

**Rule 6 Party updated Statement of Case
On Behalf of Protect Colwell Farm Action Group**

Appeal Reference Number: 6005786

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

**Proposal: 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**

1. Introduction

1.1. This updated Statement of Case is submitted on behalf of Protect Colwell Farm Action Group¹, the Rule 6 Party ("**R6**") in the appeal against the refusal of outline planning permission for up to 80 dwellings at Land at Colwell Farm, Lewes Road, Haywards Heath, West Sussex, RH17 7TB ("Appeal Site") (LPA ref: DM/25/0445). This Statement of Case replaces the R6 case dated 27 April 2026. The R6 case is that the appeal should be dismissed where:

- (1) There is a clear conflict with the development plan;
- (2) The proposed development is not sustainable development; and,
- (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.

1.2. The Appeal Site is outside the Built-Up Area Boundary ("**BUAB**") of Haywards Heath, and comprises three fields separated by hedgerows (but note site context for ecology at para 3.21 below), with a proposed single point of access from Lewes Road. The site is part of the countryside.

1.3. By decision taken by elected members dated 10 September 2025 Mid Sussex District Council ("**the Council**") refused permission for five reasons ("**RfR**") as follows:

- (1) The development is outside the BUAB and would harm rural character;
- (2) The Appeal Site is in an unsustainable location;
- (3) The development would cause unacceptable harm to heritage assets;
- (4) The development would result in significant loss of mature trees and damage local character; and
- (5) Failure to secure 106 obligations.

2. Planning Policy Context

2.1. The development plan comprises:

- (1) National Planning Policy Framework ("**NPPF**")
- (2) Mid Sussex District Plan 2014–2031 ("**MSDP**") [CD/5.3].
- (3) Haywards Heath Neighbourhood Plan ("**HHNP**") [CD/5.5].
- (4) Site Allocations Development Plan Document ("**SADPD**") [CD/5.4].

¹ An unincorporated association currently with over 30 members, and giving instructions through Ingrid Mason who, together with others, objected at the application stage.

2.2. The key policies include:

- (1) 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).
- (2) HHNP: E5 (Local Gaps), E6 (Promoting Green Infrastructure), E8 (Sustainable Development), E9 (Local Character), E11 (Major Development on Settlement Edge) T1 (Pedestrian and Cycle Connectivity).

2.3. 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 in February and March 2026. The R6 will look to the Council to provide detail and updates (not just to the Appellant and Inspectorate) on the evolution of the dLP and the timeframe for adoption as the inquiry opens.

3. R6 Case on Main Issues

3.1. The R6 intends to present proofs of evidence on those issues at paragraph 1.1 above. The R6 will call evidence on sustainability and on planning and ecology.

3.2. Further to the CMC and in response to the Inspector's note (CMC Note, paras 8 and 11) the R6 ecology position is set out in what follows. That position informed by an independent review prepared by Bioscan (UK) Limited. That review considered the application material and other material submitted at the application stage.

3.3. Where the R6 planning case relies on the Council's technical evidence and the Council is proposing to rely on the evidence of a heritage witness the R6 does not presently intend to call a heritage witness. However, the R6 will consider, as the Council's case becomes clearer, whether it is necessary for the R6 party to call further and additional evidence on those matters too, and reserves its position to do so.

3.4. For the purpose of timetabling, it is intended that the R6 will submit three (3) proofs of evidence calling a transport consultant, an ecologist and a planning consultant. **The R6 ecology witness is unavailable 28, 29 and 30 July, and the R6 therefore respectfully asks that ecology evidence is timetabled 4 or 5 or 6 August 2026. From experience the R6**

representatives anticipate ecology will take a half-day session if formal evidence is required.

3.5. The R6 witnesses' proofs will deal with the following broad issues:

- (1) The appeal should be refused as the Appeal Site is located in unallocated open countryside, beyond the BUAB, and approval is in conflict with the development plan taken as a whole and would undermine the plan-led approach.
- (2) The site is not in a sustainable location, by reason of its remoteness from services (RfR2), its harmful impact on the open countryside, trees and hedgerows (RfR4), and its impact on heritage assets (RfR3). The proposal is in conflict with the development plan and relevant local plan policies.
- (3) The planning case will need to respond to the evidence that emerges in the course of the inquiry and the stage reached in the dLP. The dLP will address the shortfall in the Council's 5YHLS. This is material to the weight to be given to any shortfall. The extent to which there are unresolved objections may fall to be considered in accordance with the guidance in NPPF 49.

