

CLOSING SUBMISSIONS ON BEHALF OF ROTHER DISTRICT COUNCIL

I. INTRODUCTION

1. In light of the narrowing of issues that occurred prior to the start of the Inquiry, these Closing Submissions are structured as follows:
 - a. Main Issue 1 – Location;
 - b. Main Issue 2 – Accessibility and sustainability;
 - c. Main Issue 3 – Character and appearance; and,
 - d. Main Issue 8 – Planning balance.

II. MAIN ISSUE 1 – LOCATION

2. There is no dispute that the Site is outside the Development Boundary, as defined in the Local Plan, and is defined as countryside.¹ As a result, there is also no dispute that the Development is in conflict with policies OSS1, OSS2 and RA3 of the Core Strategy and DIM2 of the DaSA.²
3. The Appellant maintains that the Site is a suitable housing site given that it is adjacent to the urban settlement of Bexhill, which is the main focus for residential development in the local plan.

¹ Statement of Common Ground, §§2.2.1 - 2.2.2 and 4.7.1.

² Statement of Common Ground, §2.3.1 and Mr Lee's Proof, §§6.2.19 and 6.3.4.

4. The Council's position is that the Site is not a suitable housing site - it was assessed in supporting evidence to the Local Plan, and rejected, and remains outside of the Development Boundary in light of:
 - i. Its landscape character, the broader landscape corridor of which it forms part and the functional role it plays; and,
 - ii. Its lack of sustainability in accessibility terms. Indeed, as §7.33 of the Core Strategy states, "*Particular regard is given to the role of settlements in terms of seeking to locate most development in locations that offer a range of employment, services and facilities – thereby supporting community life and existing services.*" §7.34 then talks about "*this approach should assist in providing opportunities to reduce the need to travel by car thereby reducing carbon and emissions, and encouraging walking and cycling*".
5. These issues are considered further, below, in the section on "Planning Balance".

III. MAIN ISSUE 2 - ACCESSIBILITY AND SUSTAINABILITY

6. The Appellant claims that the Development will have "*a good level of sustainable accessibility*".³ That is categorically incorrect and it is difficult to see how such an assessment could be arrived at. In fact, there is no practical solution to the lack of access to the site by non-car modes – i.e. walking, cycling and bus services.

(a) Private car ownership

7. It is, first, important to assess the anticipated level of car-ownership for those living at the Site. Mr Richardson's evidence was that "*virtually all*" of those living at the Site will own a car. As he said in evidence:

"Looking at the established residential area, everyone has driveways, garages and there is plenty of on road parking. People will look at the map and say it is a reasonable place to live but they need a car to get there for everyday purposes."

³ Proof of Evidence of Luke Regan, §1.4.1.

8. That is clearly also the expectation of the Appellant; the Green Infrastructure Masterplan produced by the Appellant indicates that there will be double parking bays for each dwelling.⁴ Indeed, Mr Lee states in his Proof that, “*I accept that many residents of the proposed development will utilise the private car for travel for work and leisure purposes.*” (original emphasis)⁵

(b) Current sustainable modes of transport

9. In terms of walking, some of the local highways pose a problem with the effect that residents of the Site will not be inclined to walk on them. For example, there is a large section of Ellerslie Lane to the north of Fryatts Way that has no footway and no streetlamps. Mr Regan accepts that this is “*less than ideal*”.⁶ Mr Regan suggested the alternative of walking through the following three alleyways in order to reach Gunters Lane: (i) the alleyway connecting Ellerslie Lane to Roselands; (ii) the alleyway connecting Broad View to Roselands; and, (iii) the alleyway connecting Glenleigh Avenue to Broad View. Mr Regan accepted that this route was also “*less than ideal*”. Mr Richardson’s evidence was that these alleyways were not of a standard that would be considered a safe route to school. This was because (ii) and (iii) are unlit, and (i) and (iii) have bends meaning that forward visibility is limited. Furthermore, (iii) has high fences on both sides meaning that it is difficult to see what you would be standing on. He said that people would take a lot of convincing that this was a safe route to school and that it was totally inappropriate in winter. Although Mr Regan said that these alleyways were “*obviously well-used*” he was not able to provide any evidence or data on how many people actually used them.
10. In any event, and regardless of the quality of the routes, the Site is far away from the closest primary and secondary schools.⁷ They are even further if the alternative routes

⁴ CD2.05b.

