



**Town and Country Planning (Inquiries Procedure) (England) Rules 2000  
Development Management Procedure Order 2010  
Town and Country Planning (Development Management  
Procedure) (England) (Amendment No 2) Order 2013**

Appeal in respect of: Land East of Albion Road and North of  
Copper Lane, Marden

Local Authority Application Ref: 23/504068/OUT

Appeal Ref/PINS ref: APP/U2235/W/24/3346817

## **Proof of Evidence – Planning Matters**

Prepared by Peter Rainier MRTPI  
On behalf of B.Yond Homes Ltd (Formerly Rydon Homes Ltd)

Appeal against the decision of Maidstone Borough Council to refuse planning permission Outline application with some matters reserved (access only sought) for the removal of 2 former agricultural sheds and erection of up to 117no. dwellings and associated infrastructure including partial footways on Albion Road

At

Land East of Albion Road and North of Copper Lane,  
Marden

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Planning Proof of Evidence

By

Peter Rainier MRTPI on behalf of B.Yond Homes Ltd

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October 2024

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## 1. Authors Qualifications and Experience

- 1.1 I am Principal Director of Planning at DMH Stallard. I have more than 30 years planning experience in both the public and private sector. I have degrees in Geography and Town Planning. For over 16 years I worked for Mid Sussex District Council (latterly as a Development Control Team Leader) and subsequently for DMH Stallard for over 20 years.
- 1.2 I provide advice on a wide range of site promotions, applications and appeals to both public and private sector clients. I have been a Chartered Member of the Royal Town Planning Institute for over 30 years. I am a Planning Advisory Service accredited consultant.
- 1.3 I am instructed by the Appellant to present evidence on the planning merits of the appeal proposal. I am familiar with the proposal; appeal site and the surrounding area having worked as the Planning Agent through the pre-application and application process and having visited the site and surroundings on a number of occasions.
- 1.4 The evidence which I provide in this document is true and has been prepared in accordance with the guidance of my professional institution, the Royal Town Planning Institute. Where opinions are expressed, these are my own true and professional opinions.

### **Terminology**

- 1.5 In this Proof of Evidence, I use the following terms:
- The Appellant (and previously the Applicant) for the proposed development is B.Yond Homes Ltd (formerly Rydon Homes Ltd), hereinafter referred to as the 'Appellant'.
  - The Local Planning Authority ('LPA') is Maidstone Borough Council, hereinafter referred to as 'MBC' or 'the Council'.
  - The scheme submitted by the Applicant is referred to as the 'Application'.
  - The current appeal scheme is referred to as the 'Appeal Scheme' or 'Appeal Proposal'.
  - The site subject of this Appeal is referred to as the 'Site'.
  - Maidstone Borough Local Plan 2017 (MLP)
  - Maidstone Borough Local Plan Review 2024 (MLPR)
  - Marden Neighbourhood Plan 'MNP'

## 2. Site History & Background to Appeal

- 2.1 The Appeal has been submitted following the decision by Maidstone Borough Council (MBC) to refuse an application for outline planning permission reference 23/00458/OUT (the Application). The description of development is as follows:

*Outline application with some matters reserved (access only sought) for the removal of 2 former agricultural sheds and erection of up to 117no. dwellings and associated infrastructure including partial footways on Albion Road.*

- 2.2 There is no relevant planning history for the appeal Site as identified on the Council's online portal. However, the appeal Site was promoted to the Council in connection with the Maidstone Local Plan Review process. That led to the site being allocated within the very recently adopted Local Plan. In addition to the allocation, the site has been the subject of Pre-application discussions which influenced the appeal proposal. Given; this background, the need for additional housing, and the NPPF imperative to approve 'development proposals that accord with an up-to-date development plan without delay' there is, in my view, the need for very significant harms to be identified to outweigh the support for the development in principle, if this appeal is to be unsuccessful.

### **Maidstone Borough Local Plan Review (2024)**

- 2.3 The Maidstone Local Plan Review (MLPR) document was adopted in March 2024, this document sets out the policies and plans to guide future development to 2038.
- 2.4 Of great significance in the consideration of this Appeal is the fact that the appeal Site has been allocated in the adopted MLPR for housing development via Policy LPRSA295 – Land at Copper Lane and Albion Road, Marden. This policy allocates the site for the development of approximately 113 dwellings, the policy sets out general principles for the design and layout of the development; landscape and ecology; access; highways and transportation; open space, and utilities infrastructure.

### **Relevant other applications**

- 2.5 Whilst there is no recent planning history on this Site, there have been planning applications in the vicinity of the Site. These primarily concern the residential development located along the northern boundary of the application - Site at Seymour Drive (formerly the Marden Cricket and Hockey Club and subsequently built out for 124 new homes, under the name 'Russet Grove'). The planning application was approved in August 2018 under reference

17/504754/FULL. The site 'Russet Grove' was allocated for residential development in The Maidstone Borough Local Plan (2017).

#### **Pre-application discussions**

- 2.6 In Summer 2022, an initial pre-application advice meeting took place with Planning Officers at Maidstone Borough Council. This request was made on the basis of a scheme for 130 dwellings within the area identified by the draft Site allocation in the Reg 17 version of the MBLP. The meeting discussed the site constraints and opportunities.
- 2.7 A full written response was received mid-August 2022. The pre-application advice was broadly supportive of the principle of development on site, through a plan led process. However, it was considered that some improvements to the layout should be made. The informal Planning Officer feedback received included a suggested reduction in the number of dwellings, and a loosening of the scale and relationship of the dwellings to the south with the proposed open space.
- 2.8 The appellant took onboard the comments made by the Planning Officer and amended the scheme accordingly. The number of units proposed was reduced from 130 new homes to 117 new homes. The scale and height of dwellings in the southern part of the site have been reduced with single storey garages and chalet bungalows proposed.
- 2.9 The Application which is the subject of this Appeal was submitted by Rydon Homes Ltd (now known as B.Yond Homes Ltd) on the 5<sup>th</sup> September 2023 and registered under reference 23/504068/OUT. The accompanying plans and documents are noted in the Core Documents list which has been agreed with the Council.
- 2.10 The Application was refused under delegated powers on the 21<sup>st</sup> December 2023, the decision notice was then issued on 22<sup>nd</sup> December 2023.
- 2.11 The Council refused the Application for the following 7 reasons:
- 1. The application site lies in the countryside and residential development of this scale does not accord with the adopted Maidstone Borough Local Plan's Spatial Strategy policy SS1 which directs residential development to defined built areas and site allocations. It would erode the sense of tranquillity, resulting in an urbanising and visually prominent form of development, out of character with the rural locality, visually harmful to the setting of Marden in its rural context on approach from the south and therefore significantly harmful to the character and appearance of the countryside being the two primary tests of "harm" in adopted policy SP17. The Council has in excess of 5 years housing land supply and positive housing delivery rates. There are no exceptional circumstances that would justify departing from this strategy with the resulting harm to the character and appearance of the countryside and the proposals are therefore contrary*

*to Policies SS1 and SP17 of the Maidstone Borough Local Plan 2017 and Marden Neighbourhood Plan policies BE1 and NE3.*

- 2. The application site contributes to the landscape character of the Staplehurst Low Weald which is that of low lying gently undulating clay landscape of small fields with orchards, pasture, ponds and watercourses. The indicative sizes and number of dwellings (117 including some 2.5 storey dwellings) and associated hardstanding for access, parking and turning will result in a layout and siting of built development of a suburban form extending into the rural landscape, significantly harming its character. The indicative layout shows cramped overdevelopment along the access road entrance and in the NE corner and a proximity of dwellings to the southern and western boundaries that cannot be effectively screened by planting due in part to the intervening ponds and proposed attenuation basin. The harmful development would be particularly visually prominent due to site topography and the site being elevated above Thorn Road and Copper Lane with limited scope for adequate landscape buffers/screening at the boundaries and within the site. There is a significant loss of the orchard with only 2 very small areas being retained, contrary to conserving what is a defining land use important to the landscape character of the Staplehurst Low Weald. There will also be significant harm from external lighting and additional engineering to form the access onto Albion Road, a rural lane. The development would erode openness and cause unacceptable harm to the character and appearance of the countryside. The development is contrary to policies SS1, SP17, DM1, DM8 and DM30 of the Maidstone Borough Local Plan and Marden Neighbourhood Plan policies BE1 and NE3.*
- 3. Due to the absence of safe pedestrian and cycle access on Albion Road to access the services within the village of Marden, the residents are likely to be reliant on the private motor vehicle to travel for access to day-to-day needs. This would be contrary to the aims of sustainable development as set out in Policies SS1, SP17, SP23 and DM1 of the Maidstone Borough Local Plan, policy In2 of the Marden Neighbourhood Plan, the National Planning Policy Framework and the objectives of Active Travel England to secure good walking, wheeling and cycling infrastructure.*
- 4. The proposed access arrangement shows that refuse freighters are not able to safely access or egress from the site without overrunning adjacent traffic lanes. The Transport Assessment is deficient in that is no Road Safety Audit, there is inadequate raw data for traffic survey, visibility splays need recalculation and trip generation data needs sensitivity testing. The development is contrary to the NPPF which requires safe and suitable access to be achieved for all users and to policies DM1 and DM21 of the Maidstone Borough Local Plan 2017 and policy In3 of the Marden Neighbourhood Plan.*

5. *The ecology appraisal is deficient in terms of provision of habitat and/or mitigation for badgers, breeding birds, turtle doves, great crested newts and reptiles and in the assessment of the ecological value of the orchard in situ. The applicant has not taken account of local information provided by Kent Wildlife Trust and Marden Wildlife Group nor engaged with those groups. Therefore, it is not possible to confirm compliance with statutory species protection legislation, contrary to paragraph 180 of the NPPF, policy DM3 of the Maidstone Borough Local Plan 2017 and policy NE4 of the Marden Neighbourhood Plan.*
6. *There is an inadequate amount of natural and semi-natural open space both in quantum, and public useability because of the indicative configuration and siting relative to the housing, the attenuation basin has not been demonstrated to be a wet pond and ecological habitat/mitigation areas would not be publicly accessible. Therefore, the proposal does not comply with policy DM19 of the Maidstone Borough Local Plan 2017 or policy A2 of the Marden Neighbourhood Plan.*
7. *The development will result in significant additional pressure on Kent County Council infrastructure including primary and secondary education that is unlikely to be fully mitigated in the absence of a s106 legal agreement providing supplementary financial contributions to the Local Education Authority. This is contrary to policy ID1 of the Maidstone Borough Local Plan 2017 and policy A3 of the Marden Neighbourhood Plan*

- 2.12 Following this decision, DMH Stallard notified the Planning Inspectorate (PINS) and the Council on 6<sup>th</sup> June 2024 that the Applicant intended to submit an appeal. The Appeal was subsequently submitted on 21<sup>st</sup> June 2024.
- 2.13 PINS issued the start letter for the appeal on 9<sup>th</sup> August 2024 and confirmed that the Appeal would be heard via a Public Inquiry and set out the timetable for the Appeal.
- 2.14 The Council submitted its Statement of Case on 12<sup>th</sup> September 2024. Within that document the Council made reference to a 'Supplementary Delegated Report' (SDR – CD I.3) also dated 12th September 2024. The CDR amends the reasons for refusal, as set out below.
- 2.15 1) *delete*
- 2.16 2) *The application site is an upwardly sloping site on the rural edge of Marden village within the landscape character of the Staplehurst Low Weald. It has not been demonstrated, in this outline application, that the proposed development will meet all the conditions of policy LPRSA295 of the Maidstone Borough Local Plan Review 2024. These conditions reflect and seek to address the landscape sensitivities of the site. The illustrative plan: (i) shows that the proposed quantum of development and necessary infrastructure leads to a lack*
-

*of structural landscaping throughout the site and to sensitive boundaries, especially the southern boundary (due in part to the intervening ponds and proposed attenuation basin, which will also result in existing tree loss); (ii) shows that the south part of the site around the existing ponds will not be kept free of development, with a proposed emergency access and associated visibility splays and a pumping station shown here (iii) shows that the existing tree/hedge site boundaries will not be enhanced, again particularly in the location of the attenuation basin. The resulting development would fail to respond sensitively of the rural setting of Marden and would harm the character and appearance of the surrounding countryside. In addition, the illustrative layout shows that the proposed quantum of houses will lead to cramped overdevelopment, exemplified in the illustrative plan at the access road entrance and in the NE corner adjacent to the southern and eastern boundaries respectively. The proposal is contrary to Policies LPRSP15 and LPRSA295 of the Maidstone Borough Local Plan Review 2024 and Marden Neighbourhood Plan policies BE1 and NE3.*

