Landscape Woodland Buffer
- 6958_011-A Lighting Strategy
- 6958_101-C Illustrative Section Pond 1A
- 6958_103-C Illustrative Section Pond 2
- 6958_SK017-E Betterment Plan
- 6958_012 - Illustrative Landscape Masterplan

Highways Plans
- 19072/001-D Site Access General Arrangement Plan
- Drainage Plans
- 19-012/P01 P5 Drainage Strategy Plan
- 19-012/P02 P6 Exceedance Flow Plan

Levels Plans
- 19-012-P200 I3 Bulk Earthworks Bund Plan
- 19-012-P201 I3 Bulk Earthworks Bund Sections
- 19-012-P202 I2 Bulk Earthworks Bund Sections
- 19-012-P203 I2 Bulk Earthworks Bund Sections
- 19-012-P100-P4 Proposed Site Levels Site Plan
- 19-012-P101-P5 Proposed Site Levels Sheet 1
- 19-012-P102-P4 Proposed Site Levels Sheet 2
- 19-012-P103-P4 Proposed Site Levels Sheet 3
- 19-012-P104-P4 Proposed Site Levels Sheet 4
- 19-012-P105-P5 Proposed Site Levels Sheet 5
- 19-012-P106-P5 Proposed Site Levels Sheet 6
- 19-012-P107-P5 Proposed Site Levels Sheet 7
- 19-012-P108-P4 Proposed Site Levels Sheet 8

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- 19-012-P109-P4 Proposed Site Levels Sheet 9
- 19-012-P110-P4 Proposed Site Levels Sheet 10
- 19-012-P111-P3 Proposed Site Levels Sheet 11
- 19-012-P112-P3 Proposed Site Levels Sheet 12
- 19-012-P120-P1 Contour Plan

LEMP

- Landscape and Ecology Management Plan March 2021

(3) No development (excluding 'Initial Enabling Works' as described in the 'Definitions' above) shall take place until a scheme detailing the phasing of the construction of the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.

(4) Notwithstanding the submitted details and approved plans, no development (excluding ecological enabling works required for the development which includes ecology works, including ecological vegetation/hedgerow/tree works, clearance, management, mitigation, enhancement measures and compensatory habitat construction, and all works under Natural England licence) shall take place until a site specific Construction/Demolition Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority (LPA). The Plan shall demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The Plan shall include, but not be limited to:

- All works and ancillary operations which are audible at the site boundary or at such other place as may be approved by the LPA, shall be carried out only between the following hours: 07:30 hours and 18:00 hours on Mondays to Fridays, 08:30 and 13:00 hours on Saturdays and at no time on Sundays and Bank Holidays, unless in association with an emergency or with the prior written approval of the LPA;
- Deliveries to and removal of plant, equipment, machinery and waste from the site shall only take place within the permitted hours detailed above;
- Measures to minimise the production of dust on the site;
- Measures to minimise noise and vibration generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s);
- Design and provision of site hoardings;
- Management of traffic visiting the site including temporary parking or holding areas;
- Provision of off road parking for all site operatives;
- Measures to prevent the transfer of mud and extraneous material onto the public highway;
- Measures to manage the production of waste and to maximise the re-use of materials;
- Measures to minimise the potential for pollution of groundwater and surface water;
- The location and design of site office(s) and storage compounds;
- The location of temporary vehicle access points to the site during the construction works;

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- The arrangements for public consultation and liaison during the construction works; and
- Measures for controlling the use of site lighting whether required for safe working or for security purposes.

(5) The approved details of foul drainage (drawing 19-012/P01 P5 Drainage Strategy Plan) shall be fully implemented concurrent with the development and shall not be varied without details being first submitted to and approved in writing by the Local Planning Authority.

(6) Notwithstanding the submitted details and approved plans, development (excluding 'Initial Enabling Works' as described in the 'Definitions' above) shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be based upon the detailed Drainage Strategy prepared by Withers Design Associates (Rev D 06 November 2020) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance) that:

- Silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters; and
- Appropriate operational, maintenance and access requirements for each drainage feature or sustainable drainage system component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The approved drainage scheme shall be consistent with the details approved under Condition 20 and shall be fully implemented in accordance with the approved details, including a timetable for implementation.

(7) No building on any phase of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system associated to that Phase, has been submitted to and approved in writing by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system, associated to that Phase, where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed associated to the Phase.

