

Client	Protect Colwell Farm Action Group
Site	Colwell Farm
Project	Planning Inquiry
Title	Planning Proof of Evidence
Issue Date	30-06-2026



Planning Proof of Evidence

**Land at Colwell Farm, Lewes Road, Haywards Heath,
West Sussex, RH17 7TB**

Appellant Miller Homes Limited

LPA ref: DM/25/0445

Table of Contents

Qualifications.....	4
Introduction.....	5
Rule 6 Party Details	6
Appeal Site Description	7
Appeal Site and Surroundings	7
Planning History	7
The Appeal Scheme	8
Planning Policy Position	9
Statutory Development Plan	9
Material Considerations	12
National Planning Policy Framework (NPPF, 2024).....	13
National Planning Practice Guidance	15
Weight to be Given to the Development Plan	15
The Main Issues.....	16
Main Issue 1: Conflict with the Development Plan.....	17
Impact of Policy on Decision Making Approach	21
Other Material Considerations – Status of Adopted Policies.....	21
Local Policies Directly Relevant to Housing	24
Local ‘Countryside’ Policies Relevant to Application Site	25
Emerging District Plan.....	26
Summary of Position	32
Main Issue 2: Sustainable Development.....	33
Main Issue 2: Part 1 – Transport	34
Summary	36
Implications of Transport Evidence for Planning Policy Compliance	37
Local Policy	37
National Policy - NPPF	37
National Policy - National Design Guide	39
National Policy – Emerging Update to the NPPF	39
Main Issue 2: Part 1 Transport: Conclusions	41
Main Issue 2: Part 2 The Location is not Sustainable (Ecology/Trees)	42
Implications of Ecology and Trees Evidence for Planning Policy Compliance	44
Local Policy	44
National Policy	45
Main Issue 2: Part 2 Ecology and Trees: Conclusions	47

Main Issue 3: The Emerging Local Plan - Allocations	48
Planning Balance	50
Conclusions.....	53
Summary of Proof of Evidence.....	54
Introduction.....	54
Main Issue 1: Breach of the Development Plan	54
Main Issue 2: Sustainable Development - Part 1 Transport	54
Main Issue 2: Sustainable Development Part 2 Ecology and Trees	55
Main Issue 3: Emerging Local Plan – Allocations	55
Planning Balance	55
Conclusion.....	56

Qualifications

1. My name is Simon James Greaves. I am a Town Planner and a hold an MSc Degree in Spatial Planning. I am a Licentiate Member of the Royal Town Planning Institute.
2. I am the owner of Castellum Consulting, a business specialising in planning and development work. I have been engaged in planning in this field for 20 years, the last 10 of which have been through Castellum Consulting, working on large scale projects for private sector clients throughout the UK.
3. Through Castellum I have worked on many high-profile projects across the UK, ranging in scale from small local projects to national scale infrastructure. This work includes providing expert witness for clients at Public Inquiries.
4. I was appointed by the Protect Colwell Farm Action Group (PCFG) through Richard Buxton Solicitors to provide planning advice and support on this project in late April 2026. I have been retained to advise them since that time.
5. I am very familiar with the appeal site, the proposals that are the subject of the appeal, and the relevant planning policy documents.
6. I understand my duty to the Inquiry to help the Inspector on matters within my expertise, and that this duty overrides any obligation to the person from whom I have received instructions, or by whom I am paid. This evidence is provided in a manner consistent with my professional code of conduct.
7. I confirm that the evidence in this note identifies all facts which I regard as being relevant to the opinion that I have expressed, and that the Inquiry's attention has been drawn to any matter which would affect the validity of that opinion.
8. I believe that the facts stated within this proof are true and that the opinions expressed are correct.

Introduction

9. The Appellant (Miller Homes Ltd) submitted a full planning application (“Application”) to the Mid Sussex District Council (MSDC) on the 19th of February 2025, and this was acknowledged by MSDC as valid on the same date (Ref: 233076FUL).
10. This application was not supported by an Environmental Statement.
11. The application proposed the following:
‘Outline application with all matters reserved except for access, for up to 80 dwellings with associated landscaping, open space, infrastructure and vehicular and pedestrian accesses’
12. The application was considered by the MSDC Planning Committee on the 21st of August, at which a decision was made to refuse the application.
13. The formal refusal was dated the 19th of September 2025, and the following reasons were presented;
 - The development is outside the BUAB and would harm rural character;
 - The Appeal Site is in an unsustainable location;
 - The development would cause unacceptable harm to heritage assets;
 - The development would result in significant loss of mature trees and damage local character; and
 - Failure to secure 106 obligations.
14. Despite having initially indicated their intention to defend their reasons for refusal, the Council have now withdrawn from the appeal, having inserted the appeal site on their long list of potential housing allocations for the emerging Local Plan, following a request from the Inspector to revisit their Housing Land Supply.
15. This development is particularly frustrating as the R6 party note that several of the reasons for refusal of the Planning Application also go to the suitability of the land for allocation for housing in the Local Plan; further, whilst the council has withdrawn from defending their decision at the Appeal on the basis of the inclusion on the long list, it is far from certain that the land would actually be allocated – there is every reason (in line with evidence which will be considered by this Inquiry, and a previous rejection from that allocation process) to believe that the site will not

be taken forward in that allocation process for similar reasons to those which we contend should lead to refusal of this Appeal/Application.

16. The R6 party therefore feel that the Council should continue to defend the position which they had initially adopted. Further, their withdrawal due to the allocation does not in itself indicate that the Council's reasons for refusal have become unjustified; rather they remain and should be considered germane to both the decision on this appeal, and the emerging Local Plan process.
17. This proof addresses the principal planning issues arising from the proposed development, as well as explaining why in my opinion the proposed development is substantially flawed.
18. In preparing my evidence, I have had regard to the various assessments undertaken and submitted with the application, the responses by consultees to the application, and the evidence prepared by the PCFG group's consultant team, namely:
 - Mr John Russell, Transport Consultant. (Transport Expert Witness)
 - Mr Ben Carpenter (BioScan) (Ecology Expert Witness)
19. I rely upon their conclusions in forming my own views.

Rule 6 Party Details

20. I am appointed by Protect Colwell Farm Action Group (PCFG). PCFG is an unincorporated, non-party political community association with over 50 members, representing local people in the area of the planning application site. PCFG was formed in 2025 to oppose the development. PCFG maintains a register of supporters who come from within the immediate area. Instructions are given by the association through Ingrid Marson.

Appeal Site Description

Appeal Site and Surroundings

21. The site of the planning application lies to the south of North Colwell Farmhouse and comprises three irregular open greenfield parcels, which are separated by belts of mixed hedges and trees.
22. The proposed access lies within the built-up area of Haywards Heath, with the wider application site for the dwellings within the countryside as defined in the District and Neighbourhood Plan.
23. The site benefits from extensive vegetation around the boundaries with trees and hedges also within the site. Beyond the southern boundary is Ancient Woodland. To the north of the site are residential properties and their gardens which form linear ribbon development along Lewes Road. These are comprised of large, detached dwellings. To the northern boundary is the Lewes Road Conservation Area. In addition, there is a Grade II listed property, Colwell House.
24. The site is allocated as a local gap within the Haywards Heath Neighbourhood Plan (HHNP).
25. Further to the west is a public right of way (HAH/29CU/2) which runs north to south. This is separated from the site by the neighbouring garden and other land outside of the application site. This footpath is well screened and there is no intervisibility.

Planning History

26. There are no previous planning applications of direct relevance to the determination of this application.

The Appeal Scheme

27. The Appeal Scheme application seeks outline planning permission for the erection of up to 80 dwellings, with associated landscaping, open space, infrastructure and vehicular and pedestrian accesses, on land at Colwell Farm, Lewes Road, Haywards Heath, West Sussex. The means of access is to be determined at the outline stage, with landscaping, appearance, layout and scale to be determined in a subsequent reserved matters application should consent be granted.
28. The application is accompanied by parameter plans, an illustrative masterplan and an indicative open space proposal.
29. The plans show a new access point onto Lewes Road that would serve the whole development. This access would be located within the eastern side garden of North Colwell Farmhouse between this property and no. 90 Lewes Road. Further highway plans have been submitted which show that there would be the provision of a dropped kerb crossing with tactile paving to the south-west of the proposed access. This would allow pedestrians to cross Lewes Road to access the existing footway on the northern side of the highway. These works are included within the red line of the application site.
30. Plans have been provided to show off-site highway works to include a further uncontrolled pedestrian crossing with dropped kerbs and tactile paving, and the existing northern footpath widened at the eastern side of the entrance to Birch Close to allow pedestrians to cross the highway to access the footpath which then moves to the southern side of Lewes Road.
31. The supporting information of the parameter plan (which forms part of the consideration of the application) and the masterplan (which is an indicative plan) shows that there would be a single spine road within the site serving the development with housing provided within the three parcels of land separated by the retained planting on the internal boundaries of the site. This plan also provides an indicative play area location to the west of the site and the creation of a pond to the south of the site. There would also be public open space provided across the site to the boundaries and pathways around the site. Details of this would however come forward at any subsequent reserved matters stage.
32. The illustrative masterplan plan shows a centrally located access road, with houses arranged in perimeter blocks off this access road. Houses are shown as facing outwards towards the landscaping and open areas as well as the access roads.