- 2.17 *(3) Due to the absence of safe pedestrian and cycle access on Albion Road to access the services within the village of Marden, the residents are likely to be reliant on the private motor vehicle to travel for access to day-to-day needs. This would be contrary to the aims of sustainable development as set out in policies LPRSA295, LPRSP12 and LPRSP15 of the Maidstone Borough Local Plan Review 2024, policy In2 of the Marden Neighbourhood Plan, the National Planning Policy Framework and the objectives of Active Travel England to secure good walking, wheeling and cycling infrastructure.*
- 2.18 *(4) The proposed access arrangement shows that refuse freighters are not able to safely access or egress from the site without overrunning adjacent traffic lanes. The Transport Assessment is deficient in that is no Road Safety Audit, there is inadequate raw data for traffic survey, visibility splays need recalculation and trip generation data needs sensitivity testing. The development is contrary to the NPPF which requires safe and suitable access to be achieved for all users and to policies LPRSP6(E), LPRSP12, LPRSP15 and LPRTRA2 of the Maidstone Borough Local Plan Review 2024 and policy In3 of the Marden Neighbourhood Plan*
- 2.19 *(5) The ecology appraisal is deficient in terms of provision of habitat and/or mitigation for badgers, breeding birds, turtle doves, great crested newts and reptiles and in the assessment of the ecological value of the orchard in situ. The applicant has not taken account of local information provided by Kent Wildlife Trust and Marden Wildlife Group nor engaged with those groups. Therefore, it is not possible to confirm compliance with statutory species protection legislation, and is contrary to paragraph 180 of the NPPF, policy LPRSP14(A) of the Maidstone Borough Local Plan Review 2024 and policy NE4 of the Marden Neighbourhood Plan.*

- 2.20 *(6) There is an inadequate amount of natural and semi-natural open space both in quantum, and public useability because of the indicative configuration and siting relative to the housing, the attenuation basin has not been demonstrated to be a wet pond and ecological habitat/mitigation areas would not be publicly accessible. Therefore, the proposal does not comply with policy LPRINF1 or LPRSA295 of the Maidstone Borough Local Plan Review 2024 or policy A2 of the Marden Neighbourhood Plan.*
- 2.21 *(7) The development will result in significant additional pressure on Kent County Council infrastructure including primary and secondary education that is unlikely to be fully mitigated in the absence of a s106 legal agreement providing supplementary financial contributions to the Local Education Authority. This is contrary to policy LPRSP13 of the Maidstone Borough Local Plan Review 2024 and policy A3 of the Marden Neighbourhood Plan.*
- 2.22 A Statement of Common Ground has been prepared and discussions are on-going to clarify the areas of dispute between the parties. We will work with the LPA aiming to reduce/narrow the issues between us in advance of the Inquiry.
- 2.23 Following the submission of additional information with and during the course of the Appeal, the Council have confirmed (via email on 23<sup>rd</sup> October) that *'RfR 4 has been dealt with by the appeal amendments. RfR3 has been dealt with by the appeal amendments in regard to pedestrians but will be maintained in a modified form in regard of cyclists.'*
- 2.24 This leaves RfR 2 and 3 (in relation to cycles) 5 and 6 as continuing issues of dispute with the Council. The Statement of Common Ground ("SoCG"- **CD F.12**) remains in the process of being negotiated with MBC/KCC and it is anticipated that this will be completed and as a result the seventh reason for refusal (S106) will be withdrawn by the LPA.

#### **Environmental Impact Assessment Screening**

- 2.25 The Site Area is 5.98 hectares. A Screening Opinion was provided by the LPA as part of the Application process. The Delegated Report confirms that the proposal is not EIA Development, stating: "The number of units is less than the threshold in the Guidance for the EIA Regulations 2017 and the site is not in an environmentally sensitive area as defined in those Regulations."
- 2.26 PINS undertook an independent EIA screening assessment, with the benefit of all the technical supporting documents submitted with the Application and issued a Screening Direction on behalf of the Secretary of State on the 13<sup>th</sup> August 2024. The Screening Direction identified that *"The development proposed, namely, Outline application with some matters reserved (access only sought) for the removal of 2 former agricultural sheds and erection of up to 117no. dwellings and associated infrastructure including partial footways on Albion Road falls within the description at 10(b) of Schedule 2 to the above*

*Regulations. In the opinion of the Secretary of State, having taken into account the criteria in Schedule 3 to the above Regulations, the proposal would not be likely to have significant effect on the environment for the following reasons:*

*The Proposed Development was screened under Schedule 2, Section 10(b) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and exceeds threshold (iii) set there.*

*The Proposed Development is in proximity to a number of sensitive sites including Marden Meadows Site of Special Scientific Interest (SSSI) and North Downs Woodlands Special Area of Conservation (SAC). However, considering the nature, scale and location of the Proposed Development and nature of the receiving environment, whilst there may be some impact on the surrounding area and nearby designated sensitive areas as a result of this development, it would not be of a scale and nature likely to result in significant environmental impact.*

*The Proposed Development is not EIA Development*

### 3. The Appeal Proposals

#### **Appeal Site Description and Context**

- 3.1 The appeal Site lies broadly located on the southeast side of the village of Marden. It comprises a large, broadly rectangular shaped site measuring approximately 5.98) hectares in area. The Site borders Copper Lane to the south, and the west of the Site shares a short frontage with Albion Road. Located along the northern boundary of the Site is the recently completed residential development of Russet Grove, which is characterised by more modern housing development. To the east of the Site are open fields, defined by further agricultural land, with sporadic farmhouses.
- 3.2 The appeal Site is situated within the settlement boundary of Marden as defined by the recently adopted Maidstone Borough Local Plan Review (MLPR). The appeal site gently slopes upwards (from the south) and as such the residential development of Russett Grove (now known as Seymor Drive), to the north, is generally on higher ground than the application Site.
- 3.3 The Site currently comprises of predominantly agricultural land. The majority of the site being in use as a commercial plum and apple orchard with an existing vehicular field access onto Copper Lane. The gradient of the orchard land declines from the northern to southern boundary along Copper Lane.
- 3.4 Several ponds are located within the southern part of the site, in proximity to the southern site boundary with Copper Lane. The smaller western land parcel fronts onto Albion Road, with an existing field access. The smaller western land parcel fronting Albion Road is heavily overgrown with bramble/shrub, with two former mushroom-growing agricultural sheds located within the centre of the site.
- 3.5 The existing boundaries of both the orchard part of the site and the smaller parcel fronting Albion Road, are well defined with established mature trees and hedgerows.
- 3.6 The appeal Site is currently accessible for vehicles from Copper Lane. An access point is to be retained as an emergency vehicular access and shared with pedestrian/cycle access as part of the proposal. The main vehicular access to the Site will be via Albion Road, with the access point on Albion Road located to the south of the residential property known as Howlands, which is within the same landownership. Full details of the proposed vehicular/pedestrian access to the Site from Albion Road and Copper Lane, are submitted for approval.
- 3.7 Marden is identified as a 'Rural Service Centre' by the Maidstone Local Plan Review, this is the second category of existing settlement in the settlement hierarchy of the Borough, second only to the Maidstone Urban Area. The MLPR

advises that Rural Service Centres such as Marden will be the secondary focus for housing development, second only to the Maidstone Urban Area, with an emphasis on the maintaining and enhancing of their role and the provision of services to meet the needs of the local community.

- 3.8 The appeal Site is within a reasonable walking distance to the centre of the village – the High Street. Little Marden Farm Shop and Country Store at the B2079 / High Street / Albion Road junction is approximately 350m from the nearest proposed home and around 720m from the furthest home proposed on Site. There are additional amenities in Marden including a primary school (circa 1,190m from the nearest proposed dwelling and 1,560m from the furthest property) – a church, a pharmacy, a convenience store and a number of pubs, restaurants, and shops all of which are within a reasonable walking and cycling distance of the appeal Site. The village also benefits from an industrial estate, which is to be extended via policy EMP1(2).
- 3.9 The appeal Site also benefits from being well located to public transport links. the closest bus stops to the site are located on Plain Road (near the Albion Road junction), around 300m from the centre of the site. Further bus stops can be accessed around 700m from the site on the B2079 / High Street which can be accessed via the new footway proposed along Albion Road, which provides a link to the existing footway network at Seymour Drive. Marden is served by bus services providing connections to Maidstone and stops between.
- 3.10 Marden has a rail station which is located approximately 1km to the north-west of the site. Marden rail station is situated on the South-East Main Line, which provides regular services to London, Tonbridge and Ashford, and the various stations between these destinations.
- 3.11 There are no Public Rights of Way (PRoW) or Bridleways within the Site itself, but there are a number of public footpaths in the vicinity of the Site. The Site is therefore considered to be well connected with regards to the PRoW network.
- 3.12 The appeal scheme proposes improvements to Public Footpath KM281, which provides a convenient and safe route to the majority of amenities in Marden village centre. Additional improvements are proposed to pedestrian routes from the Site to village amenities, not least the proposed footway alongside Albion Road.
- 3.13 The roads in the local area are considered suitable for cycling. The Transport Assessment which accompanied the appeal scheme confirms that Albion Road, in the vicinity of the site frontage does currently operate safely as a shared surface and mixed traffic environment for both pedestrians and cyclists. Therefore, there are strong opportunities to encourage walking and cycling.

- 3.14 In my opinion, for reasons which I will go on to explain later in my evidence, the appeal Site lies in a suitable and sustainable location as endorsed by the very recent allocation of the site within the recently adopted Local Plan (March 2024).
- 3.15 The appeal Site is not within any protected landscapes (such as National Landscape or National Park). The High Weald National Landscape (formerly AONB) is located approximately 4km from the application Site.
- 3.16 The appeal Site is situated wholly within Flood Zone 1 and as such is considered at low risk of flooding from fluvial and tidal sources. The site is not considered to be a significant risk of flooding from surface water, although mitigations are required, with more details of the proposed surface water drainage strategy provided in the accompanying Flood Risk Assessment.
- 3.17 There are no Listed Buildings within the Site nor is it located within a Conservation Area. There are no Scheduled Monuments or Historic Battlefields which will be impacted by the proposed development. There are a number of Listed Buildings within the wider area, and the impact of the proposal upon the character and setting of these buildings was assessed and the appeal scheme was supported by a Heritage Statement (CD D.23).
- 3.18 In my opinion, in planning terms, the Site is unexceptional, having no specific landscape or ecological designations and being located within Flood Zone 1 (lowest probability of flooding).
- 3.19 The Site is within the defined settlement boundary of Marden. The Site, in planning terms is considered to be unconstrained and deliverable.

#### **The Appeal Scheme**

- 3.20 Full details of the scheme are set out within the planning statement which was submitted in support of the appeal proposal.
- 3.21 The appeal scheme is for outline planning consent for the erection of up to 117 no. residential dwellings on the Site, including 40% affordable housing (47 dwellings), the provision of formal and informal public open space, with anew formal vehicular access to Albion Road and an emergency (pedestrian/cycle access) onto Copper Lane. So, to be clear at the outset, the application is for Outline Approval with all matters other than access reserved for later consideration. Consequently, whilst significant illustrative material is before the Inquiry, the only plans for which approval is sought are the following;

1. Site Location Plan 22037-S101 C

2. The Albion Road all-purpose access and new footway connection along Albion Road between the site and the existing footway at the Albion Road / Seymour Drive junction as shown in drawing ITB15098-GA-060 Rev E
3. Albion Roads visibility splay drawings ITB15098-GA-074 and ITB15098-GA-063D; and
4. The Copper Lane – Pedestrian / Cycle / Emergency Access as shown in drawing ITB15098-GA-057 Rev B.