⁵ Mr Lee’s Proof, §8.2.7.

⁶ See also Technical Note, §3.4 (p.3): CD2.04.

⁷ The distances can be seen at Table 3.1 of Nick Richardson’s Proof of Evidence (p.7) and Table LDR 2.1 of Luke Regan’s Proof of Evidence (p.2).

suggested by Mr Regan – such as the series of alleyways across the road from Fryatts Way – are used. They are further still if those footpaths are avoided, though the length of this further alternative was not set out in the Appellant’s Proofs. In oral evidence, Mr Regan suggested an additional distance of 150m.

11. By way of example, when asked how long it would take a primary school-aged child to walk to All Saints Church of England Primary School, Mr Regan accepted it might take 30 minutes to get there with a 50-minute round-trip for a parent.⁸ It would not be much quicker to the slightly nearer Glenleigh Park Primary school. One need only mention those figures – and the fact they would have to happen twice a day – to appreciate that only a negligible number of children will walk to those schools from the Site. Whilst Mr Regan belatedly referred to the statutory maximum walking distance of 2 miles for a primary school child,⁹ that cannot assist the Inspector. The statutory maximum walking distance comes from the Education Act 1996 and relates exclusively to a local authority’s duty to provide free transport to those living outside the relevant area and only for their catchment school. Inextricably connected to funding issues, they cannot be used as a guide to determine how likely it is that specific children at this specific Site will walk to school.

12. On walking to amenities, Manual for Streets makes clear that *“Walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes’ (up to about 800 m) walking distance of residential areas...”*¹⁰ Although it then says, *“this is not an upper limit and PPS13 states that walking offers the greatest potential to replace short car trips, particularly those under 2km”*, it is important to note that:

- i. PPS13 dates back to 2001 and is no longer in force.

- ii. Manual for Streets does not expressly endorse this distance.

⁸ Specifically in the context of a 6-year-old child.

⁹ In the penultimate paragraph of his Rebuttal and then in oral evidence.

¹⁰ CD8.05.

- iii. Manual for Streets comes nowhere close to suggesting that all that matters is whether amenities can be found within 2km of the Site. At best, it is saying that 800m should typically be used but that, for certain trips, 2km may be an appropriate distance. For example, 2km may be an appropriate distance for destinations where an individual may spend a significant amount of time (e.g. a park, a cinema, a rail station, etc.).
 - iv. The *Halstead appeal* is of limited assistance.¹¹ It is unclear whether the point was argued before the Inspector. In terms of its application to the Halstead site, at §13 of the decision, the case would be context specific.
13. By contrast, there is no amenity within 800m of the Site. The collection of shops at Little Common is 1.8km away.¹² In his evidence, Mr Regan said that some daily items can be accessed from the Little Common Convenience Store, which is 1.5km away from the Site. Mr Richardson’s evidence was that, being realistic, residents of the Site would not walk to the shops. Most of them would have the option of driving, which they would take.
14. The result is obvious. Only a negligible number of residents would walk from the Site to access the local amenities.
15. In terms of cycling, anyone travelling to the south of the Site – e.g. to Little Common or the train station – will need to travel on and/or cross the A259. This is a main road with a 40mph speed limit with no segregated cycle lane, no cycle lane marked out on the road with paint and no toucan crossing. In addition, the footway is not very wide. Mr Richardson’s evidence was that, in cycling terms, the A259 was “*extremely intimidating for anyone currently*”. Mr Regan accepted that some people may find it to be intimidating. An alternative cycleway, as envisaged in the Local Cycling and Walking

¹¹ ID18.

¹² See, e.g. Appendix B of Nick Richardson’s Proof of Evidence (p.19).