Planning Policy Position

Statutory Development Plan

33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts and that the determination should be made in accordance with the Development Plan unless material considerations indicate otherwise.
34. The Statutory Development Plan covering the appeal site comprises: -
- National Planning Policy Framework (**NPPF**).
 - Mid Sussex District Plan 2014–2031 (“**MSDP**”).
 - Haywards Heath Neighbourhood Plan (“**HHNP**”).
 - Site Allocations Development Plan Document (“**SADPD**”).
35. The dLP (i.e. Mid Sussex District Plan 2021–2039) is at an advanced stage, having been submitted for examination, and through hearings on a number of aspects of the dLP in February and March 2026. Subsequent to this, the Inspector has called for a further review of site allocations for housing; this request has triggered the re-inclusion of the application site on a long list of sites for review in this process.
36. Within these the Site is classed as follows:
- Undesignated Open Countryside.
37. This plan is relevant for the determination of this appeal – whilst some policies may be viewed as out of date due to the technical failure of evidencing a 5 Year Housing Land Supply, as per Gladman, the policies should still be considered relevant with an appropriate weighting applied.¹
38. I set out below the full range of relevant policies for the appeal from the adopted Local Plan, as a decision should be made on the appeal in light of the development plan as a whole. I list those

¹ Noting the commentary below on the significance of the Emerging Local Plan

policies which are most pertinent to PCFG's case; omission from this section does not in itself imply that PCFG believe the proposed development to accord with any not mentioned.

- Mid Sussex District Plan 2014–2031
 - MSDP: DP6 (Settlement Hierarchy),
 - DP12 (Protection and Enhancement of Countryside),
 - DP15 (New homes in the Countryside),
 - DP20 (Securing infrastructure),
 - DP21 (Transport), DP28 (Accessibility),
 - DP31 (Affordable housing),
 - DP34 (Listed Buildings and other Heritage Assets),
 - DP35 (Conservation Areas),
 - DP37 (Trees),
 - DP38 (Biodiversity).
- Haywards Heath Neighbourhood Plan
 - (E5 (Local Gaps),
 - E6 (Promoting Green Infrastructure),
 - E8 (Sustainable Development),
 - E9 (Local Character),
 - E11 (Major Development on Settlement Edge),
 - T1 (Pedestrian and Cycle Connectivity).

39.

40. Of significant relevance for the determination of the Appeal is the emerging local Plan policy documents and evidence base. At the time of writing this Plan is at the Regulation 19 stage, having passed through the examination in public stage. Within the emerging plan, the following policies are of greatest relevance;

Natural Environment and Green Infrastructure

- a. DPN1: Biodiversity, Geodiversity and Nature Recovery
- b. DPN2: Biodiversity Net Gain
- c. DPN3: Green and Blue Infrastructure
- d. DPN4: Trees, Woodland and Hedgerows

Countryside

- e. DPC1: Protection and Enhancement of the Countryside
- f. DPC3: New Homes in the Countryside

Transport

- g. DPT1: Placemaking and Connectivity
- h. DPT3: Active and Sustainable Travel

Housing

- i. DPH2: Sustainable Development – Outside the BUA

Material Considerations

41. Documents that are regarded as material considerations relevant to this application include:
- The National Planning Policy Framework (2024) as amended;
 - Planning Practice Guidance
42. I summarise the key issues from the planning documents, as far as they are relevant to my evidence below.

National Planning Policy Framework (NPPF, 2024)

43. The National Planning Policy Framework (NPPF, 2024) sets out the Government's planning policies for England. It is a material planning consideration in decision making. The NPPF requires Local Planning Authorities (LPAs) to adopt a positive approach to decision taking and to apply a presumption in favour of sustainable development. It is a material planning consideration in the determination of planning applications. It sets out the Government's planning policies for England and how these are to be applied. Relevant parts of the NPPF are discussed below.
44. The aim of the NPPF is to proactively deliver sustainable development to support the Government's housing and economic growth objectives and meet the needs of the country. Paragraph 8 sets out the three dimensions of sustainable development: 'economic' to help build a strong and competitive economy; 'social' to support strong communities and ensuring that a sufficient number and range of homes to meet the needs of present and future generations; and 'environmental' in protecting and enhancing the environment.
45. The NPPF at paragraph 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;*
 - *(c) are sympathetic to local character and history, including the surrounding built environment and landscape setting,*
46. The NPPF at paragraph 187 states that,
- Planning policies and decisions should contribute to and enhance the natural and local environment by:
 - *protecting and enhancing valued landscapes, sites of biodiversity ... value ... (in a manner commensurate with their statutory status or identified quality in the development plan);*
 - *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of ... trees and woodland;*
 - *...minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures ...*

47. The NPPF at paragraph 193 states that,

- When determining planning applications, local planning authorities should apply the following principles:
- C) ...development resulting in the loss or deterioration of irreplaceable habitats² (such as ancient woodland³ and ancient or veteran trees⁴) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists...

48. The NPPF in Chapter 9 at paragraph 109/110 provides that,

- Transport issues should be considered from the earliest stages of plan-making and development proposals, using a vision-led approach to identify transport solutions that deliver well-designed, sustainable and popular places. This should involve:
 - c) understanding and addressing the potential impacts of development on transport networks;
 - d) realising opportunities from existing or proposed transport infrastructure, and changing transport technology and usage – for example in relation to the scale, location or density of development that can be accommodated;
 - e) identifying and pursuing opportunities to promote walking, cycling and public transport use; and
- 110. The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health....

² Irreplaceable habitat: Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees....(NPPF Page 71 for this definition).

³ Ancient woodland: An area that has been wooded continuously since at least 1600 AD. It includes ancient semi-natural woodland and plantations on ancient woodland sites (PAWS). (NPPF Page 71 for this definition).

⁴ Ancient or veteran tree: A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage. (NPPF Page 70 for this definition).

49. Also relevant are paragraphs 203, 206, 208 and 209, regarding the desirability of new development making a positive contribution to local character and distinctiveness; the need for clear and convincing justification for potential harm to the significance of designated heritage assets from development within their settings, and for such harm to be weighed against the potential public benefits of the proposals; and the need to take account of the potential effect of development proposals on the significance of non-designated heritage assets.

National Planning Practice Guidance

50. The National Planning Practice Guidance was initially published in March 2014 and provides detailed guidance on how to apply the policies contained within the NPPF, with reference to relevant legislation and other guidance. Relevant sections will be referred to in evidence.

Weight to be Given to the Development Plan

51. The NPPF is clear that an application/appeal should be determined in accordance with the Development Plan.
52. The NPPF states that where an application accords with an up-to-date development plan, permission should usually be granted – unless material considerations in a particular case indicate that the plan should not be followed. PCFG consider that the appeal proposals both significantly breach the Development Plan, and that there are no material considerations to justify allowing such a significant breach of that Development Plan.
53. Weight should of course be given to the other relevant policies of the adopted Plan, according to their degree of consistency with the NPPF. Further detailed discussion of these points is made later.
54. The fact that the tilted balance is triggered by the lack of a five year supply does not mean that the Development Plan is ignored. As confirmed by the Court of Appeal in **Gladman vs SCLG** [2021] EWCA Civ 104 the triggering of the tilted balance neither automatically determines a planning application nor allows for the primacy of the development plan to be circumvented and disregarded. There is still a requirement to carry out a full ‘balancing exercise’ of the adverse impacts and benefits of a proposal.

The Main Issues

55. PCFG consider that the main issues pertinent to their case are likely to be that:
1. There is a clear conflict with the development plan
 2. The proposed development is not sustainable, specifically in regard to;
 - a. The proposals are not sustainable development in respect of travel and transport
 - b. The proposals are not sustainable development in respect of Ecological and Tree impacts (Ancient Woodland matters, and BNG) The site has characteristics of Ancient Woodland, and as such should be afforded the highest policy protection
 3. The Mid Sussex District Plan 2021–2039 (“**dLP**”) does not support a major housing development on the Appeal Site. The dLP will address the shortfall in the Council’s 5YHLS.
56. Lying outside the BUAB, PCFG contend that the scheme is fundamentally contrary to the overall Development Plan. This is based upon a wide range of policies at both national, and local level with which the development proposal fails to comply, in particular the harm to the rural character of the area as open countryside, the lack of sustainability of the location from a travel perspective, and the presence of features indicative of Ancient Woodland, as well as matters relating to calculations for Biodiversity Net Gain.
57. I address each of these in my evidence below, and they are also addressed in detail in the evidence prepared by:
- Mr John Russell, Transport Consultant and Expert Witness.
 - Mr Ben Carpenter (BioScan) (Ecology Expert Witness)
58. I rely on their conclusions in forming my own opinions.

Main Issue 1: Conflict with the Development Plan

59. It is my view that there is a broad conflict between the proposed development and the Development Plan, both extant and emerging.
60. The application site falls outside of the built-up area boundary (BUAB) of Haywards Heath as defined by the adopted District Plan. As such the site is located within the defined open countryside.
61. I argue below that the development is in breach of relevant policies which include;
- MSDP Policy DP6: Settlement Hierarchy
 - MSDP Policy DP12: Protection and Enhancement of Countryside
 - MSDP Policy DP 15: New Homes in the Countryside
 - MSDP Policy DP 37: Trees, Woodland and Hedgerows
 - MSDP Policy DP 34: Listed Buildings and Other Heritage Assets
 - HHNP Policy E5: (Local Gap)
 - HHNP Policy E9: (protect and reinforce the local character)
62. The site is not allocated within the Local Plan, and as such the proposed development there represents a clear conflict with that plan taken as a whole, and many individual policies within it. Approval would undermine the plan led approach.
63. The Council on numerous occasions acknowledge that the proposed development materially breaches both the development plan policies, and the plan as whole, and initially⁵ argued that the only way that development was justified in this instance was through a deficit in their 5 Year Housing Land Supply numbers. I address this point elsewhere, under Main Issue 3, noting in short that the emerging Local Plan will provide a solution, imminently, to this deficit, meaning that this justification, albeit slightly out of timing sync with the inquiry, will very likely fall away.
64. To provide the detail, as a starting point below I discuss how the proposed development is in clear contravention of District Plan which seeks to provide for the protection of the countryside.
65. The Plan sets out in DP12: Protection and Enhancement of Countryside that development will be permitted in the countryside provided that it,
- *maintains or where possible enhances the quality of the rural and landscape character of the District, and*

⁵ In their Case Officer's Report to Committee

- *is necessary for the purposes of agriculture or*
- *is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.*

66. It is very clear that this test is failed; the development does not maintain or enhance the quality of the rural and landscape character, and is not supported in this location by another specific policy. This was confirmed by the Local Authority in both their Officer's report to committee, and their initial Statement of Case to this inquiry.