- 3.22 Whilst the appeal proposal is submitted in outline with layout a reserved matter for later approval, the submitted coloured site layout plan (CD C.3) demonstrates how the Site can accommodate 117 homes along with significant areas of additional public open space and is considered to be in accordance with the Site Allocation policy LPRSA295 in the MBLP.
- 3.23 Notwithstanding the fact that detailed design matters are reserved for later approval, the design concept of the appeal proposal has developed from careful consideration of the location, local character and constraints and opportunities of the Site. The coloured site layout illustrates how the site has been designed to be in keeping with the existing character of the buildings in the area and with consideration of the constraints and opportunities of the Site. The edge of settlement character has been respected with soft landscaping and enhanced amenity to reflect and complement the spacious character of the immediate area.
- 3.24 The Design and Access Statement (CD D.24) sets out the design principles and the evolution of the proposal and outlines the design parameters and approach of the appeal scheme. Whilst the application is for outline planning permission, the Design and Access Statement also includes indicative designs for the proposed dwellings, and an indicative materials palette, which has taken influence from the surrounding properties. It is clear from the illustrative material that a development of up to 117 dwellings can be accommodated in a way which is of a high-quality design, reflecting the local vernacular whilst ensuring a variety of dwellings.
- 3.25 The appeal scheme is supported by an indicative layout plan and accommodation schedule which proposes a range of dwelling types and sizes to help meet a diverse range of housing needs in the Borough. The proposed mix would include 2-storey dwellings ranging from 1-bed to 4-bed properties, a limited number of apartments of 2.5 storey in height and chalet bungalows (1.5 storey).
- 3.26 The whole of the Site measures 5.98 ha and the total number of dwellings proposed on Site is 117 new homes. This would result in a density of 20dph, which is broadly similar to the existing residential areas in the village. However, it is less than the residential development immediately to the north of the site, which has a density of 29dph. If the natural and semi-natural open space

(1.98) is removed from the developable site area the developable area is (5.98 – 1.98) 4ha giving a net density of 29dph, which is comparable with the site to the north and a reasonable balance when considering; the recently adopted allocation policy, local character, and making the best use of the site. Furthermore, the appeal scheme, as illustrated, would help to provide a better transition from the current hard urban edge of the village presented through the Russet Grove/Seymour Drive development to the semi-rural surroundings beyond the Site.

- 3.27 As part of this provision, a mix of dwelling types are proposed from 1-bed to 4-bed properties across the Site to meet local housing needs, including Housing for older people. An indicative schedule was submitted in support of the appeal scheme and is shown in the table below:

|                    | 1 bed | 2 bed | 3 bed | 4 bed | Total |
|--------------------|-------|-------|-------|-------|-------|
| Market             | 0     | 16    | 36    | 18    | 70    |
| Affordable Housing | 16    | 15    | 12    | 4     | 47    |

- 3.28 The remainder of the Site would be utilised for the provision of a variety of different types of public open spaces to facilitate community interaction, including a community village green, provision of a Local Area of Play, amenity green space, public formal and informal green space, and natural and semi-natural areas of open space. Drawing No.SK12 F (Policy area calculations) was submitted in support of the appeal scheme and provides a land use budget, quantifying the proposed public open space coverage against the illustrative layout.
- 3.29 The illustrative layout plan demonstrates the potential to provide around 2.7 hectares of public open space, which would be substantially in excess of the 1.55 hectares required at the time of the submission of the Application within the then draft allocation (Local Plan Review Policy LPRSA 275). The adopted plan policy (LPRINF1) seeks additional open space totalling 2.64 hectares, which the illustrative scheme complies with (2.67 hectares) as the plan enclosed at Appendix B clearly shows. The public open space is shown in various locations throughout the development, along with a large area to the southern part of the site. Here it is integrated with the existing ponds and proposed attenuation basin and swales to allow a suitable landscape structure for wildlife and amenity benefit resulting in a development which is in keeping with the settlement/ rural edge character of the area.
- 3.30 The scheme will deliver significant enhancements to biodiversity. The results of the BNG analysis (see Technical Note – as appendix to Daniel Wood Proof CD L.5) confirm that the proposed development can deliver a net gain in habitat units of 25.91%, and a net gain in hedgerow units of 59.36%.

- 3.31 The proposal provides the opportunity for significant additional areas of publicly accessible greenspaces (potentially 2.67 hectares of additional open space) which can link with existing public rights of way opposite Albion Road and in addition, the wider network of public rights of way (including PROW KM278) located in proximity to the site off Copper Lane. The proposed open space and ponds in the south of the site would be interconnected by meandering raised boardwalks and paths, which have educational and amenity features integrated into the design aspirations. The proposal therefore has the potential to offer significantly enhanced open space and recreation benefits to the wider community. In respect to open space provision, it should also be noted that the site is located close to footpaths and the wider countryside which give the opportunity for a wide range of recreational activities including; walking, running and cycling. The Plan at Appendix B illustrates this.
- 3.32 The approach to development on the Site is very much landscape-led and has been carefully designed to protect much of the Site's landscape features and the quality of the wider landscape character. The detailed layout, appearance, scale and landscaping are reserved for future approval; however, the coloured site layout illustrates how the site has been designed to be in keeping with the existing character of the buildings in the area and with consideration of the constraints and opportunities of the Site. The edge of settlement character has been respected with a transition from more urban to rural characteristics. New areas of green infrastructure and enhanced amenity have been carefully integrated to reflect and complement the character of the immediate area.
- 3.33 The characteristics of the appeal Site enable the scheme to be sub-divided into 5 distinctive character areas. These areas respond to the existing divisions of the Site and the surrounds, the density of the development and the types of buildings in each of these areas have been carefully varied to give a sense of identity. The site layout is considered as a series of merging character areas, east to west, with a lower scale more rural edge set to the south of the site.
- 3.34 The residential parcels will be set within a landscape framework founded on conserving and enhancing existing landscape features within the Site. This will assist to retain a semi-rural feel to the edge of the settlement and reduce the magnitude of change to the Site's character and its context.
- 3.35 The boundaries of the appeal Site are well defined by mature trees and hedgerows and therefore the Site is considered to be self-contained in the locality. The existing vegetation along the boundaries of the Site would largely be retained and will be enhanced in places. New planting would be introduced throughout the Site to provide a landscape buffer between the appeal Site and the neighbouring properties and to provide additional screening of the Site. These design measures seek to conserve and enhance the setting of the adjacent landscape.
- 3.36 The FRA (CD D.16) submitted in support of the appeal scheme identifies that the developable area of the Site is wholly located within Flood Zone 1 and is

therefore a low risk of flooding. All forms of development are considered acceptable in principle in Flood Zone 1.

- 3.37 One of the key design principles of the appeal scheme is to provide a drainage strategy utilising an appropriate Sustainable Drainage System including drainage ditches and attenuation basins, providing appropriate drainage features to development edges and within open spaces.
- 3.38 The proposed access is shown on the access drawing. Access to the proposed development is via an all-purpose access from Albion Road. A proposed pedestrian, cycle and emergency access is also proposed from Copper Lane.
- 3.39 The proposed access from Albion Road will take the form of a simple priority junction. The access road carriageway will measure 6m wide at its western section near Albion Road narrowing to 5.5m within the site. There will be 2m wide footways on both sides of the carriageway within the site.
- 3.40 The immediate area of Albion Road where the Site access is proposed, does not currently benefit from pedestrian footways. The proposed Site access junction would be designed to incorporate pedestrian and cycle access into the Site. To facilitate pedestrian access into the Site, a 2m wide footway connection would be provided on both sides of the proposed new bellmouth arrangement. The southern footway of the proposed bellmouth stops opposite Public Footpath KM281 and a proposed dropped kerb crossing will be provided to facilitate pedestrian access to the west side of Albion Road to access Public Footpath KM281. This will provide a link from the Site which builds upon the existing PRoW network and other footways in the vicinity. Improvements are proposed to Public Footpath KM281 which provides a convenient and safe route to the majority of amenities in Marden village centre.
- 3.41 Since the planning refusal, the Appellant has been discussing the two transport related reasons for refusal with the Local Highway Authority. A Transport Assessment Addendum (report reference ITB15098-106, dated 18 September 2023) was submitted for public consultation by B.Yond Homes in September 2024. The package of highway and transport improvements set out in the TAA is summarised below and fully considered in the evidence of Mr. Mark Gimingham (CD. L.5);
- The Albion Road all purpose access and new footway connection along Albion Road between the site and the existing footway at the Albion Road / Seymour Drive junction as shown in drawing ITB15098-GA-060 Rev E and the visibility splay drawings ITB15098-GA-074 and ITB15098-GA-063D;
  - The Copper Lane – Pedestrian / Cycle / Emergency Access as shown in drawing ITB15098-GA-057 Rev B;

- Surface improvements (bitmac / tarmac surface) to public footpath KM281 between Albion Road and Blossom Way as shown in drawing ITB15098-GA-051 Rev B; and
- Framework Travel Plan.

## 4. The Appeal Case

- 4.1 Following the submission of additional information with and during the course of the Appeal, the Council have confirmed that they have withdrawn Reasons for Refusal ("RfR") 1, 3 (part of) and 4. This leaves only RfR 2,5,6 and 7 against which we continue to be at dispute with the Council. The Statement of Common Ground ("SoCG") (**CD F.12**) remain under consideration by the main parties and it may be that other matter/reasons for refusal can be agreed prior to the opening of the Inquiry.
- 4.2 Following the Case Management Conference (CMC) on 20<sup>th</sup> September 2024 the Inspector published a note confirming the main issues to comprise:
1. Landscape - specifically the impact of the development on the countryside character of the area.
  2. Access issues – lack of safe pedestrian and cycle access on Albion Road and uncertainty over safe access or egress of refuse freighters to the site.
  3. Ecology & Biodiversity - uncertainty regarding the impact of the proposed development on protected species, specifically the provision of habitat and/or mitigation for badgers, breeding birds, turtle doves, great crested newts and reptiles.
  4. Lack of sufficient amount in terms of quantum and public usability of the proposed natural and semi-natural open space.
  5. The benefits of the proposal.
  6. The planning balance.
- 4.3 My evidence is concerned with issues 4, 5 and 6. I will review the compliance of the Appeal Scheme with the Development Plan and consider the overall planning balance. My evidence is to be read alongside the evidence of the following witnesses:
- Marc Tomes – Allen Scott Landscape Architecture who will address landscape issues (Issue1). I rely on views of this expert witness in relation to Landscape matters (CD L.3)
  - Mark Gimingham - iTransport who will address the Issues identified around the proposed access arrangements to the Site (Issues 2). I rely on views of this expert witness in relation to Transport matters (CD L.1)
  - Daniel Wood - Ecology Solutions who will address the identified Ecology and Biodiversity issues (Issue 3). I rely on views of this expert witness in relation to ecology and bio-diversity matters (CD L.5)
- 4.4 In addition, and appended to my evidence I include at:
-

- Appendix A evidence from James Stacey BA (Hones) Dip TP MRTPI of Tetlow King Planning who considers the extent of the need for Affordable Housing in Maidstone Borough and whether the Appeal Scheme makes a suitable provision to meet this need (Issues 5 & 6)
- Appendix B Plan showing; the location, quantum and type of open space proposed (Issue 1 & 4).

4.5 Taking into consideration the identified main issues, my evidence is structured as follows:

- Planning Policy Context (Section 5);
- Other Material Considerations (Section 6);
- Third-Party Submissions (Section 7);
- Planning Policy Assessment (Section 8);
- Planning Balance (Section 9);
- Summary and Conclusions (Section 10).

4.6 My evidence will address:

- Relevant planning policies and planning guidance;
- The weight to be afforded to policy and guidance
- An assessment of the scheme against the relevant policies and guidance;
- The overall planning balance

4.7 My evidence will conclude that having regard to the above, the Inspector should allow the appeal and grant consent for the scheme subject to appropriate conditions and obligations.

## 5. Planning Policy Context

### The Development Plan

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 ("the Act") states that:

*"If regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

- 5.2 Development should therefore be determined in accordance with the Local Plan unless material considerations indicate otherwise.