(1) Conflict with the development plan

3.6. The proposed development conflicts with the adopted spatial strategy (MSDP DP6, DP12), which directs growth to sustainable locations within or adjacent to settlements. Growth is justified where there are plan-led allocations. The proposed development is an unallocated windfall development, which the R6 Party will argue is not in a sustainable location.

3.7. Development of the Appeal Site would therefore undermine the plan-led approach, both in respect of its contravention of existing Development Plan policies, and also in respect of the content of the dLP.

3.8. Development is contrary to MSDP, in particular DP12 and HHNP E9.

3.9. The development would result in harm to heritage assets and is contrary to MSDP DP34.

3.10. The loss of trees and hedgerows, and harm to landscape character, are contrary to MSDP DP37 and E5.

3.11. It is unresolved if there is a loss of 'irreplaceable' habitats. As well as landscape protection there is conflict with ecological features for the purpose of DP37. There is conflict with Policy DP38.

3.12. The R6 consider MSDP policies DP12, DP21, DP34, DP35, DP37, DP38 remain consistent with the NPPF. HHNP policies E5 and E9 remain consistent with the NPPF.

3.13. The R6 will fully detail all those planning considerations that go to the Inspector's decision on the weight to give to the dLP policies and intends to do so through its planning proof of evidence.

(2) Unsustainable location

Transport case

3.14. As regards the Appeal Site being in an unsustainable location it is outside the BUAB and not well integrated with Haywards Heath's facilities and amenities.

3.15. Moreover, there is clear and well-established guidance regarding the distances and travel times that people are willing to undertake using sustainable modes of transport. That includes²:

- i. The National Design Guide
- ii. Planning for Walking, the Chartered Institution of Highways and Transportation, 2015
- iii. Planning for Cycling, the Chartered Institution of Highways and Transportation, 2014
- iv. Guidelines for Providing Journeys on Foot, the Chartered Institution of Highways and Transportation, 2000
- v. Local Transport Note 1/20 (LTN 1/20), Department for Transport, 2020
- vi. Manual for Streets, Department for Transport, 2007
- vii. Manual for Streets 2, the Chartered Institution of Highways and Transportation, 2010
- viii. National Travel Survey, various years
- ix. Inclusive Mobility, Department for Transport, 2021
- x. 20-minute Neighbourhoods, Town and Country Planning Association, 2021

3.16. Distance and travel times thresholds vary by mode and journey purpose. While the guidance does not prescribe a single fixed value, it consistently identifies reasonable ranges within which sustainable travel is likely to occur. This guidance is underpinned by robust, evidence-based research published by UK Government departments and professional institutions.

² Where the R6 intends to make reference to detailed industry specific guidance not listed here or already in the Core Documents it will request additions to the Core Documents

- 3.17. Although expressed as ranges, the guidance demonstrates broad consistency in defining the maximum distances and travel times that most people are willing to undertake for specific journey purposes by each mode.
- 3.18. Recognising historic ambiguity in defining what constitutes a “sustainable location,” the Secretary of State for Transport has introduced the Department for Transport’s Connectivity Tool. This tool is intended to provide a consistent and evidence-based framework for assessing connectivity, drawing directly on established research into travel behaviour across different modes and purposes.
- 3.19. Application of the Connectivity Tool to the Appeal Site demonstrates that it performs amongst the lowest performing locations across England and Wales in terms of transport sustainability. The Appellant has made limited efforts to address these deficiencies, and the Connectivity Tool outcome remains unchanged as a consequence.
- 3.20. Evidence will show that, due to a combination of the Appeal Site’s spatial characteristics and deficiencies in sustainable transport infrastructure, journeys to and from the Appeal Site for most everyday purposes are:
- (1) Excessive in terms of travel distance in particular when actual walking distances measured on the ground along safe and suitable routes are applied.
 - (2) Not supported by infrastructure that is safe and suitable for sustainable modes. As a consequence, few journeys will be made by sustainable modes.
 - (3) The evidence will be grounded in established and consistently applied industry and Government guidance in contrast to the Appellant’s evidence to date which has sought to establish bespoke, unsupported assessment criteria regarding the distances people are willing to travel by different modes for different journey purposes, and in some cases appears to rely on “straight line distance” rather than actual distances.
 - (4) Accordingly, the Appeal Site cannot be considered a sustainable location for new development, as it fails to comply with the requirements of paragraphs 110 and 115 of the NPPF.
 - (5) The County Highway Authority (CHA) has been consulted on matters relating to highway safety and residual cumulative impact, in respect of which it holds statutory duties and responsibilities. The CHA concludes that, in relation to these matters - addressed in paragraph 116 of the NPPF - the Proposed Development is policy compliant.