67. Similarly the proposals contravene Policy HHNP E9, which requires that,

- *...Developers must demonstrate how their proposal will protect and reinforce the local character within the locality of the siteand*
- *Proposals affecting a listed building, conservation area, ... should preserve or enhance their special interest and/or distinctive character.*

68. Again, it is the case that these features (local character, conservation area, and a Listed Building) are unarguably degraded to some degree by the impacts of this proposed development, and crucially there is no prospect of reinforcement/enhancement.

69. Policy DP6 of adopted Local Plan, related to settlement hierarchy, states in part that:

'Development will be permitted within towns and villages with defined built-up area boundaries...

...Outside defined built-up area boundaries, the expansion of settlements will be supported where:

- 1. The site is allocated in the District Plan, a Neighbourhood Plan or subsequent Development Plan Document or where the proposed development is for fewer than 10 dwellings; and*
- 2. The site is contiguous with an existing built-up area of the settlement; and*
- 3. The development is demonstrated to be sustainable, including by reference to the settlement hierarchy.'*

70. It is noteworthy that DP6 embodies a plan-led approach to development as it strictly controls non-allocated housing development outside of the settlement boundary to a very small number

(10 dwellings or less). The purpose and intention of the Plan is therefore clearly to avoid this type of large scale un-planned for windfall housing development in the countryside.

71. The proposed development does not meet all of these criteria, (which it must, to meet the terms of the Policy as 'and' rather than 'or' is used) failing as it does parts 1 and arguably 3. It is not allocated, and whilst it is contiguous with a built up area, it is for greater than 10 homes, and we argue that the site is not sustainably located.
72. The Local Plan sets out criteria for when new homes in the countryside could be justified at Policy DP15. Such justification would include:
- *Essential agricultural or forestry workers accommodation*
 - *Exceptional design quality for isolated new homes*
 - *Rural exception sites*
 - *DP6 requirements being met*
73. None of these are met, and as such the development contravenes Policy DP15.
74. Specific issues of the development within its location include the required loss of trees and hedgerows, and harm to landscape character, both of which are contrary to MSDP DP37 and HHNP Policy E5.
75. Policy E5 of the HHNP identifies the site as a local gap. The policy requires land outside of the built-up area to create a landscape buffer that will support and enhance ecological connectivity and maintain the landscape character. It states that new development outside the built-up area will only be permitted if it:
- *'would not unduly erode the landscape character of the area or its ecology*
 - *would not harm the setting of the town and*
 - *would retain and enhance the separate identity of communities.'*
76. The Council suggest that the proposal would not unduly erode the landscape character of the area, would not harm the setting of the town and would retain the separate identity of communities, and suggests that as such they consider that the proposal would comply with this policy.
77. However, the work detailed in the Proof of Evidence of Mr Ben Carpenter (related to ecological matters) suggests that there is a strong case to argue that the policy is breached in respect of the erosion of ecological value and character; the value of the area has been understated and is very likely to be negatively affected, specifically in regard to trees and hedgerows, and the

indicator species for Ancient Woodland/PAWS, as well as in respect of achieving Biodiversity Net Gain.

78. I would therefore strongly disagree with the assertion in the case officer's report to committee and argue that this policy is also breached.

79. Policy DP37 of the MSDP covering 'Trees, Woodland and Hedgerows' contains Strategic Objectives including:

3) To protect valued landscapes for their visual, historical and biodiversity qualities ...

80. It notes that

'the District Council will support the protection and enhancement of trees, woodland and hedgerows... In particular, ancient woodland and aged or veteran trees will be protected.

Development that will damage or lead to the loss of trees, woodland or hedgerows that contribute, either individually or as part of a group, to the visual amenity value or character of an area, and/ or that have landscape, historic or wildlife importance, will not normally be permitted.'

81. There is no dispute that the proposals will result in a loss of trees and hedgerows, which is itself a contravention of this policy, but I would further argue, supported by the evidence of Mr Ben Carpenter, that there is good reason to suggest that the site contains features of Ancient Woodland, and that as such the policy is further breached.

82. The policy further includes the statement that,

'Development should be positioned as far as possible from ancient woodland with a minimum buffer of 15 metres maintained between ancient woodland and the development boundary.'

83. Whilst the proposals meet this test in relation to the boundary of the Ancient Woodland as the appellant recognises the location of it, where such features may in fact extend northward *beyond* the southern boundary *into* the site, these features would represent a further material breach of this policy, as the proposals do not then allow for a sufficient standoff.

84. Finally, a full review of policies in the District Plan, and other Development Plan documents such as the Site Allocations document, or the Neighbourhood Plan confirms that there are none that explicitly support the residential development of this site.

85. Finally, I note that, in line with the conclusions with the Officer's committee report and the Statement of Case of the Council (before withdrawal) that the development would result in harm to heritage assets and is contrary to MSDP DP34. Whilst I do not seek to argue that the harm

is of a different level to that identified by the council and the appellant, I differ in my interpretation of how this should be viewed in the planning balance, and discuss this there. What is not in dispute is that harm does exist, and that as such there is a failure to comply with this policy.

86. In summary, and as already noted, the site is not allocated for residential development in the Development Plan. The proposed development is in clear breach of a number of policies as discussed above, which go directly to the principle of development at this location, and as such clearly breach the Development Plan, when read as a whole. Development here would therefore clearly undermine the plan led system.

Impact of Policy on Decision Making Approach

87. As per planning legislation, a decision must be made in accordance with the Development Plan unless there are any material planning considerations which indicate otherwise. As argued above, I believe that the development is very clearly not in accordance with the Development Plan and it is therefore necessary to consider other material planning considerations which might outweigh this conflict with the development plan.

Other Material Considerations – Status of Adopted Policies.

88. Beyond the policy discussed above, NPPF policies are material considerations which should be taken into account in the determination of the application.
89. In short summary the framework suggests that development must be approved;
- Where it is in accordance with the Local Plan where such is up to date, or where there are no relevant policies, and
 - Unless there are breaches of policies set out in the NPPF, including whether it can be considered sustainable development.

90. Where such matters are present, the development must be then considered in the context of whether it constitutes sustainable development, for which there is a presumption in favour.
91. Within this a relevant factor is the degree to which policies are considered up to date or otherwise.
92. In detail, (at Paragraph 11 of the NPPF) this means,
‘For decision-taking this means;
c) approving development proposals that accord with an up-to-date development plan without delay; or
d) where there are no relevant development policies, or the policies which are most important for the determining the application are out-of-date, granting planning permission unless;
i. The application of policies within this Framework that protect areas of assets of particular importance provides a strong reason for refusing development proposed; or
ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations⁶, making effective use of land, securing well-designed places and providing affordable homes, individually⁷ or in combination.’
93. Footnote 7 of paragraph 11(i) clarifies that the policies referred to are those in the NPPF (rather than those in development plans) and relate to various types of protected sites including...
‘irreplaceable habitats; designated heritage assets ...’
94. Relevant to housing applications where a 5 Year Housing Land Supply cannot be demonstrated, Footnote 8 of paragraph 11 clarifies that *‘relevant policies for the supply of housing should be considered out-of-date’*.
95. The R6 party does not contest that the Council cannot currently demonstrate such a supply, and that therefore this development needs to be considered in the context of the presumption in favour of sustainable development.
96. To return to the matter of if a development is found to be unsustainable, the balancing required under paragraph 11(d) would weigh heavily against granting permission. In this event, it is still

⁶ Underlining is my emphasis

⁷ Underlining is my emphasis

necessary to review the positive benefits of the scheme against any harm that may be caused, having particular regard for the key policies indicated in paragraph 11(d)(ii).

97. It is necessary therefore to consider the weight to be given to Development Plan policies. Paragraph 232 clarifies that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework, and that weight should be assigned to them according to their degree of consistency with the NPPF- in line with the principle that the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. To be clear, a policy may be considered technically out of date, but where it retains consistency with NPPF Policy, it should still be given weight, and considered material to determination.
98. It should be noted at this stage that the Local Authority do have an excellent record when it comes to delivery of housing, as recognised in their submitted Statement of Case⁸. They noted in the Statement, that they considered that the weight to be given to the lack of 5YHLS should be limited,

'In this regard, the Council will contend that the weight to be attached to the current shortfall in the 5 year housing land supply should be reduced in the light of the Council's consistently good record (up to January 2025) of maintaining a 5 year supply, its excellent record under the Housing Delivery Test, and the fact that the Council is actively taking steps to address the shortfall through its emerging Local Plan, which is now well advanced ...'

99. In support of this point, I note the Inspector's comment in 2023 (reference APP/D3830/W/23/3319542, with decision date 5/10/2023 concerning an application for the development of up to 120 residential dwellings at Albourne), where she said:

'From the Council's evidence it is clear that Mid Sussex has a history of housing delivery, and it is not an area with a record of persistent under delivery of housing. I am confident that the Council understands and acknowledges its obligations under the HLS and HDT. The Site Allocations DPD has allocated more land for housing than the DP required, and the Council approaches the issue of housing in a positive and proactive manner.'

Overall, I find that the Council has taken and continues to take a proactive approach to housing delivery at both plan making and decision making... the Council is effectively using a variety of tools and mechanisms to ensure housing can be delivered in a timely manner. Plan making progress as acknowledged by the Appellant is commendable and is positive and continuing to

⁸ Paragraph 6.1, Statement of Case

progress...the Council has a good understanding of housing and infrastructure delivery within their administrative area'

100. I note that is well established that it is relevant to consider the extent of the shortfall, the length of time for which it has existed, the reasons behind the shortfall, and the steps which the local planning authority is taking to address this in determining the weight to be given to this factor.
101. I do not argue with the point that the Planning Authority cannot demonstrate a 5YHLS, and that as such the Tilted Balance may be said to apply⁹, nor that therefore some policies¹⁰ should be viewed as out of date, and that as a consequence the weight to be assigned to them must be reduced.
102. However, I would argue that those Policies still carry considerable weight in light of this strong housing delivery track record.
103. In summary, whilst recognising that as the Council is in undeniable technical breach of the requirement for providing the 5YHLS, and that as such in the Tilted Balance scenario the housing policies in the Adopted Plan may carry less weight, in light of the previous excellent performance of the Planning Authority in delivering housing (and other factors), I still assign these policies significantly greater weight than does the appellant.
104. This weighting is considered in greater detail below.