- 5.3 Currently for the purposes of Section 38(6) of the PCPA 2004, the Development Plan, insofar as it relates to this assessment of the Appeal Scheme, comprises:

- Maidstone Borough Council Local Plan Review (2024)
- Marden Neighbourhood Plan (2020)

5.4 **Maidstone Borough Local Plan Review (2024) (MLPR)**

- 5.5 Before setting out all the policies of relevance to the consideration of the appeal scheme, it should be noted that the Appeal Site is allocated in the very recently adopted Local Plan (Policy LPRSA295) for approximately 113 dwellings. The principle of development is, therefore, agreed. The allocation of the Appeal Site for development has also resulted in its inclusion within the Marden Settlement Boundary.

- 5.6 As set out in more detail later in my evidence, the Appeal Scheme accords with the provisions of site-specific Policy LPRSA295 (and all other relevant Local Plan policies) insofar as they are relevant to an application for outline planning permission.

- 5.7 At the time of the decision on the planning application (December 2023) the Maidstone Borough Local Plan (2017) (MBLP) was the adopted Local Plan for Maidstone Borough. Therefore, references to the development plan policies in the Council's delegated report and decision notice refer to the MBLP. However, the Maidstone Borough Local Plan Review (MLPR) was formally adopted by the Council on the 20th March 2024.

- 5.8 As a result of the subsequent adoption of the MLPR in March 2024, a number of the policies within the MBLP which were referred to in the Council's reasons for refusal have now been updated, replaced, or are no longer considered to be relevant to the appeal scheme.

5.9 The Council submitted its Statement of Case on 12th September 2024. Within that document the Council made reference to a 'Supplementary Delegated Report' (SDR – CD I.3) also dated 12th September 2024. The SDR amends the reasons for refusal, as set out within Section 2 of this Proof of Evidence.

5.10 The Officer's SDR refers to the following policies in the MLPR as being most relevant to the proposed development, and those highlighted in **bold** are referenced in the reasons for refusal on the amended decision notice.

5.11 My opinion on the status of those policies and relevance to the appeal scheme are listed in the table below.

| <u><b>Status following adoption of MLPR</b></u> | <u><b>Relevance to appeal</b></u>   |
|---|---|
| <b>LPRSA295</b>                                 | Site specific policy – allocates the site, subject to criteria/conditions |
| LPRSS1  | Relevant – refers to spatial strategy for the Borough                     |
| LPRS10(A)                                       | Relevant – refers to housing mix  |
| LPRS10(B)                                       | Relevant – refers to affordable housing                                   |
| LPRTRA4   | Relevant – refers to sustainable transport                                |
| <b>LPRSP12</b>                                  | Relevant – refers to sustainable transport                                |
| <b>LPRSP13</b>                                  | Relevant – refers to infrastructure delivery                              |
| <b>LPRSP15</b>                                  | Relevant – refers to principles of good design                            |
| <b>LPRSP14(A)</b>                               | Relevant – refers to natural environment                                  |
| LPRQD2  | Relevant – refers to external lighting                                    |
| <b>LPRINF1</b>                                  | Relevant – refers to publicly accessible open space and recreation        |
| LPRTRA2   | Relevant – refers to assessing the transport impacts of developments      |

5.12 Reference is made to Policy LPRSA259 of the MLPR in the Council's delegated report and in my view this should be considered the key policy of direct

relevance to the appeal scheme as this policy allocates the appeal site for residential development for approximately 113 dwellings. The appeal proposal is for 117 dwellings and is therefore considered to be within the range allowed by the term 'approximately'.

- 5.13 Policy LPRSS1 sets out the spatial strategy for development in the Borough over the period 2021-2038. Policy LPRSS1 refers to the role of site allocations in providing for a minimum of 19,669 new dwellings over the plan period.
- 5.14 Policy LPRSP9 refers to development in the countryside and sets out that the 'countryside' is defined as areas outside of the defined settlement boundaries as shown on the MLPR Policies Maps.
- 5.15 Policy LPRS10 relates to Housing Delivery and advises that over the plan period provision will be made for a minimum of 19,669 new homes in the Borough. The policy sets out that the Council has chosen to use a stepped housing trajectory in order to provide the required level of housing, and that the annual level of growth will occur over a series of steps, namely that majority of housing is expected to come through towards the end of the plan period i.e from 2033-2038. This is a result of the Council relying on the delivery of larger sites including garden settlement and garden community to meet their housing needs.
- 5.16 Policy LPRS10(A) refers to Housing Mix and advises that proposals for new housing in the Borough should provide a sustainable range of house sizes, types and tenures that reflect the needs of the population of the Borough. It also advises that developers should refer to the SHMA 2021 to help inform the type of housing needed to meet the objectively assessed needs of the area.
- 5.17 LPRS10(B) relates to Affordable Housing and confirms the types of developments that the Council will require the delivery of affordable housing. The policy also sets out the target rates for affordable housing provision within different areas of the Borough.
- 5.18 LPRTRA4 refers to Parking and sets out the expected level of car parking standards required for new residential and non-residential development. This policy confirms that developments will be assessed against the requirements set out in the KCC Interim Guidance Note 3 to the Kent Design Guide or any subsequent revisions.
- 5.19 LPRSP12 seeks to ensure the transport system supports the growth projected by Maidstone's Local Plan Review and facilitates economic prosperity and delivers a modal shift through managing demand on the transport network through enhanced public transport and walking and cycling improvements.
- 5.20 LPRSP13 refers to Infrastructure Delivery and advises that where development creates a requirement for new or improved infrastructure beyond existing provision, developers will be expected to provide or contribute towards the

additional requirement. The policy sets out the infrastructure priorities for residential developments and confirms that these are ranked as follows: Affordable Housing; Transport; Open Space; Education; Health; Community Facilities; Public Realm; Waste Management; Public Services, and Libraries.

- 5.21 LPRSP14(A) refers to the Natural Environment and sets out that new developments are to incorporate measures such as: the delivery of a minimum of 20% BNG on new residential developments; ensure the protection of positive landscape character; avoid damage to or adverse effects on designated sites of importance for biodiversity. The policy also advises that account should be taken of the Council's Landscape Character Guidelines SPD, Green and Blue Infrastructure Strategy and the Kent Downs AONB Management Plan.
- 5.22 LPRSP15 relates to the Principles of Good Design, this policy deals with the siting, design, density, orientation and landscape treatment of development proposals. The policy also advises that developments should respect the topography and respond to the location of the site and sensitively incorporate natural features such as natural watercourses, trees, hedges and ponds worthy of retention within the site. The policy also states that particular attention should be paid in semi-rural areas so that existing and additional vegetation can help assimilate development in a manner which reflects the local and natural character of the area.
- 5.23 LPRQD2 refers to External Lighting and sets out a number of criteria that need to be met for proposals for external lighting schemes including that the proposal would not be visually detrimental to its immediate or wider setting, particularly dark landscapes and that any impact on wildlife and biodiversity is minimised through appropriate mitigations.
- 5.24 LPRINF1 refers to Publicly Accessible Open Space and Recreation. This policy sets out the quantity standards required for each category of publicly accessible open space provision on new housing development sites. The open space types covered in this policy include amenity green space; equipped play areas; outdoor sports pitches; Allotments and community gardens, and natural/semi-natural areas of open space. The policy also sets out the expected general quality standards expected on all new open spaces.
- 5.25 LPRTRA2 refers to Assessing the Transport Impacts of Development. This policy sets out the information that development proposals must provide, these include information such as a Transport Assessment and evidence that the impacts of the trips generated by the development can be accommodate or mitigated to prevent highway safety or capacity impacts. The policy confirms that proposals for development will be considered in the context of both their impacts in terms of motor vehicle movements and overall sustainability.
- 5.26 LPRQD4 refers to Design Principles in the Countryside and this policy deals in detail with the siting, design, type of materials, density, level of activity,

orientation and landscape treatment of development proposals for sites which are situated outside of the settlement boundaries as defined on the Policies Map.

- 5.27 In addition to those policies it is worthy of note that LPRHOU5: Density of Residential Development Policy, states;

*The setting of minimum densities for residential developments will help the council to achieve this and make best use of land, whilst also being in line with national planning policy (NPPF paragraph 125) and policy LPRSP10(B)*

*All new housing will be developed at a density that is consistent with achieving good design and does not compromise the distinctive character of the area in which it is situated. Development proposals that fail to make efficient use of land for housing, having regard to the character and location of the area, will be refused permission. Subject to these overriding considerations the following minimum densities are expected in the following locations:...*

*5. At sites within or adjacent to the Rural Service Centres, Larger and Smaller Villages as defined under policies LPRSP1 to LPRSP8 new residential development will be expected to achieve a net density of 30 dwellings per hectare where that is compatible with the individual settings of those sites.*

- 5.28 **Marden Neighbourhood Plan (MNP) (2020)**

- 5.29 The Marden Neighbourhood Plan does not allocate sites for development, rather it sets out a number of policies for developments to conform with. The following were referred to in the MBC revised delegated report.

- 5.30 Policy BE1: Local Character – this policy indicates that development proposals should be designed to protect the fabric and setting of any designated and non-designated heritage asset and respect and enhance the existing character of the village.

- 5.31 Policy NE3: Landscape Integration – indicates that all proposed developments should be designed to integrate into their surroundings and contribute positively to the conservation and enhancement of that landscape.

- 5.32 Policy NE4: Biodiversity and Habitats – seeks to ensure a biodiversity net gain philosophy should be implemented so that any habitat or species loss is replaced elsewhere on-site, in excess of the amount originally lost.

- 5.33 Policy A2: Open Space – requires the provision of open space within all major development sites and links to footpaths.

- 5.34 Policy A3: Primary Education - states that developments which lead to a requirement for additional capacity and resources at Marden Primary School

will be supported with appropriate funding sought through planning obligations.

- 5.35 Policy In2: Sustainable Travel - supports developments which maximise travel on foot and by cycle and that provide direct links to village facilities and public transport services.
- 5.36 Policy In3: Traffic Generation - requires that developments provide safe vehicular access arrangements.

## 6. Other Material Considerations

6.1 I consider that other relevant considerations include:

- National Planning Policy Framework
- Housing need and provision of affordable housing
- Biodiversity net gain
- Open Space Provision
- Economic Benefits of the Appeal Scheme

### **National Planning Policy Framework**

6.2 The relevant sections of the NPPF were provided within the Planning Statement that accompanied the Application submission, the Council's delegated report and the decision notice. However, during the determination of the application the NPPF was revised, and the latest version of the NPPF was published on 20<sup>th</sup> December 2023. Therefore, references in the Planning Statement refer to the previous version of the NPPF. The 2024 Consultation Draft is referred to later in this section.

6.3 I will consider the NPPF briefly on a topic-by-topic basis with reference to those set out in the RfRs.

6.4 The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The NPPF sets out what the government considers to be sustainable development, having regard to the three roles of the planning system which seek development to have regard to economic, social and environment sustainability. The NPPF is a material consideration in the decision-making process and at the heart of the NPPF is the presumption in favour of sustainable development.

6.5 The following parts of the NPPF are considered to be relevant to the appeal scheme.

6.6 Whilst not specifically mentioned in the RfRs, paragraph 11 of the NPPF is considered to be relevant to the Appeal. This paragraph of the NPPF states that Plans and decisions should apply a presumption in favour of sustainable development, section C of paragraph 11 clarifies that for decision-taking this means: approving development proposals that accord with an up-to-date development plan without delay. The imperative here and at paragraph 70 (described below) is to 'get moving' and deliver housing allocated in the plan fast.

