

**APPEAL BY FAIRFAX ACQUISITIONS LTD AND
THE NORRIS FAMILY**

**LAND EAST OF ANSTY WAY, CUCKFIELD BYPASS, CUCKFIELD
WEST WUSSEX R17 5AG**

PINS REF: 6002030

OPENING STATEMENT ON BEHALF OF MID-SUSSEX DISTRICT COUNCIL

Introduction

1. This is an appeal against the Council's decision to refuse planning permission for 1450 new homes (and associated infrastructure) on c.100ha of land to the east of Ansty.
2. It is common ground that the Appeal Scheme is contrary to the development plan as a whole.¹ Ansty is a small village with limited facilities of the kind needed to serve a new population of this size. The Appeal Site is a mix of attractive arable farmland and woodland which lies in open countryside; is agreed to be primarily rural in character; abuts the High Weald National Landscape ("HWNL"); and lies in a gap between Ansty and Cuckfield which both the adopted District Plan ("MSDP") and the Ansty, Staplefield and Brook Street Neighbourhood Plan ("ASBSNP") seek to protect. It is therefore unsurprising that the proposal has been controversial.
3. It is a matter of record that, in deciding to refuse permission, members of the Planning Committee disagreed with the case officer's recommendation. It is equally a matter of record that, in the preparation of its emerging Local Plan, the Council has also now three times rejected the Appeal Site in favour of other alternatives: first, when allocating

¹ CD8.1 para 1.6, 3.29

sites in the Reg 18 Draft which was approved for consultation;² a second time in the Reg 19 Submission Draft (which not only met all of MSDC's needs, but identified sites for a surplus of c.1000 homes to provide resilience and meet the needs of adjoining areas); and then most recently , in its response to the Local Plan Inspector's request for it to identify additional sites so as to make an even greater contribution to the unmet needs of Crawley and Brighton & Hove.

4. It is not the place of this Inquiry to review or prejudge decisions taken as part of the Local Plan process, but the message which emerges from it is clear: Mid-Sussex fully understands the importance of meeting housing needs, but is firmly of the view – now expressed on three separate occasions - that Ansty is simply the wrong place. The Appellant seeks to criticise this as a “political” decision but – as Inspector Bore has himself observed – that is precisely what preparing a Local Plan process is.³
5. When refusing this application, the Planning Committee gave a single composite reason, the structure of which recognised that the decision was being taken in the context of para 11(d) of the NPPF. It contained the following elements:
 - a. The proposal would be major development in the countryside, which was out of keeping with the rural character and would fail to protect the distinctiveness of the area by extending the boundary of Ansty and so result in perceived coalescence with Cuckfield;
 - b. The proposal would erode the rural nature of the site which makes a positive contribution to the setting of the HWNL;
 - c. In the absence of a completed s.106 agreement, the proposal failed to provide the infrastructure, contributions and off-site highway works to serve the development, and the required affordable housing;

² Contrary to suggestions in the Appellant's evidence, the earlier Reg 18 Draft (in which the Appeal Site was proposed for allocation) was never approved by the Council.

³ CD5.35 p. 3 “site selection is not a purely mechanical process and will be subject to professional and political judgment”

- d. Although the Council could not demonstrate a 5 year housing land supply (“5YHLS”) the harm – and in particular the harm to the HWNL – outweighed the benefits and did not justify a decision otherwise than in accordance with the development plan.
6. At the Case Management Conference, and in her subsequent email dated 20 May 2026, the Inspector distilled these, together with the objections raised by the Rule 6 Party and in the Council’s letter of 20 May 2026, into the following “main issues”:
 - a. Whether the proposal would be in a suitable location, with particular regard to national and local planning policy and access to services and facilities;
 - b. The effect of the proposal on the character and appearance of the area, with particular regard to coalescence, trees, and the HWNL;
 - c. Whether the proposal would make appropriate provision for infrastructure;
 - d. Whether the proposal’s cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan.
 - e. The overall planning balance, including the emerging development plan.
7. In summary, the Council’s case on each of these is as follows:

Main Issues 1 and 3: Whether the proposal would be in a suitable location, with particular regard to national and local planning policy and access to services and facilities; Whether the proposal would make appropriate provision for infrastructure

8. Main Issue 1 is defined by reference to “access to services and facilities”. On that basis, Council considers it is inextricably bound up with Main Issue 3. In summary, the Council’s position here is that while the Appeal Site is not currently sustainable, it could

be made so, provided the infrastructure proposed as part of the appeal scheme is provided, and is provided in a timely fashion.