Local Policies Directly Relevant to Housing

105. Policies DP4 (Housing) and DP6 (Settlement Hierarchy) are very much relevant to this application. These policies are directly related to the supply of housing and as the 5YHLS is in technical breach, these may be considered to be out-of-date, when considered against the NPPF tests.
106. As such, I recognise that these policies can be given lesser weight in the determination of the application. I do however consider that they remain relevant, and that in line with the discussion above assign greater weight than the appellant, especially in view of the position in respect of the Council's general performance in delivery of homes.
107. Policy DP15 (New Homes in the Countryside) identifies the types of new homes that will be permitted in the countryside, where special justification exists (noting earlier commentary to the effect that the tests set out in this policy are clearly not met). While this policy relates to the

⁹ Note that I argue elsewhere that the Tilted Balance may in fact be disapplied in respect of the potential presence of Ancient Woodland/PAWS features on the site.

¹⁰ (where relevant to housing supply)

provision of housing, the aims are consistent with paragraphs 82 - 84 of the NPPF and as such this policy can be given full weight.

Local 'Countryside' Policies Relevant to Application Site

108. Policy DP12 (Protection and Enhancement of the Countryside) seeks to protect the intrinsic character and beauty of the countryside. While it does seek to restrict certain forms of development, it is not considered to be a policy specifically related to the supply of housing, albeit that I interpret it as including it in general terms. Where the Council is unable to demonstrate a five year land supply and given the aim of the NPPF to boost significantly the supply of housing, the weight that can be afforded to this policy where it relates to housing matters must be reduced. However, as argued above given the Council's previous delivery record, this reduction of weight should in my view be limited. I conclude therefore that the weight to be assigned should ultimately be a moderate-significant level of weight.
109. Policy E5 of the HHNP requires development within the local gap to maintain the landscape character of the area and identifies 3 requirements for where new development would be permitted, stating that new development should;
- *Not unduly erode the landscape character,*
 - *not harm the setting of the town and*
 - *Must retain the identity of communities.*
110. Whilst this policy does not specifically relate to the provision of housing (and therefore does not directly conflict with the aim of the NPPF to boost significantly the supply of housing), in the general sense that it covers development (which implicitly includes housing) it *is* relevant, and so could be to some extent viewed as out of date, and therefore potentially attract a slightly lesser weight.
111. However, I believe that the aims are consistent with paragraphs 82 – 84 and 187 of the NPPF, and coupled with the argument in respect of housing delivery of the District Council, this policy can be given moderate-significant weight.

Emerging District Plan

112. Whilst I recognise that the emerging District Plan has not completed its journey through the adoption process, and recognising that the matter of the allocation (or not) of the site (which I address specifically elsewhere) is outstanding, the Plan as drafted is indeed at an advanced stage, having been subject to significant scrutiny at the Examination in Public Stage.
113. As such I consider that it is a meaningful exercise to consider the Policies contained within it, as a minimum as a strong indication of the direction of policy travel, but in practice as a very good guide to the specific shape of emerging policies.
114. I consider the following policies to be of specific relevance to the proposed development;
- Natural Environment and Green Infrastructure
 - DPN1: Biodiversity, Geodiversity and Nature Recovery
 - DPN2: Biodiversity Net Gain
 - DPN3: Green and Blue Infrastructure
 - DPN4: Trees, Woodland and Hedgerows
 - Countryside
 - DPC1: Protection and Enhancement of the Countryside
 - DPC3: New Homes in the Countryside
 - Transport
 - DPT1: Placemaking and Connectivity
 - DPT3: Active and Sustainable Travel
 - Housing
 - DPH2: Sustainable Development – Outside the BUA

115. I provide an analysis in the table below of the proposed development as considered in respect of the specifics of these policies.

Table 1 Emerging Policy Analysis

Policy Number and Title	Relevant Policy Extracts	Compliance of the Appeal Scheme
DPN1: Biodiversity, Geodiversity and Nature Recovery	Biodiversity ... will be protected because they are important natural capital assets and provide benefits as part of ecosystem services. Nature recovery will be supported and encouraged because it is important for delivering improvements to nature, ecological networks and green and blue infrastructure.	As noted by Mr Ben Carpenter, the development risks reducing Biodiversity on the site through incomplete surveys, inaccurate characterisation of the baseline conditions <i>for BNG calculations</i> , and inadequate provision of mitigation, resulting in breaches of this policy.
	All development must ensure the protection, conservation and enhancement of biodiversity. Direct and indirect damage and harm to existing important ecological assets will need to be avoided... Such assets include: ... •<i>Irreplaceable habitats</i> such as ancient woodland, ancient or veteran trees ...	He further notes that the site shows many indications of containing Ancient Woodland features constituting irreplaceable habitats. If this is the case, the development directly breaches of this policy.
	If significant harm to biodiversity cannot be avoided (by locating development on an alternative site with less harmful impacts or through design), then such harm will need to be mitigated. Where harm cannot adequately be mitigated, then as a last resort, such harm must be compensated for. Biodiversity will be protected and enhanced by ensuring development: Protects existing biodiversity by retaining features of interest, including connecting routes as part of wider ecological networks, and ensuring the appropriate long-term management of those features; and Takes appropriate measures to avoid and reduce disturbance to sensitive habitats and species and to support the recovery of Priority species populations; and Contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green and blue infrastructure, so that there is a net gain in biodiversity... Development must incorporate biodiversity features and such biodiversity features must include appropriate long-term management arrangements where relevant.	As noted by Mr Carpenter, the site mitigation plan is inadequate in providing long term protection of ecological assets, and there is a real risk of a loss of biodiversity attributable to the development, and this directly breaches of this policy.

DPN2: Biodiversity Net Gain	Development ...will need to deliver a net gain in biodiversity which will contribute to the delivery of ecological networks, green and blue infrastructure and nature recovery.	As noted by Mr Carpenter, there is a failure to properly document the ecological assets of the site, prepare a suitable baseline for BNG calculations, and mitigate appropriately, and as such there is a real risk of a <u>loss</u> of biodiversity attributable to the development. This directly breaches this policy.
DPN3: Green and Blue Infrastructure	... Green and blue infrastructure design will need to be informed by and respond to existing evidence and guidance on the multi-functional green and blue infrastructure network including ...irreplaceable habitats... Appropriate arrangements and funding for the future long-term management, maintenance and stewardship of green and blue infrastructure should be identified, implemented and delivered. Where appropriate, the Council will seek to secure this via planning conditions and/or planning obligations.	As noted by Mr Carpenter, the site shows many indications of containing Ancient Woodland features constituting irreplaceable habitats. If this is the case, the development directly breaches of this policy. Further, the site mitigation plan is inadequate in providing long term protection of ecological assets, and there is a real risk of a loss of biodiversity attributable to the development, and this also directly breaches of this policy.
DPN4: Trees, Woodland and Hedgerows	Protection of trees, woodland and hedgerows The District Council will support the protection and enhancement of trees, woodland and hedgerows, and encourage new planting. As an irreplaceable habitat, ancient woodland and ancient or veteran trees and their soils will be protected. ... Development (including construction and operational activities) that is adjacent to irreplaceable habitats including ancient woodland and ancient or veteran trees must incorporate appropriate buffers and/or root protection areas. Development that will damage or lead to the loss of trees, woodland or hedgerows that contribute, either individually or as part of a group, to the visual amenity value or character of an area, and/or that have landscape, historic or wildlife importance, will not normally be permitted. Development (including construction and operational activities) resulting in the direct or indirect deterioration, damage or loss of irreplaceable habitats including ancient woodland and ancient or veteran trees will not be permitted unless there are wholly exceptional reasons and in such circumstances, a suitable compensation strategy will be provided, including measures that respect the features and characteristics of the	The development will, as a minimum, result in the loss of trees, woodland and hedgerows. Further, the site shows many indications of containing Ancient Woodland features constituting irreplaceable habitats. In either case, the development directly breaches this policy.

	ancient woodland and ancient, aged or veteran trees. The value of trees, woodland and hedgerows individually and cumulatively in providing connectivity and continuity across the landscape and a network for nature recovery will be taken into account so that habitat fragmentation, particularly of large and extensive woodland areas, is minimised.	
DPC1: Protection and Enhancement of the Countryside	The countryside will be protected.... ...Development will be permitted in the countryside, defined as the area outside of built-up area boundaries on the Policies Map, provided it maintains or where possible enhances the quality of the rural and landscape character of the District including not adversely affecting the environmental and social benefits that the countryside delivers, and: it is necessary for the purposes of agriculture, or it is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.	This policy remains consistent with existing protections. The development fails to protect the rural character, adversely affects the environmental benefits of the countryside. It is not necessary for agriculture, and unless it ultimately gets allocated, will not be supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.
DPC3: New Homes in the Countryside	New homes in the countryside, defined as areas outside the built-up area boundaries on the Policies Map, will be permitted in specific circumstances, as set out below: i. Accommodation is essential to enable the operation of an agricultural, forestry or similar rural enterprises requiring full time rural workers to live at, or near, their place of work; ii. In the case of new isolated homes in the countryside, where the design of the dwelling is of exceptional quality, is truly outstanding and would significantly enhance its immediate setting and is sensitive to the character of the local area; iii. Development would involve the subdivision of an existing residential building; iv. The proposed development meets the requirements of Policy DPH2: Sustainable Development – _Outside the Built-Up Area; v. The proposed development is not in conflict with Policy DPC1: Protection and Enhancement of the Countryside; or vi. Affordable housing in accordance with Policy DPH34: Rural Exception Sites.	The proposed development does not meet the requirements set out in this policy. I, ii, and iii are not relevant. iv. The proposed development does not meet all three tests of Policy DPH2 and therefore does not comply with it – and therefore breaches this subsection of DPC3. v. The development does conflict with DPC1. vi. The development does not meet the requirement of DPH34.
DPT1: Placemaking and Connectivity	iv. Development shall create liveable communities which embody the 20-minute neighbourhood principles demonstrate accordance with the movement hierarchy and deliver attractive, healthy places that have a permeable street network within the site, connecting to existing networks and services, with clearly defined street hierarchies that are safe, and incorporate green infrastructure,	iv. The development does not meet the principles of the 20 minute neighbourhood as required v. The development fails to be designed to prioritise sustainable and active modes of travel