- 6.7 Section 5 of the NPPF refers to delivering a wide choice of high-quality homes and aims to significantly boost the supply of housing. It notes that it is important to provide a sufficient amount and variety of land, where it is needed, to meet a range of housing requirements.
- 6.8 At paragraph 70 it identifies that small and medium sized sites make an important contribution to the delivery of housing, often capable of being delivered quickly.
- 6.9 Section 8 refers to promoting healthy and safe communities.
- 6.10 RfR 3 refers to the aims of sustainable development and in particular the reduction of reliance on private motor vehicle for travel. RfR 4 refers to the requirement for safe and suitable vehicular access for all but does not refer to any specific paragraph numbers or chapter of the NPPF. I note that promoting sustainable transport is covered in Section 9 of the NPPF (paragraphs 108 – 117). Paragraphs 114 – 117 consider development proposals. The Council's delegated report refers to paragraphs 96 and 108 of the NPPF which requires opportunities to promote and encourage walking, cycling and public transport.
- 6.11 Design is dealt with in Chapter 12 which sets out the objectives for achieving "well designed places". Para 135 states that: *"Planning policies and decisions should ensure that developments:*
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
  - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
  - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
  - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
  - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
  - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."*
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- 6.12 Chapter 15 deals with the conservation and enhancement of the natural environment.
- 6.13 RfR 5 refers to Paragraph 180 of the NPPF, this requires decisions to contribute and enhance the natural and local environment and sets out a number of ways this can be accomplished. It should be noted however, that most of these criteria are not relevant to the Appeal Scheme as they relate to areas such as valued landscapes, sites of biodiversity or geological value and soils, areas in the countryside, undeveloped coast, and preventing new development from being at risk of soil, air, water or noise pollution or land instability, and remediating despoiled, degraded, derelict or contaminated land. In my opinion the only part of paragraph 180 which is relevant to the Appeal Scheme is d) which requires minimising impacts on and providing net gains for biodiversity.
- 6.14 Paragraph 186 is not referred to in the Council's decision notice or delegated report, however, it is considered relevant to this Appeal, particularly in reference to RfR 5. Paragraph 186 states:
- "When determining planning applications, local planning authorities should apply the following principles:*
- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest; c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.*
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**National Planning Policy Framework (consultation on revisions by new Labour Government July 2024) and Written Ministerial Statement by the Deputy Prime Minister, Angela Rayner MP.**

- 6.15 On 30 July 2024 the new Labour government published a draft revised NPPF (CD. H.2) for consultation and an accompanying Written Ministerial Statement (“WMS”) by the Deputy Prime Minister, Angela Rayner MP.
- 6.16 As identified in the explanatory online information accompanying the publication, the proposed changes are considered by the Government to be vital to deliver its commitments to achieve economic growth and build 1.5 million new homes in this Parliament. Some of the more notable and relevant proposed changes include:
1. making the standard method for assessing housing needs mandatory, requiring local authorities to plan for the resulting housing need figure and planning for a lower figure only when they can demonstrate ‘hard constraints and that they have exhausted all other options’;
  2. reversing other changes to the Framework made in December 2023 which were considered to be detrimental to housing supply; and
  3. implementing a new standard method and calculation to ensure local plans are ambitious enough to support the Government’s manifesto commitment of 1.5 million new homes in this Parliament.
- 6.17 It is notable that the document entitled ‘Outcome of the proposed revised method’, published alongside the draft Framework 2024, confirms that under a revised standard method, the housing requirement for Maidstone Borough would increase from 1,220 dpa to 1,344 dpa.
- 6.18 Whilst the draft Framework 2024 has limited weight at this time it is evident, consistent with its Manifesto commitments, that the Government intends to reform the planning system with a particular emphasis on encouraging economic growth and delivering the 1.5 million homes it has committed to in the next five years. A key part of this even greater emphasis on housing delivery must be the timely approval of housing on sites already allocated for housing, particularly those allocated in very recently adopted Local Plans i.e. sites such as the Appeal Site. This clear view of the Government itself can be afforded weight and, therefore, the draft Framework 2024 represents an overwhelmingly likely direction of travel to deliver a manifesto commitment.

**‘Building the homes we need’ - Written Ministerial Statement (WMS) by the Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government (30th July 2024) (CD H.3)**

- 6.19 Published on the same day as the draft Framework 2024, the Deputy Prime Minister / SoS issued a Written Ministerial Statement (“WMS”) explaining some of the changes proposed and the rationale for them. This can be afforded full weight as an expression of the view of the Government. The WMS notably confirms that: “We are in the middle of the most acute housing crisis in living memory. Home ownership is out of reach for too many; the shortage of houses drives high rents; and too many are left without access to a safe and secure home. That is why today I have set out reforms to fix the foundations of our housing and planning system – taking the tough choices needed to improve affordability, turbocharge growth and build the 1.5 million homes we have committed to deliver over the next five years.”
- 6.20 It adds that: “The actions we are taking today will get us building, but they represent only a downpayment on this Government’s ambitions. These are the right reforms for the decade of renewal the country so desperately needs. In every area, we will endeavour to make changes with the input and support of the sector, but we will not be looking for the lowest common denominator answer, and we will not be deterred by those who seek to stand in the way of our country’s future. There is no time to waste. It is time to get on with building 1.5 million homes.”
- 6.21 Consistent with the revisions in the draft Framework 2024, and its Manifesto commitments, it is clear that boosting housing delivery is a matter of particular and specific importance for the Government. Again, the timely approval of appropriate development proposals on allocated housing sites, such as the Appeal Site, must be a fundamental part of this strategy.

**Speech by the Chancellor of the Exchequer (8<sup>TH</sup> July 2024) (CD H.3.b)**

- 6.22 On 8th July 2024 the Chancellor of the Exchequer, Rachel Reeves MP, gave a speech on immediate action being taken by the new Government to “..fix the foundations of our economy”.
- 6.23 Amongst other things, the Chancellor notably stated that: “....we must acknowledge that trade-offs always exist: any development may have environmental consequences, place pressure on services, and rouse voices of local opposition. But we will not succumb to a status quo which responds to the existence of trade-offs by always saying no and relegates the national interest below other priorities... Be in no doubt – we are going to get Britain building again. We are going to get Britain’s economy growing again. And there is no time to waste.”

### **Housing need and provision of affordable housing**

- 6.24 The Appeal site is an allocated site in the MLPR and therefore forms an essential part of the spatial strategy and the delivery of 19,699 dwellings for the Borough over the plan period. The MLPR was adopted on the basis of a stepped housing trajectory, relying on the delivery of larger sites including garden settlement and garden community. It is important to note that these large-scale sites will come forward towards the end of the plan period, therefore smaller housing sites such as this allocated site will help make an important contribution to delivering housing in the first five-to-ten-year period of the MLPR
- 6.25 I note that the Appeal site is included along with the other MLPR allocations within the Council's housing trajectory. The trajectory suggests that the Council expect these site allocations to come forward from 2024/25 until 2033/34 of the plan period, with the majority of the allocations anticipated to deliver housing within the five/six years of the plan being adopted. In the light of the need for housing, the housing delivery trajectory and the allocation of the site, there is no time to waste in ensuring the expeditious delivery of new homes on the appeal site.
- 6.26 The Appeal scheme would provide up to 117 dwellings and can be delivered in full within five years, therefore making a material contribution towards the maintenance of the Council's housing supply, the provision of these dwellings is a significant social benefit which weighs heavily in favour of the scheme, and in my opinion, substantial weight should be given to this benefit.
- 6.27 The element of the housing trajectory referred to as 'LPR Allocations' (the non-strategic allocations) must logically be constructed using the approximate housing numbers and delivery assumptions for each allocated non-strategic site as set out in the Local Plan. Cumulatively, the 'LPR Allocations', when added to completions, extant permissions and the strategic allocations, would deliver a total of 19,390 homes in the period to 2038.
- 6.28 As such, it is evident that even if all allocated sites were delivered in accordance with the approximate numbers identified in the Local Plan, housing delivery in the borough would still fall short of the 'minimum' requirement set out in Policy LPRSP10.
- 6.29 It can also be seen from the above that the Council's housing trajectory, that itself flows from the spatial strategy in the Local Plan, relies heavily in the shorter-term (until 2028/29) on assumed housing delivery from sites with extant planning permission and the smaller allocations made in the Local Plan. Whilst it is not explicit in Local Plan Appendix 1, reference to the Council's SLAA 2021, an evidence base document supporting the Local Plan, confirms that the Council considers that the Appeal Site can, subject to planning permission being granted, deliver homes rapidly.

- 6.30 In summary, it is therefore evident that the recently adopted Local Plan:
1. balances a number of conflicting factors and thereby accepts a degree of harm to some matters;
  2. includes development allocations (including the Appeal Site) but it can be noted that in so doing, the Council states clearly in the Foreword to the Local Plan that it considers that in making these, the Local Plan still suitably safeguards the rural area;
  3. includes an overall 'minimum' housing requirement and a housing trajectory that confirms that the allocations made would not in fact meet this minimum figure; and
  4. relies upon the approval and delivery of housing on smaller allocated sites, such as the Appeal Site, in the short term.

**Affordable Housing**

- 6.31 The Appellant's have commissioned an updated Affordable Housing Statement/Technical Note by Tetlow King to support this Appeal, and this is attached at Appendix A.
- 6.32 In summary, the lower quartile house prices in Maidstone are almost twelve times the lower quartile salary, which is highly unaffordable.
- 6.33 Consequently, it is important to recognise the affordable housing benefits of the appeal scheme;
- Affordable housing provision of 40% (up to 47 dwellings) of the scheme, in conformity with Policy LPRSP10(B) of the Local Plan Review (2021 to 2038);
  - A deliverable scheme which provides much needed affordable homes;
  - In a sustainable location;
  - With the affordable homes managed by a Registered Provider;
  - Which provide better quality affordable homes with benefits such as improved energy efficiency and insulation; and
  - Greater security of tenure than the private rented sector.
- These benefits are substantial and a strong material consideration weighing heavily in favour of the proposal.

### **Biodiversity Net Gain**

- 6.34 The Environment Act 2021 introduced a requirement that any new planning application for development will be required to meet the objective that the “biodiversity value attributable to the development exceeds the pre-development biodiversity value of the on-site habitat by at least [10%]”.
- 6.35 A Biodiversity Net Gain Report was submitted with the Application, this advises that the Appeal scheme is capable of delivering significant ecological enhancement. The exact detail of this will be provided at the Reserved Matters stage, but the Outline appeal scheme clearly demonstrates that this is a significant benefit of the development.
- 6.36 The layout has been developed with the biodiversity of the appeal Site as a key consideration and has been designed to minimise the potential for any negative impacts from habitat fragmentation. The existing hedgerows along the boundaries of the Site are to largely remain and supplementary planting is also proposed along the boundaries. New areas of species-rich grassland are proposed along with the creation of new attenuation features, and the planting of new native trees/hedges/scrub which will provide new and enhanced opportunities for a range of invertebrates. Mitigation and enhancement measures have been proposed and these have been incorporated into the proposal in order to offset the impact of the development.
- 6.37 Enhancing orchard, grassland and mixed scrub habitats is a key focus of the mitigation strategy for this site. The orchard, grassland and mixed scrub habitats which are currently present within the site are of poor quality and lacking in diversity. Through additional management, it will be possible to create habitats which have a greater diversity, and as a consequence support a more diverse range of fauna. Appropriate management of good quality grassland and scrub throughout the site will further provide net gains.
- 6.38 A BNG assessment using the latest DEFRA Metric (v4.0) has been undertaken by Ecology Solutions, and the updated report is appended to Mr Wood’s PoE (CD. L.5). The results of the updated BNG analysis confirm that the proposed development can deliver a net gain in habitat units of 25.91%, and a net gain in hedgerow units of 59.36%.
- 6.39 The net gain that will be achieved by the Appeal Scheme is more than double the amount that is required the Environment Act 2021 and in excess of that required under policy LPRSA14(A) of the MLPR, and in my view this should attract substantial beneficial weight in the overall planning balance.
- 6.40 It is important to note that the final BNG calculations will be undertaken at Reserved Matters stage, but the information submitted to support this appeal shows how BNG could be provided on site.

- 6.41 In summary, the ecology reason for refusal (5) has been addressed by incorporating additional habitat for Turtle Dove into the scheme design, carrying out breeding bird surveys, updating great crested newt and reptile surveys, and providing additional information/clarification regarding mitigation for badgers, great crested newts, and reptiles.

