

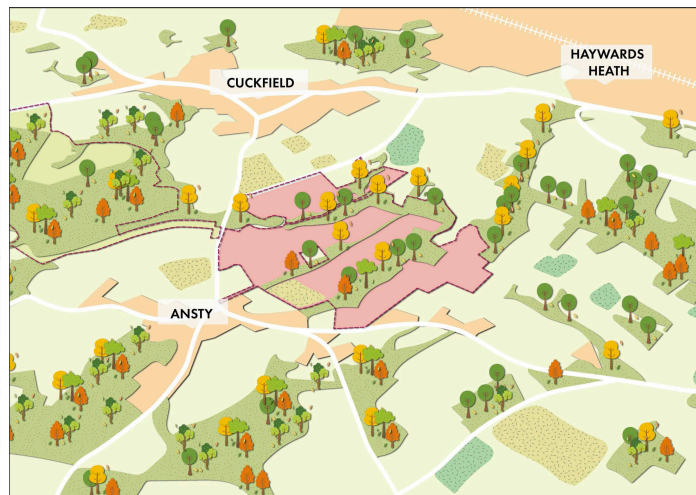
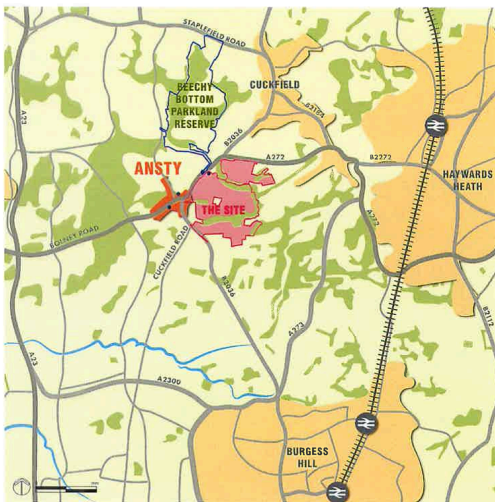
Land East of Ansty

Appellant's Opening and List of Appearances

Appearances

1. **Zack Simons K.C. & Anjoli Foster**, instructed by **Steven Brown** of Woolf Bond Planning, will call:
 - (i) **Matt Stevens** MIHT, Executive Director at Milestone Transport Planning Limited (highways and transport).
 - (ii) **Clare Brockhurst** FLI, BSc (Hons), Dip LA, Director of Leyton Place Limited (character and appearance, National Landscape).
 - (iii) **Steven Brown** BSc Hons, DipTP, MRTPI, Managing Director of Woolf Bond Planning Ltd (planning policy and the balance).