Infrastructure Plan¹³ and the East Sussex Cycling and Walking Strategy,¹⁴ will not assist. Mr Richardson's evidence was that he did not think it would happen unless a funding source was found – he estimated it would cost approximately £1m – and that, in any event, it would not be delivered in the timeframe for use by this Development.¹⁵

16. The inevitable effect is that most people living at the Site will be dissuaded from cycling.
17. In terms of bus services, Mr Regan accepted in cross-examination that there would be negligible use of the bus services by residents of the Site, though he said that this was the case for the existing Bexhill area. In fact, given the Site's distance from the only regular bus route – 1.8km from Little Common where the 99 runs from – it is particularly ill-suited to accessing bus services.
18. In terms of train services, the nearest station is Collington, which is approximately 2.3km away.¹⁶ This has a reasonable range of services but has obvious limitations. For example, as Mr Richardson pointed out in relation to the morning weekday service, going eastbound, there are no trains between 7:28-8:08am, 8:35-9:08am or 9:40-10:21am. Going westbound, there are no trains between 9:13-9:42am or 10:12-10:42am. These are essential service times to commute to places of employment. This is clearly not the *"incredibly good level of service"* that Mr Regan maintained in his oral evidence. That is, no doubt, why Bexhill is 11.3 times busier than Collington, albeit over 3km from the Site. Moreover, the basic nature of Collington station is further likely to dissuade potential users. Most importantly, and depending on the ultimate destination, the vast majority of those with a car at the Site will be unlikely to opt instead for the 20-minute walk to Collington station plus train journey plus walk at the other end. Mr Richardson used the example of those working in Eastbourne, for whom making that commute via Collington station made little sense. When faced with the convenience of a private car

¹³ CD8.08.

¹⁴ CD8.11.

¹⁵ See Appendix A of Nick Richardson's Proof of Evidence (p.17) for the route.

¹⁶ Mr Richardson's Proof, §3.5.3.

located on their driveway, the incentives to change transport habits as suggested by the Appellant would be limited.

(c) Proposed future modes

19. As part of its application, the Appellant proposes additional modes that are said to improve the sustainability of the Site. They do no such thing as their uptake will be negligible and they will ultimately become unviable.
20. As for demand-responsive travel, the uptake is likely to be small because the vast majority of residents will have cars of their own and because of the nature of the service.
21. Even if fully funded, the County Council's scheme aims for 80% fulfilment within 1 hour of requested departure time during the daytime in weekdays and 70% fulfilment within 1 hour during weekends and evenings.¹⁷ It is apparent that anyone with a car will not use this service. Mr Regan appeared to accept this in cross-examination when he stated that it "*predominantly catered for people without cars*". Even for those without cars, the DRT scheme is simply not reliable enough. For example, people needing to catch a train or attend an appointment will not be able to use it because they will have no certainty as to when the bus will arrive. Although Mr Regan says that, after 3 years, "*the service will have had time to establish*",¹⁸ Mr Richardson's evidence was that it takes a long time for people to change travel behaviour; even if the service was established, it would not automatically mean that demand would grow over time.
22. Even aside from those fundamental issues, funding is a real issue. The County Council received approximately £40m from the Government for the Bus Service Improvement Plan that costs £100m. There is no prospect of that gap being filled. That could mean a total re-think of the Plan or a scaled-back version of it. Either way, it is inevitable that

¹⁷ East Sussex CC, "Bus Service Improvement Plan": CD8.03, p.89.

¹⁸ Mr Regan's Proof, §3.3.9.

the DRT scheme set out in the Bus Service Improvement Plan will not receive the £12m it needs.¹⁹

23. Moreover, looking into the future, there is every reason to believe that the DRT scheme will become unviable and will be scrapped as costs exceed revenue. Mr Richardson's evidence was that, in his experience, DRT schemes always require a subsidy. Indeed, he said that there is not a DRT scheme in the country that has operated without subsidy despite numerous attempts having been made. When asked, Mr Regan said he could not think of any self-funding DRT schemes that have stayed afloat. Mr Richardson said that, as a result, there was no guarantee that the service would be able to run after the first 3 years.
24. On the car club, this would also not be an effective mitigation measure. This is because it is inappropriate in a location like this, where car ownership will be high. Those in the established residential areas will have and use their own cars already as that is how they are behaving now. Moreover, due to the likely small uptake, the chances of keeping the car club running are minimal. Worryingly, Mr Regan could provide no evidence on basic questions such as how many people needed to use it or how many trips needed to be undertaken for the operation to remain viable. This suggests a complete lack of awareness of the practical realities of the situation.
25. Although the Appellant places weight on the Travel Plan, it is mostly about seeking to raise awareness of the travel options available. As demonstrated most vividly by the travel plan pyramid at Figure 2.1 of the Travel Plan, if the location of a site is poor and the built environment is poor, the travel plan will not assist.²⁰ That is the case here. Mr Richardson put it well in oral evidence when he said that, *"The Travel Plan asks people nicely to change their travel behaviour and I would suggest that virtually all of them won't."*
26. As a result of the above, the Inspector will be invited to conclude that the Development would lead to significant harm and a serious conflict with the following policies:

¹⁹ East Sussex CC, "Bus Service Improvement Plan": CD8.03, pp.179-180.