(6) This conclusion does not conflict with Refusal Reason 2, which concerns the transport sustainability of the Appeal Site rather than highway safety or residual cumulative impacts. The Rule 6 party does not dispute the CHA's findings on highway safety or residual cumulative impact.

Ecology case

3.21. The site context for the purposes of ecology comprises three field parcels, separated by hedgerows which are dominated by trees (as opposed to a shrubs/boundary hedge) and so it should be common ground those features are woodland belts. In total, the Application Site extends to approximately 6.2ha in size. Based on historic aerial photography, the fields do not appear to have been actively managed over at least the previous 25 years. Local knowledge has it that it is more like 30+ years. A woodland, known as Cains Wood, to the south of the Application Site, is identified on 'MAGIC' as Ancient Woodland.

3.22. The Appellant's evidence does not properly assess the woodland belts within the site. This is pertinent here as these features connect to the immediately adjacent Cains Wood. The Appellant has not considered if the woodland belts and linear features within the Appeal Site are themselves *ancient* in origin. Such features typically arise from 'assarting' (common in the Sussex landscape), and due to their small sizes, these are not typically identified on the relevant ancient woodland inventories or on 'MAGIC'. The Appellant's classification of these features are variously described as 'woodland', 'tree lines', or 'hedgerows'. That introduces uncertainty. Importantly, the appellant's submissions lack survey data on the ground flora and whether ancient woodland indicator ("AWI") species are present. Whether these features are or are not ancient assart woodlands is clearly a matter relevant to determination, engaging with (amongst other things) the presumption against loss or deterioration of such 'irreplaceable' habitats enshrined within the NPPF as well as conflict with DP37 where it relates to ecology and Policy DP38.

3.23. The EcIA provides no evaluation for the habitats on the Application Site (whereas it does so for each protected species/ species group). Therefore, the Appellant has not properly considered Priority habitats on the site. This is a failure to accord with industry standards (e.g. the EcIA Guidelines) and provides at best an incomplete picture to decision makers as to the extent of Priority habitats. That is significant where irreplaceable habitats, if present on the Appeal Site, engage strong policy protections against loss or deterioration (NPPF 193(c)).

3.24. The R6 will approach the Appellant to agree to a habitat survey (ideally on a joint basis) with a particular focus on the woodland belts (and other neutral grassland- see below). The optimum survey window for recording AWI flora closes at the end of May. Surveying of the

Appeal Site and for AWIs will need to happen before proofs are due but can be facilitated before the 30 June 2026 deadline for submitting proofs, with the Appellant's co-operation.

3.25. The Appellant proposes to translocate reptiles to the eastern boundary of the Appeal Site ("reptile receptor site"). It is noted that this area includes a large component of closed-canopy woodland. Typically, suitable reptile habitats are locations which are sunny and comprise structurally diverse grassland. Therefore, not all of the area is suitable to support a reptile population, and it consequently cannot be ascertained whether this area would be able to support the translocated reptiles. The Appellant's proposals for management of the reptile receptor site (BNG report "Other Neutral Grassland") does not meet best practice for reptile conservation and may not support the long-term viability of the relocated populations (per section 7.2 of the Reptile Mitigation Handbook). It appears to the R6 that the proposed reptile receptor site will likely require the design and management of this area be revisited to see if a design can be found that will accord with DP38. Again, given the importance of understanding the site context, this issue should be revisited with the benefit of a joint survey/site visit.

3.26. The Appellant states in the EcIA that as barbastelle (a light sensitive species) was recorded on the site, dark corridors of at least 10m wide around the periphery of each field parcel will be implemented, with the light levels from the development into these corridors to be maintained below 0.1 lux. It is unclear how this will be achievable particularly where there are to be breaches in the internal woodland belts for internal vehicular and pedestrian accesses. Further detailed information from the Appellant is requested to understand the feasibility of ensuring that the dark corridors will not be illuminated above 0.1 lux.