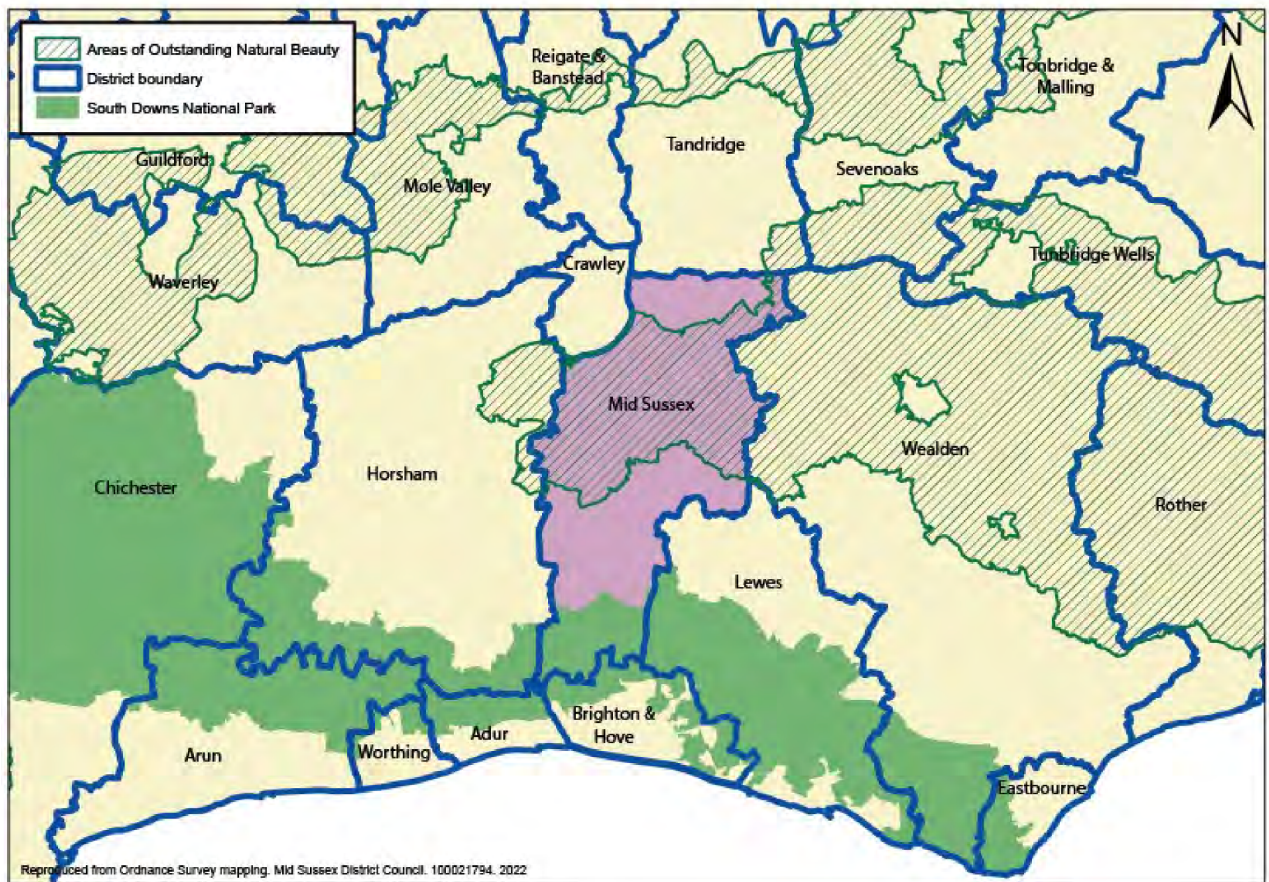
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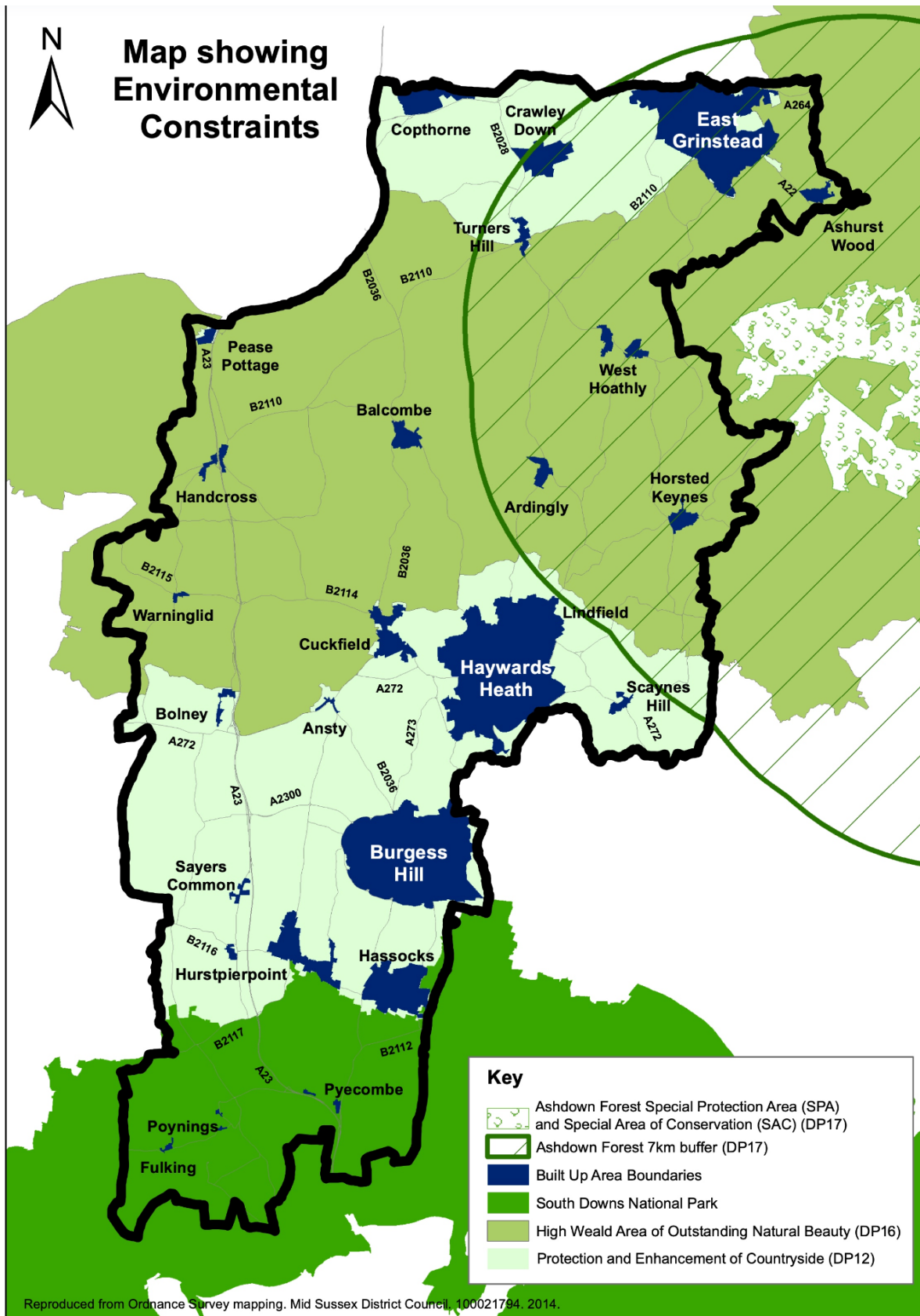