²⁰ CD1.19. See also §§2.1.3 - 2.1.4.

- i. TR3 of the Core Strategy: the Development does not “*minimise the need to travel and support good access to employment, services and communities facilities*” with consequent impacts on the provision and use of sustainable transport.
- ii. SRM1(vii) and TR2(i) of the Core Strategy: the Development does not promote more sustainable travel patterns in accordance with policy TR2.
- iii. §105 of the NPPF: the Development is not focused on a location which can be made sustainable, either through limiting the need to travel or offering a genuine choice of transport modes.

(d) Miscellaneous points

27. There are two remaining points.

28. First, although the Appellant seeks to rely on census data to demonstrate the existing modal split,²¹ these figures cannot be relied upon in seeking to understand what the modal split *at or near the Site* is or will be. In particular:

- i. It rests on the 2011 census data. There have been significant changes since that time to people’s journeys meaning that the old data is not reliable. Mr Regan accepted that the suggestion in §§4.2.36 and 4.2.37 of his Proof that this data showed *current* modes of transport was, “*perhaps*” misleading.
- ii. The areas of Rother 007, 008, 009, 010 and 011 were used.²² They are not representative of the Site. For example, Rother 011 is tightly drawn around Bexhill town centre and the railway station.

²¹ See, e.g. §4.2.36 of Mr Regan’s Proof.

²² See **ID17** for the map of this area.

29. Mr Richardson's clear evidence was that the proportion of people using a car from the Site will be quite significantly more, and those using the bus and train correspondingly less, than Mr Regan's table indicates.
30. Secondly, the Appellant seeks to rely on the County Council's highway response to the *Ellerslie Lane* application.²³ That response is of limited assistance. When read in full, the County Council was clearly of the view that the site was not well located from an accessibility perspective. Notwithstanding that, it decided not to object on the basis that the site was "*unlikely to significantly disrupt the current status quo*". That may have been the case for that development, which sought to build only 26 dwellings. Moreover, that site was previously used for horse-riding and stables, such that traffic generation already existed and may even have been higher than the residential use. The same is not the case for this Development, which is several orders of magnitude greater and which currently generates no traffic.

IV. MAIN ISSUE 3 - CHARACTER AND APPEARANCE

31. The Council's position is that the Development would have an unacceptable impact on local landscape character, bearing in mind the quality, value and sensitivity of the Site in its local context.

(a) Context

32. There is no dispute that the Site is countryside and lies outside the Development Boundary. There is also no dispute that the Site lies within the Bexhill Urban Area. The Council's position is that, notwithstanding this, it is important to consider the Site's physical characteristics in relation to the surrounding area.
33. There are four key points to focus on.

²³ ID16.

34. First, the Site has remnants of the key landscape characteristics that make up the High Weald National Character Area and the South Slopes of High Weald LCA. In particular:

- i. The High Weald National Character Area has, as one of its key characteristics, *“Small and medium-sized irregularly shaped fields enclosed by a network of hedgerows and wooden shaws, predominantly of mediaeval origin and managed historically as a mosaic of small agricultural holdings typically used for livestock grazing.”*²⁴
- ii. The South Slopes of High Weald Local Character has, as one of its key characteristics, *“An intricate small scale landscape with a strong pattern of hedgerows”*.²⁵

35. Mr Dijkhuis’ evidence was that these characteristics well described the Site. This view is supported by the Council’s “Green Infrastructure Background Paper”, which states, in relation to “West Bexhill” that, *“The urban fringe landscape is characteristic of the south slopes of the High Weald”*.²⁶ It is also supported by the maps in the Archaeological Assessment, which demonstrate the historic nature of the Site and its fieldscape.²⁷

36. There is also support for this in the Appellant’s evidence. For example, at §8.15(d) of Mr Jackson’s Proof, he refers to the facts that:

“The golf course and Broad Oak Park are well defined areas and the mature and well treed boundaries to the site and to these surrounding areas provide a series of robust landscape areas and boundaries within which the proposed development would occupy a relatively small proportion adjoining existing development.”