	particularly on walking and cycling routes, whilst ensuring they are designed for all users and supporting desirable opportunities for people to choose not to travel by car. v. Development must integrate relevant requirements of Chapter 4 of the Mid Sussex Design Guide SPD and be designed to prioritise sustainable and active modes of travel and define a clear street hierarchy, providing safe and convenient routes for walking, wheeling and cycling through the development and linking with existing and enhanced networks beyond, including schemes identified in Local Cycling & Walking Infrastructure Plans; before the highway layout is planned.	
DPT3: Active and Sustainable Travel	Development will be required to help remove barriers to active and sustainable travel and create a healthy environment in which people choose to walk, wheel and use sustainable transport by taking account of all of the following: i. Embedding the principles of 20-minute neighbourhoods, development must demonstrate (proposal?) accord with the movement hierarchy and provide high quality, attractive, fit for purpose and convenient active travel infrastructure, within...	The development does not meet the principles of the 20 minute neighbourhood as required, and particularly does not, 'remove barriers to active and sustainable travel and create a healthy environment in which people choose to walk, wheel and use sustainable transport'
DPH2: Sustainable Development – Outside the BUA	Outside defined built-up area boundaries, as defined on the Policies Map, the expansion of settlements will be supported where it meets identified local housing, employment and community needs and: 1. The site is allocated in the District Plan, a Neighbourhood Plan or Development Plan Document; or 2. Where the proposed development is for fewer than 10 dwellings the site is contiguous with an existing built-up area boundary, as defined on Policies Maps; and 3. The development is demonstrated to be sustainable, including by reference to the settlement hierarchy, as set out in Table 2.	1. Unless the site is allocated, which to date it is not (and has been previously rejected) this is not met. 2. The site is for more than this 10 home limit. 3. We argue in detail that the development is unsustainable in both location for Transport matters and for the impact it has on the countryside, ecology and trees. This fails part 3.

116. As noted in the review table above, on the basis of evidence provided by Mr Ben Carpenter and Mr John Russell, the site fails to comply with a broad swathe of Policy in the Emerging District Plan. Whilst I note that the appellant argues that the plan is not adopted and that some policies are subject to unresolved objections, I argue that the breadth of non-compliance shown above drives to the strong likelihood that the development will remain at the very least broadly non-

compliant at the point this plan is adopted, and (separately) would suggest that these matters of fact render it unlikely that the site will be allocated within that plan¹¹.

117. Given this position, I conclude that the weight to be given to these emerging policies as a whole is substantial; they remain both broadly consistent with the adopted District Plan (with which the development fails to comply) as well as with National Policy, meaning that the objections we present to the proposed development in respect of the Adopted District Plan remain similarly valid when viewed in the context of the emerging Plan.
118. I consider it is valid to draw a distinction between the Emerging Plan policies which are currently in the Plan, and the future allocation of the Site which at this stage remains an unexamined possibility. I do not give substantial weight therefore to the possibility of the Site being allocated.

¹¹ A point the R6 Party will continue to push at the Local Plan inquiry.

Summary of Position

119. The proposed development is not in accordance with the Development Plan, both in respect of various individual policies, and when read as a whole.
120. The site is an unallocated open countryside site, and whilst accepting that the Local Plan may contain policies that are at least in part considered out of date, many remain consistent with the aims of National Policy within the NPPF (and equally with the Emerging District Plan) and as such retain significant weight in my view.
121. Furthermore the District Council has an excellent record of housing delivery (as noted by the Planning Inspectorate), and therefore while they are in an undeniable technical breach of the 5YHLS requirements, triggering the Tilted Balance (pending the ancient woodland point below), the implied reduction of weight of 'out of date' housing policies should be tempered.
122. These Local Plan policies, and the lack of a current allocation for housing, are therefore still relevant, and several policies are therefore breached by the proposed development. This alone should be sufficient to trigger a refusal of permission.
123. Finally at a national policy level, a number of policies within the NPPF are breached by the proposals. I argue the development is fundamentally unsustainable development, specifically, with regard to its location considered in light of sustainable travel matters, by impacts upon heritage assets, and then separately through its impact upon biodiversity levels, and its status as an open countryside site and setting, which we argue may contain features characteristic of Ancient Woodland and should be considered as such in light of any evidence to the contrary (as I will explain below).
124. These conclusions mean that through clear lack of compliance with the local plan, contravention of various NPPF policies, and a demonstrated inability to be regarded as a sustainable location, the development should be refused.

Main Issue 2: Sustainable Development

125. PCFG contend that the proposed development substantively contravenes a number of development policies within both the Local Plan, and National Policy related to the sustainability of the location from a Transport perspective (Part 1), as well as related to matters concerning loss of Biodiversity, and the status of the site as potential Ancient Woodland or PAWS (Part 2).

Main Issue 2: Part 1 – Transport

126. It is my view, supported by the evidence of Mr John Russell, that the proposed development is clearly in contravention of a number of policies relevant to aspects of the sustainability of the proposed location in respect of travel and transport as set out below.
127. In particular, the location is unsustainably located with regard to a failure to meet the requirements of paragraphs 110 and 115 (a) and (b) of the NPPF.
128. The evidence of Mr John Russell highlights a number of matters which I consider go directly to the sustainability of the location from a Transport perspective. I discuss these at a high level below, before going on to consider the detailed policy implications that arise.
129. The evidence of Mr Russell notes that there are two significant failings associated with the development as proposed. These are that the location of the proposed development does not actively promote the use of non-car means of travel, and similarly does not facilitate increasing people's accessibility to key facilities and amenities. These matters are key policy requirements at both a national and local level.
130. His evidence notes that NPPF paragraph 110 does not require that *every* location considered for development must have access to every sustainable mode of travel, but *does*, however, require that the choice of transport modes should be 'genuine'. I am in agreement with his view that the term 'genuine' (with reference to choice of transport modes) suggests that the choice of transport modes should be sufficiently attractive that most people could reasonably be expected to use them. I agree with his findings that this is not the case with the application site.
131. NPPF paragraph 115 requires that:
- 'In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*
- sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location;*
- safe and suitable access to the site can be achieved for all users;*
132. In his evidence Mr Russell identifies the Department for Transport Connectivity Tool as a key means of assessing a sites connectivity and thus sustainability. He finds that this Tool identifies the Appeal Site has low levels of connectivity by walking and public transport, with overall sustainable transport connectivity falling within the lowest 20% nationally. By contrast,

connectivity by private car is above average, indicating that future residents would be significantly more reliant on car travel than on sustainable modes.

133. He also addresses the Local Authority Connectivity tool, which the appellant uses to claim that the site is (relatively at least) well connected. He notes that this tool is appropriate for use at the early stage of Local Plan making, in the sense that it is useful for making strategic decisions in plan making, rather than necessarily for Development Control.
134. Mr Russell notes the Ministerial Statement of 11 December 2025, in which the SoS made clear that the development of the Tool was a response to the absence of a commonly agreed evidence base for assessing connectivity. The SoS stated that the Tool is intended to serve as a "national metric of connectivity", implying, as is Mr Russell's view, that the Local Connectivity assessment tools were potentially less useful.
135. Mr Russell's view, and one that I share is that the National Tool is a much more useful method of assessing connectivity – to not use this tool is to fail to properly capture the reality on the ground in this instance.
136. At a high level then, Mr Russell describes the site as being *poorly* connected (for getting to normally accessed destinations such as amenities, shops and transport hubs) by each of the following travel modes;
- Journeys on foot
 - Journeys by bicycle
 - Journeys on public transport
137. He also highlights the fact that the site *is* particularly well connected for car travel.
138. Firstly, he notes that most everyday destinations are beyond recognised reasonable walking distances from even the site entrance, never mind the actual eventual location of the houses. Existing deficiencies in pedestrian infrastructure, including unlit routes, discontinuous footways and the poor quality of Footpath HAH-29CU, would further discourage journeys on foot. He notes the proposed mitigation measures but does not find them to meaningfully address the shortcomings of the location, and argues that they do not meaningfully increase the likelihood that residents would walk, anticipating that very few, if any, journeys from the Appeal site would be made on foot.
139. Secondly, Mr Russell notes the absence of cycle infrastructure on routes between the site and commonly accessed destinations. This, combined with vehicle speeds and volumes on local roads (including specifically the Lewes Road that all cyclists travelling to and from the Appeal

Site would need to travel along and being the first road encountered on leaving the Appeal site) means that cycling would not be a desirable or realistic option for many residents. He goes on to note that no mitigation is offered to improve this situation. He argues that these factors mean that very few, if any, journeys are likely to be made by cycle in relation to the Appeal Site.