#### **Open Space Provision**

- 6.42 The allocation policy (LPRSA295) indicates that the site should provide...
- *new open space on site in accordance with policies LPRSP13 and LPRINF1.*
  - *not less than 1.25 hectares of open space, with typologies in accordance with policy LPRSP13 and LPRINF1.*
  - *the strategy shall ensure that areas designed to support biodiversity net gain shall not be publicly accessible.*
  - *not less than 0.3 hectares useable green open space shall be provided, incorporating children's play to meet the needs of the development.*
  - *The function and quality of any open space shall not be prejudiced by a dual requirement to provide surface water drainage mitigation.*
- 6.43 *Where it is not feasible, due to site characteristics, to provide an appropriate level of on-site open space in accordance with policy LPRSP13 and LPRINF1, the scheme shall make appropriate financial contributions towards off-site provision targeted at known deficiencies in the area.*
- 6.44 Policy LPRSA295 sets out that development on the site should include a provision of not less than 1.25ha of open space, and not less than 0.3ha of useable open space shall be provided.
- 6.45 The illustrative layout submitted in support of the Appeal proposal demonstrates that a considerable area of almost 2.7ha of open space can be provided on site.
- 6.46 The Appeal Scheme would provide areas of informal open space and amenity grassland, a community orchard, wildflower meadows, a village green and a play area. Full details are shown on the Plan at Appendix 2.
- 6.47 The provision of open space and useable open space on site is considered to be a socio-environmental benefit to which significant weight should be given.

#### **Economic Benefits**

- 6.48 It is my view that the Appeal Scheme will result in a number of economic benefits, including:

- The provision of construction jobs directly on-site;
- The provision of other jobs in construction related activities;
- The creation of 117 dwellings will help to generate additional household expenditure in the local area;
- New homes in the Borough will help to support employment growth;
- Generation of annual Council Tax payments.

6.49 To put the above benefits into context, the House Builders Federation (HBF) Housing Calculator which stems from the September 2024 publication - The Economic Footprint of Home Building in England and Wales allows the calculation of benefits that building new homes will bring to the community and the estimated knock-on benefits to the economy. Inputting the number of homes proposed in the Appeal Scheme i.e. 117 dwellings, provides the following estimates for employment and revenue:

- 117 dwellings would support the employment of 406 people,
- provide 4 apprentices, graduates, or trainees, and
- would generate £3,120,000 in tax revenue,
- including £235,462 in council tax revenue.

6.50 In addition to the above, the new residents of the Appeal Scheme would help to support local businesses and communities in the longer-term by way of additional disposable income expenditure. The Office for National Statistics (ONS) provides information on family spending in the UK, this identifies that the total average weekly household expenditure was £567.70 in the financial year ending (FYE) 2023. As a result, the direct expenditure for 117 households would amount to £3,453,887 per annum (£567.70 x 117 households x 52 weeks). This household expenditure in the area is considered to be significant, it would help to support the services and facilities in the Marden area and the wider Borough.

6.51 In addition, significant and meaningful financial contributions will arise from the Appeal proposal in the form of s106 contributions and Community Infrastructure Levy (CIL). A not insignificant portion of CIL contributions (i.e. 25%), would be passed to Marden Parish Council to spend locally on projects identified by the community.

6.52 Additionally, the direct on-site benefits would be secured via s106 contributions including the public open space, and pedestrian connections.

6.53 The economic benefits which result from the Appeal Scheme are considered substantial and should be given significant weight.

## 7. Third Party Submissions

### **Response to third party submissions**

- 7.1 It is noted that there has been third party interest in the Appeal Scheme. The consultation responses to the Application have been referred to in the Council's delegated report.
- 7.2 It is considered that all the points raised have been covered, on behalf of the appellant, elsewhere within this evidence and that other evidence before this Inquiry.

## 8. Planning Policy Assessment

- 8.1 In this section I will assess the Appeal scheme against the most important development plan policies.
- 8.2 The recent adoption of the MLPR resulted in fundamental and more subtle changes in policy. The policies within the MBLP which were contained in the Council's decision notice and the Appellant's Planning Statement have been superseded by those within the MLPR.
- 8.3 All of the relevant policies were listed out in the Appellants Statement of Case and in earlier sections of this Proof of Evidence, and as such are not repeated here. Instead, I will set out my assessment of the Appeal scheme against the most relevant policies and this is set out below.
- 8.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, where regard is to be had to the statutory development plan in determining an application for planning permission, the determinations shall be made in accordance with the development plan, unless material considerations indicate otherwise.
- 8.5 Whilst Paragraph 11 of the NPPF is not specifically included in the Council's RfRs, it is considered relevant to the proposal. Paragraph 11 explains that plans and development should apply a presumption in favour of sustainable development, for decision-making this means approving development proposals that accord with the up-to-date development plans.
- 8.6 As a consequence of the recent adoption of the MLPR, the Council has an up-to-date development plan and the policies contained within the MLPR carry full weight.

### Site Allocation

- 8.7 Policy LPRSA295 of the MLPR is most relevant to the Appeal Scheme. Policy LPRSA295 allocates the entirety of the Appeal Site for residential development. Below I consider how the appeal scheme complies with the conditions/criteria set out under the policy. There is a similar table in Mr Marc Tomes evidence dealing with Landscape issues, which is in part replicated here.

| The requirements of Policy LPRSA295 / relevant policy                        | Comment in relation to Appeal scheme compliance  |
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| 1. Land at Copper Lane and Albion Road as identified on the Policies Map, is | 1. the principle of residential development and open space / infrastructure provision, as proposed by the Appeal Scheme, is established in the Local Plan. |

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| <p>allocated for the development of approximately 113 dwellings. The following conditions are considered appropriate to be met before development is permitted.</p>                            | <ol style="list-style-type: none"> <li>2. this presupposes that significant change to the Appeal Site will arise and that the development of approximately 113 homes is acceptable;</li> <li>3. the scale of development promoted by the Council, and accepted by the Local Plan Inspector, is clear i.e. approximately 113 homes and;</li> <li>4. the Council's promotion and adoption of the allocation means that there is already an inherent acceptance of impacts, both positive and negative. This includes an accepted degree of harm to some matters to be able to deliver the quantum of housing identified i.e. the inherent impacts associated with this scale of development are inevitable given the allocation of the Appeal Site.</li> </ol> <p>The policy contains 21 'conditions' numbered 2-22. All 21 conditions are complied with or are capable of being complied with through the submission of the R/M.</p> |
| <b>Design and Layout</b>   |   |
| <p>2. The two adjacent land parcels shall be designed and delivered through a joint masterplan with a single point of access to Albion Road and a joint strategy for open space provision.</p> | <p>The Appeal scheme provides an illustrative layout across the Site allocation. This illustrative layout (masterplan) shows a single point of access to Albion Road.</p> <p>The Appeal scheme illustrates a strategy for open space provision across the whole Site allocation.</p>  |
| <p>3. Lower densities should be located adjacent to sensitive boundaries.</p>  | <p>Final densities will rely on the detailed design of the proposals during reserve matters.</p> <p>As illustrated in the DAS and the illustrative layout, the intent is to reduce the density and scale of built form towards the sensitive boundaries.</p> <p>Particularly to the south.</p>  |
| <p>4. The south part of the site around the existing ponds shall be kept free of</p>   | <p>There are no proposed dwellings within the south part of the site around the existing ponds.</p>   |

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| <p>development with new landscaping to soften and break views from the south.</p> | <p>The existing ponds are retained and space has been given around these for new landscaping. The illustrative layout shows a new area of open space to the north of the existing ponds with space for new trees and landscaping to soften and breaks views from the south. It also shows existing vegetation and two areas of commercial orchard retained.</p> <p>There is a proposed attenuation basin located within the south part of the Site in a space between the existing ponds and boundary vegetation. As shown in the DAS, the intent here is to create a naturalised multifunctional wetland, with opportunities for new vegetation and a boardwalk so to create an accessible and attractive 'soft' edge to the development. New trees are shown to the north of this between the proposed basin and the proposed dwellings that face onto the space. There is also space for further landscaping.</p> <p>The illustrative layout shows a potential pumping station towards the southwest corner of the Appeal Site, just north of an existing pond. The footprint of this will not be substantial and could be screened from view. Whilst it is acknowledged that this brings a built structure within this predominately verdant part of the proposal, it is likely to have very little visibility unless up close to it.</p> <p>The illustrative layout shows potential screening around it. With careful detailed design the pumping station may not be visible at all. Final specification, location and screening will need to be resolved at detailed design during reserve matters.</p> <p>An additional built element within the south part of the site shown on the illustrative layout is the proposed pedestrian / cycle / emergency access footpaths aligned with the existing field gate from Copper Lane.</p> <p>It is acknowledged that this will bring change to the area and views from this point along Copper Lane. However, the proposals include opportunities for new hedgerow planting, trees and bulking / growth of the existing hedge to help soften and break views from the south.</p> |
| <p>5. Development should be integrated</p>  | <p>Although a matter for detail, the illustrative layout and its supporting cross sections in the DAS show how the</p>  |

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| into the slope on the site to minimise landscape impact.                                 | <p>proposals have sought to be integrated into the slope on the site to minimise landscape impact.</p> <p>There is no indication of large 'cuts' into the topography or the need for large retaining structures.</p>   |
| 6. Design of the site will need to ensure neighbouring residential amenity is protected. | <p>In terms of minimising potential visual effects for those neighbouring residential properties the Appeal Scheme and its illustrative layout proposes a number measures including:</p> <p>Existing trees/hedges along site boundaries are to be retained and enhanced apart from where required for vehicular or pedestrian access.</p> <p>Additional buffer planting is shown to be provided along the eastern and western boundaries.</p> <p>The northern buffer with Russet Grove is approx. 4.4m wide.</p> <p>The illustrative layout also shows new dwellings to be between 11.5m and 17.8m set back from the existing boundary, with rear gardens of the proposed dwellings backing onto the buffer.</p> <p>The eastern buffer is approx. 13.5m wide and provides extra space for new landscaping and bulking out existing boundary vegetation.</p> <p>The proposed dwelling that faces onto Albion Road is set back 13.5m from the road, similar to neighbouring Russet Grove.</p> <p>Residents of Thorn Road are circa 150m from the proposed dwellings with an existing field, mature vegetation and new vegetation in-between.</p> <p>The Howlands, within the same land ownership as the Appeal Site is affected on three of its sides, however, the proposed illustrative layout includes space for new planting and setbacks.</p> |
| 7. Site design and layout shall be informed by a local                                   | <p>A Heritage Report was submitted with the application, no objections to the scheme were raised by the Council's Conservation/Archaeology Officer.</p>  |

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| historic impact assessment.   |   |
| <b>Landscape/ Ecology</b>   |   |
| 8. A phase 1 habitat survey will be required, which may as a result require on and/or-off site mitigation for the existing habitat of local fauna/ flora. | As set out in the original and update ecology reports, the scheme does not give rise to unacceptable impacts in relation to habitats.   |
| 9. Structural landscaping will be required throughout the site to soften and break up the impact of built development.                                    | <p>There is opportunity for structural landscaping throughout the site to soften and break up the impact of built development.</p> <p>The proposed 'greenway' and the areas identified as open space throughout the development provide opportunities for structural landscape.</p> <p>There is also the intent to utilise the old field patterns and the SUDs features to provide landscape structure to the Appeal scheme. The detail of which will need to be designed as part of the overall site proposals.</p> <p>The OLEMP indicates the commitment to manage and maintain the existing and proposed vegetation.</p> <p>The detail of the proposed landscape will be required at detailed design. The LVIA suggests opportunities to align the design process with aspirations and guidance to enhance the local landscape character and embed the development within its context, such as new standalone Oak trees and bulking out existing hedgerows.</p> <p>The new open space to the north of the existing ponds in the southern part of the Site provides space for structural landscape features such as standalone Oak trees.</p> <p>The two areas of existing orchards and the retention and enhancement of the boundary vegetation help retain some of the key landscape characteristics of the Site and wider LCA. These also help break up the impact of built development.</p> |