37. This chimes with Mr Jackson’s acceptance in oral evidence that the Site is not generally representative of the Bexhill Urban Character area.²⁸

²⁴ CD7.08 (p.8). See also pp.25 and 38.

²⁵ CD7.09 (p.6)

²⁶ Table 10, p.42.

²⁷ CD1.12, p.9.

²⁸ See also LVA at CD1.08, §4.38 (p.18).

38. In this sense, the Site does have a very distinctive landscape character.
39. Secondly, this distinctiveness occurs through the *combination* of open fields and their enclosure by treed hedgerows. That was the evidence of Mr Dijkhuis and was clear from the documents mentioned above.
40. Thirdly, the Site is part of a broader green corridor to the northwest, contiguous with the Broad Oak park, the Highwoods Golf Course and the open space beyond to create a substantial green corridor. Indeed, Mr Jackson accepted in evidence that the Site was “*part of a collection of green areas that sits between Little Common and Bexhill comprising a mix of different uses*” and that the Site “*has landscape value on a number of different levels including as part of a wider collection of green spaces*”. He also accepted that developing the Site would in principle diminish the value of the broader green to some extent, although he claimed it would be to a minimal extent.
41. The Council’s position, that the Site is an inherent and important part of the wider green area to the north, is supported by the SHLAA, which refers to the fact that, “*The site is rolling open countryside which in part abuts Highwoods Golf Course*”.²⁹
42. Moreover, the DaSA refers to the fact that “*West of the A269, development beyond the existing built-up area would detrimentally and unnecessarily erode the countryside setting of that part of the town and is resisted*”.³⁰ Similarly, Map 2 of the Core Strategy identifies the Site as falling within a broader green area, which it refers to as a “*Strategic Open Space*”.³¹
43. Fourthly, the Site plays an important functional role. There is a very clear separation between Little Common and Bexhill/Sidley above the A259 providing separation and amenity value as part of the broader green corridor. The Development would tend to encroach into this corridor.

²⁹ CD6.12, p.8.

³⁰ CD6.14, §9.18 (p.119).

³¹ CD6.13, p.1.

(b) Landscape impacts from Development

44. The landscape harm from the Development is described in Mr Dijkhuis' Proof as follows:³²
- i. Irreversible loss to the intrinsic identity of the countryside landscape setting.
 - ii. Irreversible harm in the sense of loss of open fields, an integral element of this landscape.
 - iii. Change of character to a suburban area.
45. Fundamental to these adverse impacts is the divorcing of the open fields from the treed hedgerows which make the landscape so distinctive. Developing on the open fields irreversibly and offensively eliminates this landscape character.
46. These impacts are unacceptable – Mr Dijkhuis describes them in his Proof as “*significant*”³³ and explained in re-examination that this meant “*major*” harm – and contrary to the following policies:
- i. OSS4(iii) of the Core Strategy: this requires all development to respect and not detract from the character and appearance of the locality. Indeed, the supporting text, at §7.70, states that “*Environmental impacts need to be carefully addressed, such that landscape character is conserved, inappropriate fragmentation of the countryside avoided...*”
 - ii. RA3(v) of the Core Strategy: this seeks to ensure that “*all development in the countryside is of an appropriate scale, will not adversely impact on the...landscape character...of the countryside*”.
 - iii. EN1(v) and (viii) of the Core Strategy: this seeks to protect the district’s “*locally distinctive landscapes and landscape features*” including “(v) Open

³² Mr Dijkhuis' Proof, §2.2.2.

³³ Mr Dijkhuis' Proof, §2.32.

landscape between clearly defined settlements, including the visual character of settlements, settlement edges and their rural fringes” and “(viii) Other key landscape features across the district, including native hedgerows...field patterns...”. Indeed, the supporting text, at §17.16 warns of the challenge of “maintaining the visual character of settlements in the landscape and in particular settlement edges. New development also brings the threat of suburbanisation of landscape character...”.