3.27. The Appellant's BNG metric appears to misclassify habitats, uses the wrong baseline habitat value and has likely exaggerated post-development gains. In particular, other neutral grassland should be 'moderate' condition, not 'poor' as claimed by the Appellant. Bioscan (UK) Ltd undertook a shadow assessment. That shows a net loss of habitat units (-25.62%) and hedgerow units (-100%). The Appellant's proposed mitigation therefore does not meet the minimum statutory net gain targets for the purpose of Schedule 7A TCPA 1990. The R6 accept the Appellant will likely be able to achieve the biodiversity gain objective and that it will be corrected so the mandatory 10% post-development value is achieved, but it remains the R6's case that the Appellant's BNG assessment must be corrected.

(3) The dLP

- 3.28. Proximity to a main settlement does not of itself confirm that the Appeal Site is in a sustainable location. During the dLP process, the Appeal Site was removed (SHELAA site 844) from the potentially allocated sites, and has remained an omitted site. Miller Homes Limited (**“the Appellant”**) participated in the local plan site selection process³ and sought to have the Appeal Site allocated for housing development in the dLP allocations. This however has not been achieved. The Appeal Statement pays only limited attention to the dLP [Appeal Statement 3.17]
- 3.29. The R6 note the Appeal site is on the Council’s long list of potential housing allocation sites published 15 May 2026. That list is subject to testing between now and the Inquiry opening, and there is then a period of consultation. The Rule 6 Party is carefully reviewing this. There was one clear day between publication and the submission of this revised Statement of Case. As this is emerging the parties will need to review their cases as necessary to reflect the most current information on site allocations and housing need.
- 3.30. The weight to be attached to an emerging plan depends on the stage reached. The Council is reappraising sites. However other aspects of the dLP have been through examination; Miller Homes further argued that the plan period should be extended to 2040, which was accepted by the Examining Inspector. By the opening of the Inquiry there will be greater clarity on the dLP which will be reflected in the R6 evidence given on the weight to be attached to the dLP. Further, the question of weight to be attached to shortfall in 5YHLS can be reduced to take account of, *inter alia*, the fact that the housing supply will be addressed through the adoption of the dLP.
- 3.31. While there is a reappraisal ongoing, we understand the preference will and should be to review and extend the yield of other existing sites rather than allocating additional sites. The use of medium-scale sites in Haywards Heath not in a sustainable location (in which manner the R6 party contend the Appeal Site should be viewed) to meet a 5YHLS shortfall will be closely examined as to whether they would make any material contribution to that shortfall.
- 3.32. Granting permission for the proposed development would depart from a plan-led approach and is predicated upon a current inability of the Council to demonstrate a 5YHLS, which chooses to ignore that there will imminently be a change to the Council’s 5YHLS which reinstates an acceptable supply as the dLP is adopted.

³ See most recently Appellant Plan Examination Hearing Statement Matter 6 Site Section 13.2.26

4. Outline Planning Case

4.1. The starting point for consideration of the planning balance is the significant conflict of the development proposals with large parts of both the development plan and the dLP.

4.2. NPPF December 2024 is a material consideration when applying section 38(6) Planning and Compulsory Purchase Act 2004 ("**PCPA 2004**"). Paragraph 49 gives guidance on the approach to be taken to emerging plans. It is also relevant to RfR3 that national policy is to be interpreted and applied consistently with the statutory duties under the Planning (Listed Buildings and Conservation Areas) Act 1990.

4.3. The 5YHLS supply shortfall is being addressed through the dLP, adoption of which is imminent. As set out at 3.10 above, the weight to be attached to the dLP policies will depend, amongst other factors, on the stage it has reached at the point in time the Appeal is determined and the up-to-date position will be reflected in the R6 evidence.

4.4. The appeal therefore may fall to be determined: under paragraph 11(d)(i), where harm to designated heritage assets engages policies affording clear protection; or, depending on the outcome of that test, under paragraph 11(d)(ii), where the adverse impacts of the proposal significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. In either scenario the R6 party case is that planning permission should be refused.

4.5. The Appellant has not shown the principle of development at this location is acceptable.

5. Conclusion

5.1. The proposal is contrary to the development plan. Section 38(6) PCPA 2004 requires the appeal should be determined in accordance with the development plan unless material considerations indicate otherwise.

5.2. The Appeal Site is an unsustainable location. Approval would undermine the plan-led approach.

5.3. The appeal should be dismissed.