9. The reasons for this are straightforward:

- a. Within the MSDP settlement hierarchy, Ansty is classified as a category 4 settlement, i.e. it is a small village with limited services. As such, it does not provide anything like the level of facilities required for a development of 1450 new homes to be regarded as sustainable.
- b. However, national policy directs that 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”⁴. Para 77 of the NPPF advises that:

“The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities (including a genuine choice of transport mode).”

- c. The appeal scheme proposes a range of on-site services, including a primary school, and community and retail facilities, together with a package of transport measures aimed at supporting modal shift and reducing reliance on private car use, including a range of on-site services and facilities to support sustainable travel, and improvements to the cycleway and PRow network and local bus services. Provided these things are secured, the scheme will accord with national policy in this regard.

10. In the run-up to the Inquiry, there have been detailed discussions between the Council and the Appellant which have resulted in agreement as to the necessary conditions and 106 Obligation. Provided the obligation is signed, the Council is satisfied that this will

⁴ NPPF para 110

address its concerns in relation to Main Issues 1 and 3. It is aware that the Rule 6 party takes a different view, which the Inspector will obviously need to consider.

Main Issue 2: The effect of the proposal on the character and appearance of the area, with particular regard to coalescence, trees, and the High Weald National Landscape

11. It is Main Issue 2 which was at the forefront of members' minds when refusing permission. The starting point is that it is common ground that the Appeal Scheme is contrary to the development plan as a whole, because the Appeal Site lies in open countryside, beyond the "built up area boundaries" with the result that the Appeal Scheme is contrary to MSDP Policy DP12 (which seeks to protect the countryside "in recognition of its intrinsic character and beauty") and with Policies AS1 of the ASBSNP and CNP5 of the Cuckfield Neighbourhood Plan ("CNP")
12. In applying these policies, the Council recognises that it is no longer possible to meet housing need on sites within the BUAB, and that this reduces the weight to be given to the breach. However, the Appeal Site is not just attractive countryside: it is also important for the additional qualities referred to in the Decision Notice. Taking these in turn:

Coalescence

13. MSDP Policy DP13 notes that the individual towns and villages in the District each have their own unique characteristics, and that it is important that these separate identities are maintained. The ASBSNP identifies the land between Ansty and Cuckfield as one of three gaps which are important for Ansty's separate identity. ASBSNP Policy AS2 requires proposals to demonstrate that they will not either individually or cumulatively lead to coalescence, or unacceptably erode the perception of openness between Ansty and Cuckfield. Map 5 of the CNP identifies views from Cuckfield which are important for the "direct visual connectivity with the countryside": the appeal site lies within two of these⁵.

⁵ Views 10 and 11

14. The appeal site lies squarely in this gap. As Mr Peacock explains, although (because the Appeal Site does not extend all the way to Cuckfield) the appeal scheme would not lead to complete physical coalescence of the two settlements, it would replace the distinctive assorted fields set within woodland belts and incised ghylls with built form and highway infrastructure, and significantly erode both the gap itself, and the perception of openness. When travelling the short distance between Ansty and Cuckfield there would no longer be the clear sense of leaving one settlement before entering another. There would consequently be a significantly major adverse effect on the sense of separation, which is in direct conflict with the development plan.

Trees

15. Although the application is in outline, it is common ground that the appeal scheme is likely to result in the loss of around 116 trees. As such, there is a clear conflict with MSDP Policy DP37. Having regard to the need for housing, the likelihood that any housing scheme would necessitate some tree loss and proposed mitigation, the Council does not suggest that this is a freestanding reason for refusal in its own right, and agrees that it is a matter which attracts relatively little negative weight in the overall balance. Nonetheless, it is both a conflict with policy and a substantive harm which needs to be placed on the scales.