140. Finally, Mr Russell's evidence notes that public transport accessibility is also severely limited. There are no bus services accessible within an accepted reasonable walking distance of the Appeal Site. The remoteness of these bus services to the Appeal Site would not be conducive to promoting bus travel to and from the Appeal Site.
141. A key point in the appellant's sustainability argument is the availability of Haywards Heath station, leaning on the sustainability of rail travel to support the credentials of the site. However, Mr Russell argues, in line with the points above, that it is too remote to be reasonably accessed on foot by most residents, the connecting cycle routes are not attractive for most users, and there is no connecting bus service in reasonable walking distance of the Appeal Site; the high probability therefore is that most journeys by rail would involve driving to the station, against the policy direction requiring non-driving modes of travel to be encouraged. As a consequence of this likely pattern, residents without access to a car are likely to be severely disadvantaged with regard to rail usage - or excluded entirely.
142. In his evidence, having provided information which substantiates his view that the site is such that most journeys will by both choice and necessity be made by car, Mr Russell also considers the data on households with no access to cars for households such as those in the Social or Privately Rented/Rent Free categories. Both of these may well be present at this site. He finds that in this area typical figures for no car access in these categories of tenure are 35.7% and 21.4% respectively; meaning that in this location, where there is poor access to non-car means of travel, a significant proportion of households may have no vehicle, and as such would be significantly disadvantaged in Transport terms.

Summary

143. I am persuaded by the evidence of Mr John Russell on these various matters, and share his views. I consider that this they raise significant implications for Planning Policy.
144. My conclusions, based upon his evidence, are that the Proposed Development, by virtue of its location, does not provide a choice of sustainable transport modes and so does not represent transport-sustainable development. This is directly in contravention of paragraphs 110 and 115(a) of the NPPF. The location leaves future residents heavily reliant on private car travel to

undertake journeys to every day destinations and the Proposed Development would not achieve the sustainable patterns of movement sought by national planning policy.

Implications of Transport Evidence for Planning Policy Compliance

145. I consider in this section the policy implications of the evidential findings of Mr Russell.

Local Policy

146. The Mid Sussex District Plan 2014 – 2031 Contains policies relevant to matters including Transport.

147. Policy DP21 of the Mid Sussex District Plan 2014-2031 ('the DP2031) states the following:

'...decisions on development proposals will take account of whether:

The scheme is sustainably located to minimise the need for travel noting there might be circumstances where development needs to be located in the countryside, such as rural economic uses (see policy DP14: Sustainable Rural Development and the Rural Economy)

Appropriate opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, including suitable facilities for secure and safe cycle parking, have been fully explored and taken up¹².

148. My Russell's evidence indicates a clear breach of this policy in so far as the site fails to be located in a position which discourages car use through access to sustainable travel options.

National Policy - NPPF

149. The NPPF 2024 (as amended) contains relevant policy on transport matters, and notes a requirement for close coordination between land-use planning and transport planning to support sustainable development.

150. I note the following content of the NPPF as relevant to the Appeal site;

At Paragraph 110 of the Framework the following is required:

'The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can

¹² My underlining for emphasis

help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.'

151. Whilst the requirement is not that every location considered for development must have access to every sustainable mode of travel, it is required that the choice of transport modes should be 'genuine'. I agree with the analysis of Mr Russell that 'genuine' must read as indicating government's intention that the choice of transport modes should be sufficiently attractive that most people could reasonably be expected to use them. Without such a reading the policy would be with purpose.
152. Paragraph 115 of the Framework sets out a requirement that:
- 'In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*
- sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location;*
- safe and suitable access to the site can be achieved for all users;*
153. My reading of the Transport evidence of Mr Russell confirms my view that the proposed development neither prioritises sustainable transport modes (it clearly favours car based travel), nor ensures safe and suitable access in respect of walking and cycling routes. It is therefore a clear breach of this policy.
154. It is worth noting that – for these same reasons – I have doubts as to whether the Site will eventually be allocated in the Emerging Plan when it is adopted.

National Policy - National Design Guide

155. Turning to the National Design Guide as referenced at paragraph 115c of the NPPF, walkable distances are described as below:

'Walkable: Local facilities are within walking distance, generally considered to be no more than a 10 minute walk (800m radius).'

156. The evidence in Mr Russell's Proof provides distances to a number of local facilities, all of which (with the exception of a post box, at 520m) require walking further than this – in most cases substantially further.
157. I find this to be a very clear breach of the guidance and therefore the NPPF.

National Policy – Emerging Update to the NPPF

158. A consultation on revisions to the NPPF is underway. This provides an indication of the likely direction of travel of Government policy with regards sustainable travel.

159. Policy TR3 is of particular note, setting out the Government's approach to identifying sustainable locations for development (my underlining for emphasis):

1. So that development is located where it can support sustainable patterns of movement, enable good accessibility for different users and make the most of existing and proposed transport infrastructure, development proposals should reflect the following principles, taking into account the vision for the site, the type of development and its location:

a. Development proposals which could generate a significant amount of movement, in the context of the area within which they would be situated, should be in locations that are, or can be made sustainable, by limiting the need to travel and offering a genuine choice of transport modes for residents and users, unless the nature of the use makes this impractical;

b. Opportunities should be taken to utilise existing or proposed transport infrastructure in optimising the amount or density of development which can be accommodated in different locations, especially where this can support more walking, wheeling, cycling and public transport use;

2. The Connectivity Tool (Connectivity Tool - GOV.UK) should be used alongside other relevant evidence in assessing the connectivity of particular locations proposed for development.

160. The Policy both reconfirms the need to locate development in a way that facilitates non-car means of travel, and reiterates the suitability of the Connectivity Tool for assessing the location of proposed development. The proposed development fails the test of this emerging policy in

both the lack of access to non-car transport options, and through the outcomes of the national Connectivity Tool, where the site is found to be very low scoring indeed.

161. Policy S5 then goes on to consider the principle of development outside of settlements. As this site is outside the BUAB, and in the open countryside, we consider this to be a relevant case. Of relevance to Transport matters, it notes that:

1. Only certain forms of development should be approved outside settlements, as set out in the following list. These should be approved, unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in this Framework:

h. Development for housing and mixed-use development which would be: within reasonable walking distance of a railway station which provides a high level of connectivity to jobs and services; physically well-related to a railway station or a settlement within which the station is located; is of a scale which can be accommodated taking into account the existing or proposed availability of infrastructure; and where the development would not prejudice any proposals for long-term comprehensive development in the same location;

162. The footnotes to policy S5 provide a definition of, 'a railway station which provides a high level of connectivity to jobs and services' as follows:

'Well-connected rail stations and underground, tram and light rail stops are those in a top 60 Travel to Work Area located partially or fully within England by Gross Value Added (GVA) and which, in the normal weekday timetable, are served (or have a reasonable prospect of being served due to planned upgrades or through agreement with the rail operator) throughout the daytime by four trains or trams per hour overall, or two trains or trams per hour in any one direction.'

163. It is clear that the government's intention is to continue to pursue and indeed expand the existing Policy requirement that development is located within locations which are, or can be made, sustainable in transport terms.

164. Policy S5(h) moves beyond the current NPPF by providing clear guidance on situations in which land outside of settlements could be considered to meet the transport sustainability requirements of policy TR3, a test that the current application site fails to meet.

Main Issue 2: Part 1 Transport: Conclusions

165. As noted in Mr Russell's evidence above, and upon which I rely, the site fails to deliver sustainable transport options for its future residents, and by virtue of a combination of its location, the state of existing active travel infrastructure, and poor access to public transport, and finally a lack of suitable mitigation, it will continue to heavily favour journeys by car, leaving those without access to vehicles heavily disadvantaged, both of which are in clear and direct contravention of policy at both a Local and National level.
166. The Transport Evidence leads me to a very clear conclusion that the proposed development site is entirely unsustainable in Transport terms, clearly breaching Local and National policy, and that accordingly the appeal should be refused.

Main Issue 2: Part 2 The Location is not Sustainable (Ecology/Trees)

167. PCFG contend that the proposed development substantively contravenes a number of development policies within both the Local Plan, and National Policy related to the sustainability of the location from an ecological and tree related perspective.
168. It is my view, supported by the evidence of Mr Ben Carpenter, that the proposed development is clearly in contravention of a number of policies relevant to aspects of the impact of the development upon ecological and tree related matters as I set out below.
169. Discussion below will outline PCFG's case regarding the effect of the development in respect of impacts upon potential features of ancient woodland, inadequate assessment of the ecological baseline, and potential for impacts upon protected species. The scheme further fails to make suitable assessment of matters related to Biodiversity Net Gain, meaning that biodiversity may in fact be reduced. Accordingly, the scheme is fundamentally flawed in terms of its consideration of ecological and tree impacts.
170. The evidence of Mr Ben Carpenter highlights clear failings on the part of the Appellant's ecologists to properly and accurately survey and assess the linear wooded features within and around the periphery of the Appeal Site, and whether these features could be ancient in origin. Given the irreplaceability and importance of this type of habitat, and the weight attributed to it in planning policy, it would be highly unsafe to proceed to the issuing of a decision in the absence of a comprehensive investigation into the matter.
171. It is important I directly address the approach the Inspector has to take where a case is being made that there is likely to be Ancient Woodland on the Site itself but where – due to the Appellant's refusal of access and failure to address it themselves – the presence of Ancient Woodland has not been confirmed.
172. The contextual point is that the Appellant should not be able to benefit from their own lack of cooperation. If the Inspector agrees with Mr Carpenter that there is likely to be Ancient Woodland on Site then the fact that this has not been confirmed does not negate the point.
173. Instead the Inspector should proceed on the assumption that there is Ancient Woodland on Site and consider the ramifications of that in terms of policy. This can be justified in at least two ways.
174. The first is that – at the time of Proofs – the Inspector has evidence of Ancient Woodland on Site in the form of the on-site indications and historical map analysis via Mr Carpenter's proof. The Inspector does not have any clear contrary evidence from the Appellant. Furthermore given the Appellant refused to allow any joint survey work it is not expected that any survey work will

be presented by them at Proof stage. Therefore the balance of evidence clearly lies in favour of there being ancient woodland.