- iv. EN3 of the Core Strategy: this requires new development to contribute positively to the character of the site and surroundings.
- v. EN5(i) of the Core Strategy: this seeks to protect green space to “Maintain and develop a district-wide network of green infrastructure where possible linking areas of natural green space”.
- vi. DEN 1 of the DaSA: this states that “The siting...of development should maintain and reinforce the natural and built landscape character of the area in which it is to be located, based on a clear understanding of the distinctive local landscape characteristics...in accordance with Core Strategy Policy EN1.” The supporting text, at §6.10, provides that, “Existing landscape features that are important to local character should normally be retained, while new features should be typical of the locality, fit naturally into the landscape and complements existing features.”
- vii. §130(c) of the NPPF: this seeks to ensure that developments are “sympathetic to local character and history, including the surrounding built environment and landscape setting”.
- viii. §174 of the NPPF: this states that decisions “should contribute to and enhance the natural and local environment by...(b) recognising the intrinsic character and beauty of the countryside”.

47. The Appellant’s assessment in the LVA and in Mr Jackson’s evidence is flawed in that:

- i. It refuses to accept that the Site has remnants of the key landscape characteristics of the South Slopes of High Weald.
- ii. Because of this, it separates out important components of the site – e.g. treed hedgerows and open fields – rather than treating them as having particular distinctiveness and value in combination. This is evident in Mr Jackson’s Proof where, for example, he recognises the specific value of the “*mature trees*” – see, e.g. §10.3 of his Proof – without doing the same for the open fields. That is wrong. It is the very relationship between the boundary treed hedgerows and the enclosed open fields that defines the landscape character.
- iii. It views the Site in isolation rather than as part of broader landscape corridor. That is, again, wrong. It is part of a network of small-scale fields framed by mature treed hedgerow forming a complex landscape corridor. In Mr Jackson’s oral evidence, he accepted that the Site “*has landscape value on a number of different levels including as part of a wider collection of green spaces*”. But this sort of analysis appears nowhere in the LVA or his Proof. It is a significant omission.
- iv. It fails to see the wider functional role played by the Site.

48. The effect is that the Appellant’s analysis, as set out in the LVA, starts from the wrong premises and, inevitably therefore, produces the wrong answer.

V. MAIN ISSUE 8 - PLANNING BALANCE

49. The Council accepts that the tilted balance applies, pursuant to §11(d) of the NPPF. Notwithstanding this, the Council’s position is that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits,

when assessed against the policies in the NPPF as a whole. As such, planning permission should not be granted.

50. In terms of the harm, the Development would lead to significant and major harm to the landscape character and appearance of the area, contrary to the following policies: OSS3, OSS4, RA3, EN1, EN3 and EN5 of the Core Strategy; DEN 1 of the DaSA; and, §§130(c) and 174(b) of the NPPF.
51. Its unsustainability in access terms leads to a significant conflict with TR2, TR3 and SRM1 of the Core Strategy, and §105 of the NPPF.
52. There is also a conflict with policies OSS1, OSS2 and OSS3 of the Core Strategy and DIM2 of the DaSA due to the location of the Development outside the development boundary.
53. Notwithstanding the above, it is accepted that reduced weight (albeit not the “*very limited*” weight suggested by Appellant) can be given to policies OSS1, OSS2, OSS3, RA2 and RA3 of the Core Strategy and policy DIM2 of the DaSA as being out-of-date. In her evidence, Ms Gibbons said that these policies ought to be given moderate weight. The remaining policies ought to be given significant weight.
54. As to benefits, the Council accepts that the delivery of housing, both market and affordable, should be afforded significant positive weight.³⁴ But the Council does not accept the Appellant’s position that the Council “*does not have a grasp on the situation*”.³⁵ As demonstrated in the Housing Land Supply Position Statement (2022), Ms Gibbons’ evidence was that there has been a step-change in the number of housing completions over the next 6-7 years; there will be a doubling, tripling and even quadrupling of completions each year compared to the last few years.³⁶ This is based on the Council:
 - a. Having taken action to adopt the DaSA; and,

³⁴ Statement of Common Grounds, §4.9.3; Proof of Evidence of Clare Gibbons, §4.2.

³⁵ Mr Lee’s Proof, §7.6.7 (p.43).

³⁶ ID05, pp.25-28.