Impact on the HWNL

16. According to the High Weald Management Plan, the HWNL is one of the best preserved medieval landscapes in north west Europe.⁶ MSDP Policy DP16 states that development on land which contributes to the setting of the National Landscape will only be permitted where it does not detract from the visual qualities and essential characteristics of the NL, and does not adversely affect views into or out of the National Landscape. Para 189 of the NPPF requires development within the setting of the HWNL to be “sensitively located and designed to avoid or minimise adverse impacts” on the designated area.

17. As Mr Peacock (and, on behalf of the Rule 6 Party, Ms Hooper) explain, the appeal scheme would:

⁶ CD5.8 p.16 Statement of Significance

- a. Have a major adverse effect on landscape character *within* the site from the loss, fragmentation and reprofiling of the undulating lower lying land form;
- b. Subsume and overwhelm the existing small village of Ansty, significantly altering its landscape and setting by creating a large new urban area adjacent to and abutting the HWNL, contrary to Objective S1 of the HWMP;
- c. Introduce an abrupt change of landscape character in close proximity to the HWNL, and the loss of natural landscape which shares many of the characteristics of the NL, contrary to Objective S2;
- d. Have a permanent moderate adverse effect on the dark skies which are one of the eight core character components of the HWNL, contrary to Objective DS1;
- e. Adversely impact on the perceptual HWNL qualities of tranquillity and rurality due to the level of noise, activity and lighting associated with 1450 new homes and the associated education, health and recreational infrastructure, contrary to Objective PO2.

18. These impacts give rise to a clear conflict with Policy DP16 and para 189 of the NPPF.

Main Issue 4: Prematurity

19. Although the NPPF advises that arguments that an application is premature are “unlikely to justify a refusal of planning permission”, para 50 goes on to identify the “limited circumstances” in which prematurity can be raised, namely where:

- a. the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and

- b. the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area. Although the NPPF does not explain exactly what is meant by “at an advanced stage”, para 51 indicates that refusal on grounds of prematurity will seldom be justified where a plan has yet to be submitted for examination.

20. On 17 October 2025, when the Council determined the application, the Local Plan had been submitted, but had only completed Stage 1 of its Examination-in-Public; there was a significant question as to whether it would even be able to progress to Stage 2; and even if it did, Inspector Nurser’s views on the soundness of the spatial strategy, the appropriate housing requirement and the possible need for sites were still not known. However, that situation has since changed:

- a. The abolition of the Duty to Co-operate has removed this as a potential obstacle to adoption of the Plan;
- b. Inspector Bore has issued an interim letter confirming that the Plan’s spatial strategy is sound. While he has also identified the need for further work to identify further sites to increase the contribution MSDC is making to its neighbours unmet needs, it is apparent that he considers that any current deficiencies in soundness can be cured by main modifications. Critically, he has identified the range within which he expects the housing requirement to be set, and has approved the methodology to be applied by the Council when identifying the sites which will be the subject of those modifications;
- c. The Council has now produced a long-list of sites which (subject to in combination testing) it considers should be allocated to address that additional need. That list does not include the appeal site, which will fall to be considered only as an omission site.

21. Consequently, there is now a far higher degree of certainty that the emerging plan will be found sound, and as to what it will look like and the date by which it will be adopted, such that criterion (b) is now satisfied.