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| <p>10. Structural landscaping will be required along the south edge to soften and break up the impact of built development in views from the south.</p> | <p>As noted above, there is opportunity for structural landscaping along the south edge to break up the impact of built development in views from the south.</p> <p>As indicated in the DAS and the OLEMP there are opportunities for new groups of trees or new standalone Oaks to be set within the parkland.</p> <p>The majority of the existing hedgerows are retained and enhanced. Where removal is required, these are replaced.</p> <p>There is also potential for Oak standards to be planted within hedgerows.</p> <p>Two areas of the existing commercial orchard are shown to be retained and integrated into the scheme.</p> <p>There is a commitment to bulk out and grow the existing and new hedgerows along the boundary with Copper Lane providing further screening.</p> |
| <p>11. Existing tree/hedge site boundaries shall be retained and enhanced apart from where required for vehicular or pedestrian access.</p>             | <p>Existing tree/hedge site boundaries are to be retained apart from where required for vehicular or pedestrian access.</p> <p>Where removal is needed because of vehicular or pedestrian access, the Appeal scheme includes mitigation.</p> <p>The existing tree/hedge boundaries can enhanced as outlined in the OLEMP and can be confirmed in the final landscape proposals and final LEMP during the detailed design phase at reserve matters.</p>  |
| <p>12. The site's design should have regard to the setting of the High Weald National Landscape.</p>  | <p>At the time of preparing the Appeal Scheme, the High Weald AONB Management Plan was considered and given regard to the outline design for the Site.</p> <p>The Statement of Significance (AONBMP Page 23), identified the five defining components of character that have made the High Weald a recognisably district and homogenous area for at least the last 700 years; Geology, landform, water systems and climate; Settlements; Routeways; Woodland; Field and Heath.</p>  |

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|   | <p>These five defining components and the objectives identified within the management plan had been reviewed and considered in relation to the Site and its potential development.</p> <p>In particular objectives</p> <p><i>G1 – To restore the natural function of rivers, water courses and water bodies</i></p> <p><i>S2 – To protect the historic pattern and character of the settlement</i></p> <p><i>S3 – To enhance architectural quality of the High Weald and ensure development reflects the character of the High Weald in its scale, layout and design</i></p> <p><i>R1 – To maintain the historic pattern and features of routeways</i></p> <p><i>R2- To enhance the ecological function of routeways</i></p> <p><i>W2 – To enhance the ecological functioning of woodland at a landscape scale</i></p> <p><i>FH2 – To maintain the pattern of small irregularly shaped fields bounded by hedgerows and woodlands</i></p> <p>The detailed design can give further regard to the setting of the High Weald National Landscape by applying the HWAONB Management Plan principles and guidance.</p> <p>It is worth noting that The High Weald National Landscape is located approximately 4km from the application Site.</p> |
| <p>13. Development will be subject to a site-wide strategy to incorporate an appropriate level of biodiversity net gain in accordance with national and local policy.</p> | <p>The development has the potential to have a substantial biodiversity net gain. Above national and local policy. The Appeal Scheme demonstrates the potential for this to be on-site.</p> <p>The OLEMP outlines the commitment to ongoing establishment and management of ecological gain.</p> <p>Following detailed design and at reserve matters stage this can be developed into a more detailed LEMP and informed by a CEMP.</p>   |

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| 14. Provide an Ecological Impact Assessment of development sites and any additional land put forward for mitigation purposes to take full account of the biodiversity present.   | Ecological impacts have been fully assessed as part of the application/appeal. No unacceptable harm results and suitable mitigation has been incorporated where needed.   |
| <b>Access, Highways and Transportation</b>   |   |
| 15. Provision of suitable vehicular access to Albion Road that meet adequate capacity standards and safety provisions.   | Suitable and safe access is provided and the Highway Authority raise no objections.   |
| Development will be subject to the creation of safe pedestrian connections to the wider pedestrian network.  | Safe pedestrian access has been incorporated and the Highway Authority raise no objections.   |
| <b>Open Space</b>  |   |
| 17. Provision of new open space on site in accordance with policies LPRSP13 and LPRINF1. Provision shall include not less than 1.25 hectares of open space, with typologies in accordance with policy LPRSP13 and LPRINF1. The strategy shall ensure | <p>The proposals meet this requirement.</p> <p>2.67ha of new open space is proposed.</p> <p>The BNG Strategy enables areas that support biodiversity net gain not to be publicly accessible if this is desired.</p> |

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| that areas designed to support biodiversity net gain shall not be publicly accessible.   |  |
| 18. Not less than 0.3 hectares useable green open space shall be provided, incorporating children's play to meet the needs of the development.   | <p>The proposals meet this requirement.<br/>The proposals include:</p> <p>0.29ha of Amenity Green Space<br/>0.15ha of Provision for young people and<br/>0.25ha of Allotments and community gardens</p> <p>The total proposed is 0.69ha of useable green open space. This figure excludes semi-natural area of open space which could, subject to detail, also contain usable paths, seating, natural play and interpretation.</p> |
| 19. The function and quality of any open space shall not be prejudiced by a dual requirement to provide surface water drainage mitigation.   | <p>Open vegetated swales and vegetation attenuation basins have been integrated into the illustrated layout so not prejudice dual requirement of the open spaces.</p> <p>I also do not see any reason why these cannot be developed / detailed as part of reserve matters so to follow the four Pillars of SuDS (amenity, ecology, water quantity, water quality).</p>   |
| 20. Where it is not feasible, due to site characteristics, to provide an appropriate level of on-site open space in accordance with policy LPRSP13 and LPRINF1, the scheme shall make appropriate financial contributions towards off-site provision targeted at known deficiencies in the area. | As set out above the requisite open space can be provided on-site.   |

| Utilities Infrastructure  |   |
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| 21. The applicant is to demonstrate that adequate connections to the nearest points of the network are achievable and that adequate capacity exists/can be created for all utilities. | Initial discussions with service providers show that there are adequate connections and capacity available for all utilities. |
| 22. Where there may be limited capacity in the utility network, the occupation of the development will be phased to align with the delivery of infrastructure.                        | No such issues are envisaged, but would be a consideration at R/M stage.  |

#### Other Policies

- 8.8 Policies LPRSS1 & LPRSP6 set out the spatial strategy of the MLPR, policy LPRSS1 refers to the role of the allocations set out in the MLPR in helping to provide for a minimum of 19,669 new dwellings over the plan period.
- 8.9 Fundamentally, both the Council and Local Plan Inspector agreed that this approximate scale of development at the Appeal Site was consistent with Policy LPRSS1 i.e. it is consistent with the scale and role of Marden.
- 8.10 In the table below I set out a summary of my conclusion on the compliance of the Appeal Scheme with the policies within the MLPR (excluding the allocation policy considered above).

| Policy                                     | Description                        | Does the Appeal Scheme comply?   |
|--|------------------------------------|--|
| <b>Maidstone Borough Local Plan Review</b> |                                    |  |
| LPRSS1                                     | Maidstone Borough Spatial Strategy | Yes - in full accordance.  |
| LPRS10(A)                                  | Housing Mix                        | Yes. The Appeal scheme proposes a mix of dwelling types from 1-bed to 4-bed properties across the Site to meet local housing needs, including Housing for older people. The illustrative layout shows how a policy compliant mix can be accommodated within the site. However, the appeal scheme is in Outline only, therefore this is primarily a matter for R/M consideration.   |
| LPRS10(B)                                  | Affordable Housing                 | Yes. The policy requires that major developments on greenfield sites within high value zones (such as Marden) provide 40% of the total number of units as affordable. The Appeal scheme proposes a total of 47 units of affordable housing which is the equivalent of 40%. The Appeal scheme therefore fully meets the requirements of the policy. Details of the significant need for Affordable Housing is provided by Tetlow King – see Appendix A. |
| LPRTRA4                                    | Parking                            | Indicatively complies. Layout shows that the requisite number of Parking spaces can be accommodated on the site, however, this is a matter for determination at RM stage.  |
| LPRSP13                                    | Infrastructure Delivery            | Yes. Complied with via the s106/CIL contributions and on-site provision.   |

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| LPRSP15    | Principles of Good Design                      | Yes – via the illustrative layout and because the detail is a matter for determination at RM stage.  |
| LPRSP14(A) | Natural Environment                            | Yes – via the envisaged layout and planning conditions.  |
| LPRQD2     | External Lighting                              | Yes – this can be controlled via conditions and/or at RM stage.  |
| LPRINF1    | Publicly Accessible Open Space and Recreation  | Yes – fully policy compliant. See Appendix B.  |
| LPRTRA2    | Assessing the Transport Impacts of Development | Yes, transport impacts are acceptable as set out fully in the evidence of Mr Mark Gimingham.   |
| LPRSP6     | Rural Service Centres                          | Yes. Policy identifies Marden as a Rural Service Centre. Policy notes that Rural Service Centres are considered to be highly sustainable settlements in Maidstone’s settlement hierarchy. The policy states that within the defined Rural Service Centres the Council will focus new housing and employment development when it is an allocated site carried forward from the 2017 Local Plan or newly allocated within the MLPR. The Appeal Site is an allocated residential development site within the MLPR and as such the principle of residential development on the site is in accordance with this policy. |
| LPRSP6(E)  | Marden   | Yes. This Policy sets out the type of development considered acceptable in the settlement and lists the 2no. site allocations, one of which is the Appeal Site. The policy also sets out the key infrastructure requirements for Marden which includes improvements to highway and transport infrastructure including  |

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|  |  | <p>but not limited to improvements to pedestrian and cycle access in accordance with the individual site criteria set out in the allocation policies.</p> <p>The Appeal site specific Policy LPRSA295 (see above) requires that development creates safe pedestrian connections to the wider pedestrian network.</p> <p>The immediate area of Albion Road where the Site access is proposed, does not currently benefit from pedestrian footways. The proposed Site access junction would be designed to incorporate pedestrian and cycle access into the Site. To facilitate pedestrian access into the Site, a 2m wide footway connection would be provided on both sides of the proposed new bellmouth arrangement and route into the site. The southern footway of the proposed bellmouth stops opposite Public Footpath KM281 and a proposed dropped kerb crossing will be provided to facilitate pedestrian access to the west side of Albion Road to access Public Footpath KM281.</p> <p>A Transport Assessment Addendum (report reference ITB15098-106, dated 18 September 2023) was submitted for public consultation by B.Yond Homes in September 2024. The package of highway and transport improvements set out in the TAA includes the Albion Road all purpose access and new footway connection along Albion Road between the site and the existing footway at the Albion Road / Seymour Drive junction as shown in drawing ITB15098-GA-060 Rev E and the visibility splay drawings ITB15098-GA-074 and ITB15098-GA-063D.</p> <p>The Appeal Scheme is therefore considered to comply fully with the requirement to provide the required improvements to highway and transport infrastructure.</p> |
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| <b>Marden Neighbourhood Plan</b> |  |  |
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| <b>BE1</b>                       |  | The illustrative layout shows a scheme designed to enhance the existing character of the village and the detail of house types and materials would be controlled through a R/M submission to be visually and functionally sympathetic to the existing styles and materials in the village.   |
| <b>NE3</b>                       |  | The proposed layout has been designed to integrate into the site surroundings in a sympathetic manner enhanced by retaining the majority of boundary landscaping with supplementary native planting. Lighting will be controlled at R/M stage..  |
| <b>NE4</b>                       |  | Yes, the policy refers to bio-diversity and habitats and as set out in this and other evidence, BNG requirements are exceeded and habitats appropriately protected.  |
| <b>A2</b>                        |  | Yes. Policy requires all major developments to provide areas of amenity, recreation, woodland, ponds or other water features and these are to be retained for community use with links being provided. The appeal scheme will provide the areas required under policy A2 of the MNP, furthermore, the scheme will provide a number of additional footpaths within the Site which will connect the internal landscape areas together. It will also provide links to the existing Public Rights of Way which is located opposite the proposed Site access and beyond to the wider PROW network. The proposal would also create a pedestrian and cycle access through the Site which links to Copper Lane. The new footway connection along Albion Road and other links all help to link the Site towards the village centre and the wider village and surrounding countryside. |
| <b>A3</b>                        |  | Yes, necessary Education contributions are included in the S106.   |

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| <b>In2</b> |  | Yes – the development is designed to maximise travel on foot and by cycle and provides direct links to village facilities and public transport. |
| <b>In3</b> |  | Yes, as set out in the Transport evidence.  |

Table --- Summary of compliance with Development Plan

I conclude that the appeal proposal is fully in accordance with all the policies contained within the Development Plan. Even if found to be not in strict compliance with any elements of the Development Plan, when taken as a whole, it would certainly be in accordance.

## 9. Other Planning Matters

- 9.1 As confirmed by the Inspector in the CMC note, the following are considered to be matters for discussion at the Inquiry.

Landscape - specifically the impact of the development on the countryside character of the area.

Access issues – lack of safe pedestrian and cycle access on Albion Road and uncertainty over safe access or egress of refuse freighters to the site.