175. The second is that the Inspector is dealing with one of the few areas of National Policy where the decisionmaker is directed to refuse an application. If there will be loss/deterioration of ancient woodland then 193 tells the decisionmaker that they should refuse it. This – along with takeaways (97), substantial harm to heritage (214) and highway safety/impact (116) – is a rare occasion where national policy gives a clear directive.
176. I am also aware that for highways it has been held that this policy context requires a precautionary approach to be taken: i.e where a Developer has not established that a highway proposal is safe then this justifies refusal under 116.
177. I therefore consider that such a precautionary approach here would justify – if the Inspector agrees with Mr Carpenter – proceedings on the basis that there is Ancient Woodland/ not being satisfied that there is not Ancient Woodland.
178. Further to his analysis of aerial photography and the post-development plan for the Appeal Site strongly, evidence indicates that the proposed reptile receptor site is not fit-for-purpose, stating that approximately 40% of the proposed receptor site comprises habitat types that will not provide the suitable conditions beneficial for reptiles. Further, the proposed management of this area is not conducive for the benefit of reptiles due to the regularity of the grass cutting regime. Finally, there has been no considerations for the implications of increases in potential predation of the species, and the impacts of deer foraging of the reptile habitat.
179. Mr Carpenter's review of the appellant's BNG Metric and assessment highlights several inconsistencies and errors. Of particular concern, the condition of the 'other neutral grassland' (both baseline and post-development), non-adherence to the BNG User Guide (particularly in respect of the removal of the line of trees and the post-development hedgerow provision), the extent of baseline scrub, and the timing of when habitats will be created.
180. He further states that the appellant's approach to bats falls short of industry standards in respect of assessing tree roosts, including in respect of the matter that there is no evidence to support the assertion that the field boundary features will not be illuminated by more than 0.1 lux, a requirement for making impacts upon this species acceptable.

Implications of Ecology and Trees Evidence for Planning Policy Compliance

181. I consider in this section the policy implications of the evidential findings of Mr Ben Carpenter.

Local Policy

182. The Mid Sussex District Plan 2014 – 2031 Contains policies relevant to matters including Ecology and trees.

183. The current Local Plan states at Policy DP37: Trees, Woodland and Hedgerows that:

'The District Council will support the protection and enhancement of trees, woodland and hedgerows, and encourage new planting. In particular, ancient woodland and aged or veteran trees will be protected. Development that will damage or lead to the loss of trees, woodland or hedgerows that contribute, either individually or as part of a group, to the visual amenity value or character of an area, and/ or that have landscape, historic or wildlife importance, will not normally be permitted.'

184. The submitted post-development plan shows that there are mature and semi-mature trees along the proposed access road alignment into the Appeal Site. Further, tree removal will likely be required for the breaching of the internal linear wooded belts. As noted in Mr Carpenter's Proof, determination regarding whether these wooded belts are ancient in origin or otherwise is crucial to judging the extent and implication of the impacts consequent from such an action. Further, these features which are centrally located within the application site are assessed to be of wildlife importance due to their use by species such as hazel dormice and foraging bats (including barbastelle). Therefore, the proposals comprehensively breach Policy DP37.

185. Policy DP38 further states that:

'Biodiversity will be protected and enhanced by ensuring development:

- Contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green infrastructure, so that there is a net gain in biodiversity, including through creating new designated sites and locally relevant habitats, and incorporating biodiversity features within developments; and*
- Protects existing biodiversity, so that there is no net loss of biodiversity. Appropriate measures should be taken to avoid and reduce disturbance to sensitive habitats and species. Unavoidable damage to biodiversity must be offset through ecological enhancements and mitigation measures (or compensation measures in exceptional circumstances); and*

- *Minimises habitat and species fragmentation and maximises opportunities to enhance and restore ecological corridors to connect natural habitats and increase coherence and resilience; and*
- *Promotes the restoration, management and expansion of priority habitats in the District; and*
- *Avoids damage to, protects and enhances the special characteristics of internationally designated Special Protection Areas, Special Areas of Conservation; nationally designated Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty; and locally designated Sites of Nature Conservation Importance, Local Nature Reserves and Ancient Woodland or to other areas identified as being of nature conservation or geological interest, including wildlife corridors, aged or veteran trees, Biodiversity Opportunity Areas, and Nature Improvement Areas.'*

186. Mr Carpenter notes that the proposals fail to comply with all aspects of this policy even if the site does not include ancient woodland features, but to an even greater extent should ancient woodland features be found to be present.

National Policy

187. The National Planning Policy Framework (NPPF) sets out, as a key principle of sustainable development, a presumption against significant loss of biodiversity and furthermore seeks to ensure that planning decisions not only avoid net loss but secure net gain in biodiversity wherever possible.

188. As discussed in his evidence, Mr Carpenter asserts that the Appellant's biodiversity net gain calculations do not provide a reliable basis to determine that the Appeal Proposals accord with either the spirit or the letter of national policy, for example as set out at NPPF paragraphs discussed below;

- Paragraph 187 (d) states that:
 - *"Planning policies and decisions should contribute to and enhance the natural and local environment by:*
 - *d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs;'*

189. Furthermore NPPF para 193 (a) requires that:

‘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’.

190. It is my conclusion, relying on the evidence provided by Mr Carpenter, that there can be no confidence that the Appeal Proposals will avoid significant harm, let alone deliver net biodiversity gain.

191. Specifically in relation to the evidence that there may well be ancient woodland present on the appeal site, para 193 (c) states that:

192. *‘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 [For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.] and a suitable compensation strategy exists;’*

193. As set out above I consider that – on the evidence of Mr Carpenter – the Inspector should proceed on the basis that there is Ancient Woodland and that it will be lost/deteriorated by this proposal. This conflicts with 193 (c) of NPPF and triggers the directive for refusal.

194. This is not in any part justified by any of the ‘wholly exceptional reasons’ discussed at footnote 70 of this paragraph; the development proposal is not an *‘infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.’* Whilst acknowledging the national need for housing as reflected in local delivery pressures, these are general pressures, and not unique to this area, nor exceptional. Housing at any scale – let alone a moderate sized scheme such as this – has no national significance, nor does it deliver conspicuous public benefits.

Main Issue 2: Part 2 Ecology and Trees: Conclusions

195. As noted in Mr Carpenter's evidence above, and upon which I rely, there is a good possibility that ancient woodland is present within the Appeal Site. Therefore, if evidence would suggest that it is present, the development is very likely to result in the loss and deterioration of an irreplaceable habitat. This matter alone, in my view, suggests that the appeal should be refused.
196. Beyond this, it is further clear that the impacts of the proposed development mean that a significant net loss of, and harm to, biodiversity on the site would occur, in clear conflict with the requirement of paragraphs 187 and 193 of the NPPF and contrary to policy DP38 of the Mid Sussex Local Plan. These harms, significant in their own right, are compounded by a failure to properly provide for mitigation and enhancement leading to further clear breaches of policy.

Main Issue 3: The Emerging Local Plan - Allocations

198. The Mid Sussex District Plan 2021–2039 (“**dLP**”) is at an advanced stage of preparation, and will provide for allocation of housing sites to meet the need established at a national level.
199. The application site was submitted (on behalf of the appellant) to the Local Plan preparation process for consideration as an allocated site, but following extensive review work this was rejected.
200. At the stage of the Examination in Public, the site was not allocated for housing. This remains the case at the time of the Inquiry.
201. As of the end of the first week of the Examination in Public of the Local Plan, the Inspector required MSDC to reconsider their allocations, with a view to adding further numbers of housing units to them; this was to be done with an initial emphasis on finding greater densities from existing allocations, but the Council has chosen to reconsider every site previously submitted for allocation; as such the appeal site is now on a long list, which the Council intends to work through to provide the requested additional allocated housing numbers to satisfy the Inspector overseeing the Local Plan examination.
202. Whilst I acknowledge that the inclusion of the site on the long list suggests a change in the position of the Council (which is obviously reflected in their withdrawal from the Inquiry) as the position stands now (and is very likely to remain at the time of the Inquiry) it in no way conveys a status upon the site as allocated. Indeed, I would argue that there is no change in the factual basis which would have justified the rejection of the site previously.
203. I would contend therefore, that the site should be still viewed as unallocated in respect of the emerging local plan, until such time as new evidence would confirm otherwise. The Rule 6 Party will continue to make reasoned objections against such an allocation, and believe that all the established policy reasons and factual matters for rejection of the development both from the current application and the wider allocation process remain valid and pertinent. This appeal cannot second guess or pre-empt the outcome of the Local Plan examination.
204. It is my view that placing the site on the long list was unjustified given their refusal of the application, the fact that the submitted Statement of Case was so clear in rejecting the suitability of the site, and given that no matters of fact have changed from either decision, this choice and the consequent withdrawal from the Inquiry are unjustified.
205. Finally, in the preparation of the plan, it is clearly the case that the Council will establish a 5 year HLS of satisfactory nature (as this is intrinsic to the Plan’s acceptability), and this will be completed in a period of a short number of months; this means that the only substantive reason

that the Council has previously articulated to justify the material breach of the existing (and likely the emerging) Development Plans will be removed¹³.

206. Adoption of the Mid Sussex District Plan 2021–2039 (“**dLP**”) which is likely to take place in a matter of months, allied to the entirely plausible scenario that it will *not* include an allocation for housing at this site¹⁴, will leave the serious breaches of the Development plans posed by this application as entirely without justification, as the main plank of that justification (the need for housing expressed through a lack of 5YHLS) will have been completely removed.

¹³ Noting (in addition to my earlier arguments) that the impact of being in technical breach of the 5YHLS requirement should be lessened in view of the Council's excellent general housing delivery performance.