- b. Having resolved infrastructure issues. Ms Gibbons' evidence was that the completion of the North Bexhill Access Road in 2019 has unlocked the delivery of almost 2000 houses in North and North East Bexhill.³⁷ For example, development has commenced on a strategic mixed-use development known as Worsham Farm providing 1,050 homes.³⁸ This has also unlocked the delivery of the Appellant's own sites at BEX3a and BEX 3b.³⁹
55. In addition, the Council has also incorporated its own Local Housing Company, Rother DC Housing Company Ltd (October 2020), with the aim of seeking opportunities to acquire sites allocated for housing and potentially help to unblock stalled sites.⁴⁰ By way of example, development has commenced on the spine road that would facilitate a Council project known as Blackfriars where 200 dwellings have been approved (with 70 units being affordable, via rental and ownership options).⁴¹
56. The emerging Local Plan will also be adopted during this period – it is currently anticipated that adoption will take place in late 2024/early 2025⁴² - at which point the plan will only be found to be sound if it allocates enough housing to satisfy the housing requirement. In the run up to adoption, of course, the emerging policies – including those allocating land for housing – will gain greater weight.
57. It is, therefore, wrong for the Appellant to say that there is no “*credible short or medium term strategy to address the land supply shortfall*”⁴³ or that “*there is no realistic option for addressing the shortfall in the short to medium term apart from releasing additional land for development that is not specifically identified in the Local Plan*”.⁴⁴

³⁷ CD6.02, §3.12 (p.23).

³⁸ ID05, p.25 (Ref: 2015/1760/P and RR/2016/3245/P).

³⁹ ID05, p.26 (Appendix 3).

⁴⁰ ID05, §4.38 (p.21).

⁴¹ ID05, p.25 (Ref. RR/2020/2307/P).

⁴² See Housing Delivery Test Action Plan (2021) (CD6.02), Appendix 1, p.28.

⁴³ Proof of Evidence of Christien Lee, §9.2.2.

⁴⁴ Proof of Evidence of Christien Lee, §7.5.7.

58. Moreover, the Appellant's own claims that a majority of its dwellings will be built within 5 years and all of its dwellings built by 2029 *at the latest* are not credible. There is little evidence to support this. In cross-examination, Mr Lee accepted that, using his own calculations (18 months until building work commences plus a 6-year build out) the building work would last well into 2030. In order to evidence that building work would commence after 18 months from an outline permission, Mr Lee referred to Appendix 3 of his Appendices. The final column of that table shows a huge variation between outline permission and commencement, with a substantial number of examples over 30 months. In fact, the box at the bottom of the table says, "*Across these applications, both the average and most common timescale from the grant of outline planning permission to the commencement of development is calculated at 24 months...*",⁴⁵ thereby contradicting Mr Lee's own oral evidence. No indicative programme with key milestones has been provided illustrating how this would be achieved. Mr Lee's evidence that this was because they are not the housebuilder rather proves the point; the Appellant has no control over timescale. Indeed, Mr Lee did not deny in cross-examination that the housing market was currently at a nadir but that he had not reviewed his position on the likely timescale as a result. Overall, limited weight should be given to the Appellant's suggestion that a material amount of housing would be provided within the next 5 years. That is important as in cross-examination Mr Lee accepted that if housing could not be delivered on the Site within 5 years that would be a factor reducing the weight to be given to the contribution of housing.
59. The Council also accepts that low to moderate positive weight should be given to the environmental and economic benefits generated by the Development, given that these benefits are generic or temporary in nature.⁴⁶ The Council does not accept that the new areas of publicly accessible open space and green infrastructure represent a benefit; the former are not required by the local plan and have limited benefit to existing residents who have access to Broad Oak Park and public footpaths. The latter are required to

⁴⁵ Emphasis added.

⁴⁶ Statement of Common Grounds, §4.12.3; Proof of Evidence of Clare Gibbons, §4.2.

enable pedestrian permeability rather than a benefit.⁴⁷ In any event, these positives of the scheme pale in comparison to the adverse impacts that would arise if planning permission were granted.

60. For these reasons, the Council's position is that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.

VI. CONCLUSION

61. In conclusion, the Inspector is invited to dismiss the appeal.

YAASER VANDERMAN

Landmark Chambers

14 December 2022

⁴⁷ Proof of Evidence of Clare Gibbons, §4.3.