(8) Prior to the commencement of 'Above Ground Works', as described in the 'Definitions' above, on any phase of development, details (including source/ manufacturer, and photographic samples) of bricks, tiles and cladding materials to be used externally on that phase, together with details relating to windows and dormer windows, and details associated with the appearance of Block A shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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(9) Notwithstanding the submitted details and approved plans, prior to the commencement of 'Above Ground Works', as described in the 'Definitions' above, on any phase of development, detailed plans and information regarding the following aspects of the proposed development phase shall be submitted to and approved in writing by the Local Planning Authority:

a) The alignment, height, positions, design, materials and type of boundary treatment / means of enclosure, including to parking forecourt gates;

b) Design and location of utility meters, the pumping station and enclosure, and below ground water booster tank and equipment;

c) The storage and screening of refuse and recycling areas, and bin collection points (in conjunction with approved drawing P107-B Refuse Plan); and

d) A timetable for the implementation for each aspect of the details.

The development shall be carried out in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.

(10) Notwithstanding the submitted details and approved plans, prior to the commencement of 'Above Ground Works', as described in the 'Definitions' above, on any phase of development, detailed plans and information regarding the following aspects of the proposed development phase shall be submitted to and approved in writing by the Local Planning Authority:

- The layout, position and widths of all proposed roads, footpaths, and parking areas (including the method of delineation between the road and the footpath) and the means of connecting to the existing highway, the materials to be used for final surfacing of the roads, footpaths and parking forecourts, and any street furniture;
- Details of highway design, including kerbs, dropped kerbs, gulleys, utility trenches, bollards and signs;
- Details showing how dedicated and continuous footway routes shall be demarked; and
- Details of the demarcation of the cycleway or revised cycleway between Plot 36 and the side of Plot 31 to enhance legibility between these two points.

The development shall be carried out in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority, including a timetable for implementation.

(11) Notwithstanding the submitted details and approved plans, prior to the first occupation of development on any phase, detailed plans and information regarding the following aspects of the proposed development phase shall be submitted to and approved in writing by the Local Planning Authority:

- Details of on-site play areas, as indicatively shown in the submitted 'Landscape Statement' (December 2020), including details and finished levels or contours, means of enclosure (where applicable), surfacing materials, and play equipment;
- Details of seating, litter bins and signs; and
- Timetable for implementation of all the above.

The development shall be carried out in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.

(12) The development hereby permitted shall incorporate measures to minimise the risk of crime. No phase shall be occupied until details of such measures,

Richborough

according to the principles and physical security requirements of Crime Prevention through Environmental Design have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained.

(13) Notwithstanding the submitted details and approved plans, no development (excluding 'Initial Enabling Works' as described in the 'Definitions' above) shall take place until details of existing and proposed levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved levels and shall not be varied without details being first submitted to and approved in writing by the Local Planning Authority.

(14) Notwithstanding the submitted arboricultural documents, unless otherwise approved in writing by the Local Planning Authority, no development shall take place until an updated Arboricultural Method Statement in accordance with the current edition of British Standard BS 5837 has been submitted to and approved in writing by the Local Planning Authority. The Statement shall incorporate the following:

- A schedule of tree works;
- An updated tree protection plan including, if appropriate, demolition/construction phases;
- Specific measures to protect retained trees during level changes, spoil deposition and utility installation;
- Specifications for the protective fencing, temporary ground protection and permanent cellular storage system(s) to be used;
- Provision for a pre-commencement site meeting between the main contractor, appointed arboriculturist and appropriately qualified Council officer; and
- A schedule of arboricultural supervision, including the contact details of the Arboriculturist to be appointed by the developer or their agents to oversee tree protection on the site, the frequency of visits and the reporting of findings.

(15) The approved development shall be carried out by complying with the following:

- All trees to be retained shall be marked on site and protected during any operation on site by temporary fencing in accordance with the current edition of British Standard BS 5837 and in accordance with the approved Tree Protection Plan and Arboricultural Method Statement pursuant to Condition 14. Such tree protection measures shall remain throughout the period of construction;
- No fires shall be lit within the spread of branches or upwind of the trees and other vegetation;
- No materials or equipment shall be stored within the spread of the branches or Root Protection Area (RPA) of the trees and other vegetation;
- No roots over 50mm diameter shall be cut, and no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches or RPA of the trees and other vegetation;

Pitchborough

- Ground levels within the spread of the branches or RPA (whichever the greater) of the trees and other vegetation shall not be raised or lowered in relation to the existing ground level, except as may be otherwise approved in writing by the Local Planning Authority; and
- No trenches for underground services shall be commenced within the RPA of trees which are identified as being retained in the approved plans, or within 5m of hedgerows shown to be retained without the prior written consent of the Local Planning Authority. Such trenching as might be approved shall be carried out to National Joint Utilities Group recommendations.