¹⁴ Not least justified by its previous consideration under, and subsequent omission from, the preparation of the Local Plan

Planning Balance

207. The application which is the subject of this appeal is in clear breach of a significant number of very important District Plan (adopted and emerging) and National policies. The appellant claims that the overwhelming need to deliver housing outweighs the harms caused by the choice of location of the appeal site; I fundamentally disagree.
208. As I note in my policy analysis, the development (as acknowledged by the LPA in their Case Officer's report to committee and subsequent Appeal Statement of Case) breaches a broad range of policies in the Adopted District Plan.
209. Whilst the LPA acknowledge, and I do not dispute, a technical breach of the 5YHLS obligation, in my view this is mitigated to a degree by their past excellent performance on the delivery of housing, and also by the extent to which policies remain consistent with the NPPF – and for that matter the emerging District Plan policy.
210. Notwithstanding the site's recent inclusion on a long list for consideration under the expanded remit for allocating land for more houses, the site is not currently allocated for housing under either the adopted or emerging Plans, and has previously been rejected from the emerging Plan allocation process. I argue that none of the underlying factors which meant that the site was unacceptable have changed; the R6 party will continue to press these matters in the correct forum. Weight should therefore be given to the fact that the site was, and continues to be, unallocated.
211. Further analysis of the development against the emerging District Plan also shows it to comprehensively breach many of the relevant policies, including those related to protection of the countryside, heritage and sustainable transport.
212. These breaches of policy at all levels, both individually and in the context of the Plans as whole, lead me to believe that the application should be refused.
213. Given the lack of a 5 Year Housing Land Supply, the Tilted Balance is engaged, meaning a balancing exercise is required of the housing need against the harms (and consequent policy non-compliance) arising from the development. If the development can be shown to be sustainable, and to not contravene any policies within the NPPF, then there should be a presumption in favour of approval; however, I have strongly argued, relying in part upon the evidence of Mr Carpenter and Mr Russell, that the site is clearly unsustainable in relation to both Transport, and Ecology, and Tree matters.
214. Firstly in relation to Transport matters, and Mr Russell's evidence above, the site fails to deliver sustainable transport options for its future residents, and by virtue of a combination of its

location, the state of existing active travel infrastructure, poor access to public transport, and finally a lack of suitable mitigation, it will continue to heavily favour journeys by car, leaving those without access to vehicles heavily disadvantaged, both of which are in clear and direct contravention of policy at both a Local and National level.

215. The Transport Evidence leads me to a very clear conclusion that the proposed development site is entirely unsustainable in Transport terms, clearly breaching Local and National policy, and that accordingly the appeal should be refused. This is also a particularly relevant factor given the emphasis given at 11 d) ii) to give particular regard to development being in sustainable locations. This is an unsustainable location and this weighs heavily against the benefits in the tilted balance if that is triggered.
216. Secondly, from the evidence submitted by Mr Ben Carpenter it is further clear that the impacts of the proposed development mean that a significant net loss of, and harm to, biodiversity on the site is likely to occur, in clear conflict with the requirement of paragraphs 187 and 193 of the NPPF and contrary to policy DP38 of the Mid Sussex Local Plan. These harms, significant in their own right, are compounded by a failure to properly provide for mitigation and enhancement leading to further clear breaches of policy. These alone suggest the appeal should be refused.
217. Of even more potential significance, there is a real risk that ancient woodland is present within the Appeal Site. Therefore, if evidence would suggest that it is present, the development is very likely to result in the loss and/or deterioration of an irreplaceable habitat. This matter alone, in my view, suggests that the appeal should be refused. In this instance the Titled Balance no longer applies; the application should simply be refused due to the protection such land is afforded.
218. Furthermore, the emerging District plan, due imminently to gain Regulation 22 status and thus enhanced weight in decision making, must be a significant material consideration in determining this appeal, and to ignore its policies (especially those associated with protection of the countryside, and sustainable travel) would be an error. Noting the appellant's assertion that there remain policies within it liable to challenge, I argue strongly that the proposed development is in clear breach of such a broad range of the policies as drafted that it is highly likely to remain so into the Adopted version, notwithstanding any ongoing representations – from both the appellant and Rule 6 parties.
219. Adoption of the Mid Sussex District Plan 2021–2039 (“**dLP**”) which is likely to take place in a matter of months, allied to the entirely plausible scenario that it will *not* include an allocation for

housing at this site¹⁵, will leave the serious breaches of the Development plans posed by this application as entirely without justification, and with the main plank of that justification (the need for housing expressed through a lack of 5YHLS overcoming acknowledged policy breaches) will have been completely removed.

220. To conclude, the proposed development is in material breach of both individual policies of the Adopted and Emerging District Plans, and when reading each of these Plans as a whole. The site is on unallocated land within the open countryside, beyond the Built Up Area Boundary, in a location unsustainable for Transport reasons. It is further rendered unsustainable by virtue of its impact on trees and hedgerows, risking a reduction in biodiversity, and at real risk of compromising or losing an 'irreplaceable habitat'.
221. Approval would undermine the plan led approach.
222. On the R6's primary case, the breach of NPPF 193 (c) disapplies the tilted balance. I consider that this proposal is contrary to the Development Plan as a whole and no material considerations justify granted permission contrary to the Plan.
223. On the R6's alternative case – even if 193 (c) is not triggered – in the tilted balance scenario I consider that the adverse impacts outlined above would significantly and demonstrably outweigh the benefits.
224. In each of those circumstances the Secretary of State should refuse the scheme.

¹⁵ *Not least justified by its previous consideration under, and subsequent omission from, the preparation of the Local Plan*

Conclusions

225. The need for the development in this location as proposed is not agreed by PCFG, and the weight to be given to the development plan policies (both Adopted and Emerging) remains high, specifically in respect of matters concerning development in the Countryside, Ecology, Trees, Heritage, and Transport.
226. On the R6's primary case, the breach of NPPF 193 (c) disapplies the tilted balance. I consider that this proposal is contrary to the Development Plan as a whole and no material considerations justify granted permission contrary to the Plan.
227. On the R6's alternative case – even if 193 (c) is not triggered – in the tilted balance scenario I consider that the adverse impacts outlined above would significantly and demonstrably outweigh the benefits.
228. In each of those circumstances the Secretary of State should refuse the scheme.
229. I therefore respectfully request that the appeal be refused.

Summary of Proof of Evidence

Introduction

231. My name is Simon Greaves. I am a Town Planner and a Licentiate Member of the Royal Town Planning Institute. I am the owner of Castellum Consulting, a business specialising in planning and development for large scale infrastructure projects.
232. The evidence which I have prepared and provide for this appeal in this proof of evidence is true, and has been prepared, and is given in accordance with the guidance of my professional institution, and I confirm that the opinions expressed are my true and professional opinions.
233. My proof sets out the planning case for why planning permission should be refused for this development, focusing on the main issues raised by PCFG.
234. This development proposes the building of 80 houses on an open countryside site, on unallocated land which is in an unsustainable location from the perspective of both offsite transport matters, and onsite impacts upon ecology and trees. The site may in fact contain irreplaceable habitats in the form of Ancient Woodland or PAWS.
235. In breach of both the adopted and emerging District Plan, in respect of both many individual policies and when read as a whole, the site is fundamentally unsuitable for this development.

Main Issue 1: Breach of the Development Plan

236. I have shown that the proposed development is in conflict with many policies within the adopted District Plan as read individually, specifically for protection of the countryside (including ecology and trees) and heritage assets, and for sustainability of travel, and finally it is in conflict with the Plan when read as a whole.

Main Issue 2: Sustainable Development - Part 1 Transport

237. In accordance with the evidence provided by the Transport Expert appointed by PCFG, Mr John Russell, the location of the site is such that the development is fundamentally unsustainable from the point of view of access to non-car means of travel to almost all destinations, locally and further afield. This gives rise to a number of substantial breaches of

policy including at Local Plan (MSDP Policy DP21) and National levels (paragraphs 110 and 115 (a) and (b) of the NPPF).

Main Issue 2: Sustainable Development Part 2 Ecology and Trees

238. In accordance with the evidence provided by the Mr Ben Carpenter, the development proposals are fundamentally unsustainable in respect of their impact upon ecological interest on the site, and the trees which will be affected.
239. It is clear that the impacts of the proposed development mean a significant risk of net loss of, and harm to, biodiversity on the site would occur, in clear conflict with the requirement of paragraphs 187 and 193 of the NPPF and contrary to policy DP38 of the Mid Sussex Local Plan. These harms, significant in their own right, are compounded by a failure to properly provide for mitigation and enhancement leading to further clear breaches of policy.
240. There is furthermore good evidence to suggest that there may be features of Ancient Woodland or PAWS on the site, meaning that the development proposals would result in potential damage to, or loss of, irreplaceable habitats.

Main Issue 3: Emerging Local Plan – Allocations

241. The Appeal site is not allocated in the Local Plan as drafted, despite representations seeking to achieve this. Whilst the site has been included on a revised long list for further consideration, I believe that the facts associated with the site that rendered it previously unacceptable will continue to do so – and the R6 party will continue to make representations to this effect.
242. Adoption of the Mid Sussex District Plan 2021–2039 (“dLP”) which is likely to take place in a matter of months, allied to the entirely plausible scenario that it will *not* include an allocation for housing at this site¹⁶, will leave the serious breaches of the Development plans posed by this application as entirely without justification, with the main plank of its justification (the need for housing expressed through a lack of 5YHLS) having been completely removed.

Planning Balance

243. I believe that the proposed development constitutes a clear breach of the Development Plan, both through reading the policies individually and when reading the Plan as a whole. This also remains the case when considering the emerging Plan. These breaches are centred on matters related to sustainability in respect of impacts upon the countryside (ecology and trees), heritage,

¹⁶ Not least justified by its previous consideration under, and subsequent omission from, the preparation of the Local Plan

and its location from a transport sustainability perspective. Both individually and collectively these breaches of policy are sufficient reasons to refuse the appeal.

244. In addition to all other matters, the real risk that features of Ancient Woodland or PAWS are present on site means that the development risks impact upon irreplaceable habitats, which in its own right provides a clear reason for refusal.

Conclusion

245. Having reviewed the evidence submitted in support of the appeal and of the proposals themselves, I am strongly of the view that the proposed development is entirely inappropriate for this Site.
246. The strong national need for housing does not outweigh the harms which occasion the serious local and national policy breaches caused by developing this open countryside site which contains significant biodiversity and tree interest, and which has poor accessibility by non-car means to amenities.
247. On the basis of the harms identified, and breaches of Planning Policy at both local and national level, I respectfully request that this appeal is dismissed.