Ecology & Biodiversity - uncertainty regarding the impact of the proposed development on protected species, specifically the provision of habitat and/or mitigation for badgers, breeding birds, turtle doves, Great Crested Newts and Reptiles.

Lack of sufficient amount in terms of quantum and public usability of the proposed natural and semi-natural open space.

**Landscape Impacts (I rely on the evidence of Mr Marc Toms, but comment briefly below)**

- 9.2 The 2nd reason for refusal contends that the development would “result in a layout and siting of built development of suburban form extending into the rural landscape, significantly harming its character.”
- 9.3 It is important to note that the appeal scheme is not situated within any protected landscape designations.
- 9.4 It is also important to note that the appeal site is allocated for development for approximately 113 dwelling in the adopted MLPR. The Council have advised in their delegated report that in assessing sites such as the appeal site for development a ‘landscape blind’ approach was taken - i.e., there has been no landscape sensitivity testing of the allocated sites. The Council has advised that it is only at the planning application stage that landscape impact of a scheme will be assessed. However, by the very action of allocating a site for residential development in the MLPR, the Council will have already accepted there will be a consequential change to the character of the locality and a resulting impact on the existing landscape. This is particularly so in this case for development of a relatively large site and the quantum of development set out in policy LPRSA259. As the MLPR establishes the principle of developing the appeal site, the impacts fall to be judged in that context.

- 9.5 It is notable that when considering the site allocation at the Local Plan Examination but Austin Mackie Lead Officer giving evidence for the LPA during the Examination in public stated (my underlining);
- 9.6 *'It's a site, that although is open countryside, it's sloping so it has some visual sensitivities the promoters have carried out a significant amount of testing to support the allocation and we are therefore comfortable that adequate mitigation can be incorporated to address those potential concerns.'*
- 'Having been through pre application on the site and consulted on the site with various parties such as KCC Ecology team and our own Landscape officers, we are comfortable at 113 and it may be possible that that can be increased.'*
- 'Having tested the scheme against open space requirements 113 is comfortable, but it may be possible through good design to optimise this further'.*
- 9.7 Whilst the Council have indicated that the allocation of the site was 'landscape blind' this was clearly not the case and in allocating the site officers and the Local Plan Inspector had due regard to the landscape setting of the site.
- 9.8 The Application was supported by a LVIA (CD No.) The LVIA advises that the few significant effects which have been identified as a result of the proposed development are not considered to be detrimental to the wider landscape character. Whilst it is noted that the development will change the nature of the existing character of the site, and will amend the built edge of the settlement, the proposed layout is considerate and seeks to limit these effects such that most of the existing landscape features are retained and protected.
- 9.9 The detailed layout, appearance, scale, and landscape enhancements are reserved for future approval; however, the illustrative coloured site layout indicates how the site has been designed with consideration of the constraints and opportunities of the Site and its context including local built forms and the rural landscape. The edge of settlement character has been respected by enabling space for new tree planting, vegetation and open spaces that help set the proposed buildings within a verdant landscape framework.
- 9.10 The scheme seeks to protect and enhance the characteristics to the southern part of the Site with the retention and enhancement of the ponds and the mature boundary vegetation along Copper Lane. A new attenuation basin, with a 'wet well' is also located in this area, creating a substantial buffer with potential for increased biodiversity between the new housing and the semi-rural characteristics of Copper Lane and the countryside to the south. The illustrative layout shows a much more sympathetic and 'looser' edge to the settlement than the existing line of rear elevations of dwellings within Russet Grove.

- 9.11 The appeal scheme is a form of development which is sensitive to its environment, providing an appropriate transition between the existing urban residential area of the Russet Grove/Seymor Drive and the rural edge.

*Cramped development and location of residential parcels*

- 9.12 The second reason for refusal also states that the indicative layout shows cramped overdevelopment along the proposed access road entrance and in the North-East corner and a proximity of dwellings to the southern and western boundaries that cannot be effectively screened.
- 9.13 I do not agree with this statement. The location of the residential parcels on the site have been thoughtfully considered and cannot be considered cramped. The proposal would help to provide a better transition from the current hard urban edge of the village presented through the Russet Grove/Seymor Drive development to the semi-rural surroundings beyond the Site.

**Access & Highway Safety**

- 9.14 I rely on the Highway evidence given by Mark Gimingham who concludes that:
- All aspects of Reasons for Refusal 3 and 4 and the Local Highway Authority's initial holding objection have been addressed and overcome;
  - Safe and appropriate access to the site can be achieved;
  - The site benefits from good levels of accessibility and there are appropriate opportunities to promote sustainable transport modes at the Appeal site; and
  - The development (development generated traffic and site access arrangements) will not have a significant impact on the operation of the local highway network (in terms of capacity, congestion and highway safety) and there is no need to provide capacity improvements and the local highway network will operate acceptably in the future.
- 9.15 The site specific transport requirements of Policy LPRSA295 and wider local and national policy are met.
- 9.16 The Local Highway Authority agrees with the above conclusions by offering "no objection" to the Appel scheme subject to conditions and planning obligations to be secured in a Section 106 Agreement.
- 9.17 There are no transport grounds for dismissing this Appeal. Indeed, in my view there are good sustainable transport / accessibility reasons
-

and benefits for allowing the Appeal scheme. The footpath and footway improvements enhance pedestrian routes and village sustainability, which are further benefits of the proposal.

#### **Biodiversity & Habitats**

- 9.18 I rely on the evidence of Daniel Wood. The appeal scheme exceeds BNG requirements and habitats are adequately protected.

#### **Open Space**

- 9.19 Policy LPRSA295 sets out that development on the site should include a provision of not less than 1.25ha of open space, and not less than 0.3ha of useable open space shall be provided.
- 9.20 The illustrative layout submitted in support of the Appeal proposal demonstrates that a considerable area of almost 2.7ha of open space can be provided on site.
- 9.21 The Appeal Scheme would provide areas of informal open space and amenity grassland, a community orchard, wildflower meadows, a village green and a play area. Full details are shown on the Plan at Appendix 2. The provision of the southern open space area and the link to Copper Lane would provide wider connectivity benefits for people walking, cycling or running in the wider area.
- 9.22 The provision of open space and useable open space on site is considered to be a socio-environmental benefit to which significant weight should be given.

## 10. Benefits of the Appeal Scheme

- 10.1 Paragraph 69 of the NPPF acknowledges that medium sites such as the Appeal proposal are often built-out quickly, as such, the proposal would likely be delivered quickly and therefore make a valuable and immediate contribution to meeting the housing needs of the Borough and maintaining the Council's five-year housing land supply.
- 10.2 The social benefits of the Appeal scheme are considered to be substantial. The scheme will provide 117 new homes to contribute to the number and range of homes in the local area, providing family accommodation, including 47 affordable homes. The Appeal scheme will provide a well-designed and safe built environment with accessible services and open spaces that reflect the community's current and future needs.
- 10.3 The Appeal scheme will provide significant economic benefits. In the short-term construction phase, the scheme will enable the creation of jobs, these are construction related jobs, locally supported jobs and supply chain jobs. In the longer term the economic benefits include financial investment in the area, and increased expenditure in the local area from residents of the Appeal scheme. The scheme would also generate Council Tax increase and CIL contributions.
- 10.4 Environmental benefits of the scheme are considered to be substantial including significant Biodiversity Net Gain. In addition, the Appeal scheme would provide new and enhanced landscaping on site, the careful new planting will enhance habitats for birds, bats and other wildlife.
- 10.5 Landscape - the Appeal scheme will provide new areas of landscaped open space.
- 10.6 The weight to be attributed to the benefits as I have set out above and elsewhere in this Proof of Evidence are summarised and set out in the table below.

| Benefit                         | My Assessment of Weight   | Weight to be given |
|---------------------------------|---|--------------------|
| Supporting the Plan Led system  | It constitutes fundamentally good planning to ensure the delivery of allocated sites and to do so without delay. NPPF Para 11 – <i>'decisions should apply a presumption in favour of sustainable development... approving development proposals that accord with an up-to-date development plan without delay'</i> | Substantial        |
| Market Housing Net 70 dwellings | The proposal will make a significant and helpful contribution to maintain the Council's housing land supply   | Substantial        |

|                                     |  |                    |
|-------------------------------------|--|--------------------|
| Affordable Housing Net 47 dwellings | The proposal will make a significant contribution towards affordable housing land supply shortfall, and provide local affordable housing units in the village  | <b>Substantial</b> |
| Biodiversity Net Gain > 10%         | The proposal could achieve ---% biodiversity net gain and - --% biodiversity net gain in hedgerow units. The proposal, therefore, has the potential to significantly exceed the 10% Biodiversity Net Gain minimum requirement of the NPPF and the 20% MLPR requirement.  | <b>Substantial</b> |
| Social Benefits                     | The provision of 117 new homes will support the creation of a strong, vibrant and healthy community. The provision of 40% affordable housing will increase the Boroughs supply of affordable homes and help to reduce inequalities. The provision of open space and footway/footpath links/enhancements.   | <b>Substantial</b> |
| Economic Benefits                   | The proposal will provide construction jobs; the provision of 117 dwellings will generate additional expenditure in the area in convenience and comparison goods plus expenditure in leisure and services.<br>The proposal would generate annual Council Tax payments in excess of £132,000.   | <b>Significant</b> |
| Landscape Enhancements              | The proposal would retain the majority of trees along the boundaries of the site.<br>Introduction of new landscaping and measures to enhance biodiversity.<br>The scheme would provide a significant amount of almost 3ha of new public open space. The Appeal Scheme would also provide areas of informal open space and amenity grassland, a community orchard, wildflower meadows, a village green and a play area. | <b>Significant</b> |
| Environmental                       | Alongside the Biodiversity Net Gain benefits, the proposal will provide careful new planting and enhanced habitats for wildlife.<br>The built environment of the village will be enhanced through the introduction of high quality new residential buildings.  | <b>Limited</b>     |

## 11. Summary & Conclusions

- 11.1 In this section I will set out my view as to whether the planning balance weighs in favour or against the grant of consent.
- 11.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. However, it is important to note that if a scheme is non-compliant with some development plan policies it does not mean that a scheme cannot be in accordance with the development plan as a whole.
- 11.3 I have not identified any conflicts with the Development Plan. It is therefore my view that the Appeal scheme complies with the Development Plan and should be granted planning permission.
- 11.4 The Proposed Development will deliver 117 new residential dwellings, which will assist in the Council achieving and maintaining its housing supply figure and will be in support of the Government's target to significantly boost housing delivery. This weighs heavily in favour of the proposal. Furthermore, the scheme will deliver 40% affordable housing and the provision of small units for local people, this benefit should be a substantial factor weighing in favour of allowing the Appeal Scheme.
- 11.5 Importantly, and of great significance in the consideration of this Appeal is the fact that the appeal Site has been allocated in the adopted MLPR for housing development via Policy LPRSA295 – Land at Copper Lane and Albion Road, Marden. The appeal scheme facilitates the delivery of much needed market and affordable housing. It brings forward the policy allocation which has been unnecessarily delayed.
- 11.6 With regards to meeting housing need, including the need for affordable housing, it is considered that this should result in the provision of substantial weight in favour of allowing this appeal.
- 11.7 The Proposed Development will also deliver landscaping and ecological enhancement, resulting in biodiversity net gains. It would deliver new public open space totalling 2.67 hectares within the indicative layout and will deliver local facilities such as a community orchard, an area of play and parkland.
- 11.8 The Proposed Development will not result in significant harm in the long term, and it can be successfully integrated into the locality. The Appellant's expert Landscape Consultant has confirmed that the scheme would have only a localised and limited landscape and visual harm. It would therefore not significantly and demonstrably outweigh the substantial public benefits identified through allowing the scheme.

- 11.9 A draft Heads of Terms has been submitted in support of this appeal and the appellant is committed to advance and complete a S106 agreement prior to the determination of this appeal, and therefore, the 7<sup>th</sup> reason for the refusal of the application can be overcome.
- 11.10 Accordingly, I consider that the Appeal should be allowed and planning permission should be granted for the proposed development.

Appendix A  
Affordable Housing – Tetlow King

## Appendix B

### Open Space