(16) All existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed, or their removal is otherwise approved in writing by the Local Planning Authority (LPA) beforehand. All hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site.

Any parts of hedges or hedgerows which become, in the opinion of the LPA, seriously diseased or otherwise damaged following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by no later than the end of the first available planting season, with equivalent hedge or hedgerow species.

(17) The development shall be implemented in accordance with the approved Landscape and Ecology Management Plan in perpetuity unless otherwise approved in writing by the Local Planning Authority.

(18) Notwithstanding the submitted details and approved plans, prior to the commencement of 'Above Ground Works', as described in the 'Definitions' above, on any phase of the development, a scheme showing the specific locations of bird, dormouse and bat boxes on that phase of the development site, together with a timetable for installation, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall take account of any protected species that have been identified on the site and shall have regard to the enhancement of biodiversity generally. The scheme(s) shall be fully implemented and retained unless otherwise approved in writing by the Local Planning Authority.

(19) Prior to the commencement of development, suitable licences covering protected and notable species and habitats (as identified in the ecological site surveys), proposals for avoidance, mitigation, monitoring and future long-term site management shall be obtained and shall be submitted to and approved in writing by the Local Planning Authority. In addition to this, the submission shall include details of mitigation measures for species identified in the submitted ecological survey which are not required to be subject to Natural England licences. The works shall be implemented fully in accordance with the approved licences and details, unless otherwise approved in writing by the Local Planning Authority.

(20) Prior to the commencement of development of the new ponds hereby approved (in accordance with Condition 6), details of the drainage outlet/overflow leading from them to the stream within the adjacent woodlands shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a method statement, alignment of the drainage outlet and details of construction. The development shall be carried out in accordance with the approved details.

Rainbow Ruch

(21) Notwithstanding the submitted details and approved plans, prior to any works of excavation, a full method statement for the deposition of spoil within the application site shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall include appropriate controls for the handling of the soil, methods of working and remediation along with a timetable for this element of the development. The scheme shall also have regards to the position of the existing Southern Water sewer adjacent to Hartley Road. The development shall be carried out in accordance with the approved details.

(22) Notwithstanding the submitted details and approved plans, prior to the commencement of 'Above Ground Works', as described in the 'Definitions' above, on any phase of the development, details of soft landscaping and a programme for carrying out the works associated with that phase shall be submitted to the Local Planning Authority (LPA) for approval in writing. The submitted details shall include details of soft landscape works, including planting plans, written specifications (including cultivation and other operations associated with the plant and grass establishment) and schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The submission shall include details of protection for new and retained structural planting.

The landscaping scheme approved for each phase of development on any part of the site shall be carried out fully within 12 months of the completion of the development on that phase, or in accordance with a timetable to be approved in writing by the LPA. Except where otherwise indicated by the approved Landscape and Ecological Management Plan, any trees or other plants which, within a period of ten years from the completion of the development on that phase, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the LPA give prior written consent to any variation.

(23) a) If during excavation/demolition works evidence of potential contamination is encountered, works shall cease and the site shall be fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to and approved in writing by the Local Planning Authority and the remediation has been completed;

b) In the event that potential contamination is encountered, no dwelling shall be occupied within the relevant phase where the contamination has been found, until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of:

i) Any sampling, remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology; and

ii) Any post-remedial sampling and analysis to show the site has reached the required clean-up criteria together with the necessary documentation detailing what waste materials have been removed from the site.

(24) Notwithstanding the submitted details and approved plans, prior to the installation of any external lighting full details shall be submitted to and approved in writing by the Local Planning Authority. Details shall include a lighting layout plan with beam orientation and a schedule of light equipment

proposed (luminaire type; mounting height; aiming angles and luminaire profiles). The approved scheme shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

(25) The areas shown in each phase of development on the approved plans as resident and visitor vehicle garaging, parking, servicing and turning shall be provided, surfaced and drained in that phase in accordance with details to be submitted to and approved in writing by the Local Planning Authority before the buildings they serve are occupied. After this they shall be retained as parking and turning areas, for the use of the occupiers of and visitors to the development in accordance with the details approved, and no permanent development, shall be carried out on that area of land so shown or in such a position as to preclude the use of such facilities for their intended purpose.

(26) Prior to the commencement of above-ground development, details of off-site highways works within the A229 (Hartley Road) as shown in principle on approved drawing 19072/001-D shall be submitted to and approved in writing by the Local Planning Authority. The submission shall include details of the following:

- Footpath widening to the north and south of the proposed access onto the A229 (within the site frontage);
- Right hand turn ghost lane highway works into Turnden Road and the site access;
- Traffic Islands; and
- Details of the timetable for implementation and completion.