22. As to criterion (a), as Ms Salisbury explains:

- a. The Council has now selected sufficient sites to deliver a housing requirement within the range requested by Inspector Bore. In so doing, it has had regard to the full range of considerations which bear on the “sustainability” (in the wider sense) of the sites put forward, and the need for a larger number of small sites which can be delivered early in the new plan period. It has decided that the Appeal Site is not required.
- b. At a level of 1450 new homes, if the Appeal Site had been included in the long list, it would have become the third largest of only four “significant” sites proposed for allocation, behind the strategic allocations at Crabbet Park (DPSC2) and Sayers Common (DPSC3) but ahead of Land to the West of Burgess Hill (DPSC1).
- c. In the circumstances, the grant of permission as a result of this appeal would result in a significant over-supply of housing, the vast majority of which will not assist in delivering a 5YHLS at the point in the Plan period when it is most needed. .
- d. Not only would this predetermine and prejudice the choices being made through the Local Plan process about the scale and location of new housing: it would require the Council to re-run the “in combination” testing of the long list, with the appeal site included as a commitment. Of itself, that would add unnecessary delay to the adoption of the plan. However, depending on the outcome of that testing, it could also lead to a need to remove sites from the long list, even though they are considered preferable to the appeal site and more likely to come forward within the next five years. If that is the case it would exacerbate, rather than resolve, the current problems in demonstrating a 5YHLS.

23. In the circumstances, the appeal scheme is “of a scale which would predetermine decisions about the scale, location and phasing of development that is required to meet future needs”. Criterion (a) is also met.

Main Issue 5: The overall planning balance, including the emerging development plan.

24. In the light of the above, it is common ground that the appeal scheme is contrary to the development plan as a whole. Under s.38(6), the starting point is therefore that planning permission should be refused, unless there are material considerations which indicate otherwise.
25. In this case, para 11 of the NPPF tells us that the shortfall in the 5YHLS is an important material consideration, but it is not determinative:
- a. Under para 11(d)(i), the presumption in favour of granting permission is not triggered if the application of fn7 policies provides a “strong reason for refusal”. Para 189 of the NPPF relates to National Landscapes and therefore falls within fn7. For the reasons we have outlined above, there would be clear conflict with the last sentence of para 189 which, in the Council’s submission, is not outweighed by the benefits and so provides a “strong reason”;
 - b. Under para 11(d)(ii), the presumption is not triggered if the adverse effects significantly and demonstrably outweigh the benefits. In the present case, whilst accepting that they are not freestanding reasons, the adverse effects (which here need to be added to the harm to the NL) include the harm to the character and appearance of the countryside, the loss of trees, the less-than-substantial harm to heritage assets. In addition, even if prematurity is not found to be a reason for refusal in its own right, the grant of permission would subvert the importance of the plan-led system at a time when a new and up-to-date plan is within sight, contrary to para 15 of the NPPF. In the Council’s submission, those factors do “clearly and demonstrably outweigh the benefits”.
26. In particular, as Ms Jarvis explains, whether the issue is addressed under para 11(d)(i) or 11(d)(ii), while the Council recognises that significant weight should be given to the contribution which the appeal scheme would make to housing generally, and to affordable housing, C2 care accommodation and self-build plots in particular, it is equally important to remember that the only reason why para 11(d) is “in play” is because there is currently a shortfall in the 5YHLS. In that regard:

- a. The Council’s current inability to demonstrate a 5YHLS is a relatively recent occurrence, resulting from the combination of the December 2024 changes to the standard methodology and the unexpected delay in bringing forward the new Local Plan. Prior to that, the Council had an excellent track record of housing delivery, and in maintaining a 5YHLS. But for the stalling of the District Plan Examination,, the Council would by now have already adopted its new Local Plan and the para 11 presumption would have swung the other way, in favour of a decision which accorded with that Plan. The Local Plan is now back on track, and is expected to be adopted in early 2027. In those circumstances, the “gap” which the Appellants argue they will help fill will soon be closed in any event: the appeal site is simply not needed.

- b. This point has even greater force when it is recognised that the contribution which appeal scheme will make to the 5YHLS is small. For the reasons which Ms Salisbury explains, the Appellant’s estimate that the Appeal Scheme could deliver 450 homes by the end of 2031/32⁷ is unrealistic: the actual figure is likely to be around 66 dwellings. Either way, if the justification for granting permission is the current shortfall, that is a case of the tail wagging the dog.

Conclusions

27. In the circumstances, the Council will be inviting you to conclude that there are no “other material considerations” which outweigh the conflict with the development plan: whether it is carried out under para 11(d) or s. 38(6), the overall planning balance is firmly against the grant of permission, and that this appeal should be dismissed.

PAUL BROWN

9 June 2026

Landmark Chambers

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⁷ CD5.20 para 3.29