The works shall be carried out in accordance with the approved plans.

(27) a) Prior to the commencement of development (excluding Initial Enabling Works as described in the 'Definitions' above) and only if used for construction and operative traffic, as determined by Condition 4, the access point to the highway shown on the approved plans shall be completed to a bound course in accordance with the approved drawing 19072/001-D (drawings associated with the submitted Transport Assessment Addendum II dated October 2020, Appendix 13). The area of land within the vision splays shown on the approved plan 19072/001-D shall be reduced in level as necessary and cleared of any obstruction exceeding a height of 0.6 metres above the level of the nearest part of the carriageway and be so retained in accordance with the approved plan.

b) Prior to the first occupation of development the access point to the highway shown on the approved plans shall be practically completed in accordance with the approved drawing 19072/001-D (drawings associated with the submitted Transport Assessment Addendum II dated October 2020, Appendix 13), unless otherwise approved in writing by the Local Planning Authority.

(28) Before the first occupation of any dwelling on any phase of the development, the following works shall be completed as follows:

i. Footways and/or footpaths shall be completed, with the exception of the wearing course; and

ii. Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
- Highway drainage, including off-site works;

Rushborough

- Junction visibility splays; and
- Street lighting, street nameplates and highway structures if any.

Before the final occupation of the last dwelling, the final wearing course for the internal footpaths and roadways shall be completed.

(29) No dwelling on any phase of the development shall be occupied until details of an emergency access have been submitted to and approved in writing by the Local Planning Authority. The details shall include the location and design of the emergency access linking the development and the adjacent development (reference 18/02571/FULL and 19/01863/NMAMD or subsequent variation thereof), the means of preventing access by other vehicles, and a timetable for the implementation of the emergency access in relation to the phasing of the development. The approved emergency access shall be provided in full in accordance with the approved details and timetable, and shall be retained thereafter.

(30) Notwithstanding the submitted details and approved plans, no dwelling on any phase of the development shall be occupied until a detailed Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan measures shall subsequently be implemented and thereafter maintained in accordance with a timetable for the implementation of each element that has been approved as part of the submission. The Travel Plan shall include the following:

- Setting objectives and targets;
- Measures to promote and facilitate public transport use, walking and cycling;
- Measures to reduce car usage;
- Monitoring and review mechanisms;
- Provision of travel information; and
- Marketing of environmentally sensitive forms of travel.

(31) Unless otherwise approved in writing by the Local Planning Authority, no flats within any phase of the development shall be occupied until secure cycle storage facilities to serve them have been provided in accordance with the approved details (P180-D - Block A - Plots 115-120, P183-D - Block B - Plots 56 & 57-61, P185-C - Block C - Plots 73-78, and P187-C - Block D - Plots 40-51). The cycle storage shall thereafter be retained.

(32) Prior to the commencement of 'Above Ground Works', as described in the 'Definitions' above, on each phase of the development, full details of a scheme for the incorporation of energy efficiency measures and renewable energy (including the location of photovoltaic panels and resident/visitor electric vehicle charging points within that phase) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, which shall be retained thereafter.

(33) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order revoking or re-enacting that Order with or without modification), no development shall be carried out within Classes A, B or F of Part 1 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order) without prior planning permission from the Local Planning Authority.

Rushmoor

(34) Prior to the commencement of any works that require ground breaking, the applicant, or their agents or successors in title, shall secure and implement:

i. Archaeological field evaluation works in accordance with a specification and written timetable which have been submitted to and approved in writing by the Local Planning Authority (LPA); and

ii. Further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which have been submitted to and approved in writing by the LPA.

(35) No dwelling on any phase of the development shall be occupied until details and the location of the provision of obscure glazing, and measures to control or restrict the opening of specific windows to dwellings within that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall thereafter be retained unless otherwise approved in writing by the Local Planning Authority.

(36) No dwelling on any phase of the development shall be occupied until details of a scheme of wayfinding, heritage, arboriculture, and ecological interpretation as a form of public art, including a timetable of implementation, has been submitted to and approved in writing by the Local Planning Authority (LPA). The approved details shall thereafter be implemented as approved and shall be retained thereafter, unless otherwise approved in writing by the LPA.

(37) Prior to the commencement of 'Above Ground Works', as described in the 'Definitions' above, details of residential boilers / heating systems, to mitigate the air pollution arising from the development when in occupation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

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Ministry of Housing, Communities & Local Government

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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, King's Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

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