1. This appeal should not have been necessary.
2. Time and time again, the professional officers of this Council have recommended – on the basis of extensive, exhaustive analysis over many years – that this site can and should be brought forward for residential-led development.
3. Time and time again, the elected members of this Council have ignored that advice. They no doubt have their own reasons for doing so. But one thing is clear: those reasons have

nothing to do with objective analysis, and still less do they have anything to do with following national planning policy.

4. Because there is a very good reason officers recommended that this scheme be approved, a very good reason it was suggested for allocation by officers years ago, and a very good reason that the Council's evidence base has proven, time after time, that there are no in-principle constraints on this site's delivery.
5. To understand why, the starting point is the spatial reality in Mid-Sussex. This is a deeply constrained part of the county. 60% of the district is subject to national-level landscape designations:





6. Nearly 50% of the district is within the High Weald National Landscape (“**NL**” - previously AONB), and over 10% is within the South Downs National Park. Both of those landscapes are of the utmost importance in national planning policy. The NPPF tells us (with **emphasis** added) that:

“189. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have **the highest status of protection** in relation to these issues [...]”

7. Avoiding major development in these nationally protected landscapes is, and has always been, a core objective of:

- (i) National policy – which presumes that any such development should be **refused**, absent a demonstration of (i) exceptional circumstances and (ii) the public interest in order to support such development;
- (ii) Existing local policy – the Council’s existing local plan avoided strategic allocations in the NL,¹ and required the conservation or enhancement of its outstanding natural beauty;²
- (iii) Emerging local policy – the Council’s submission local plan (more of which below) which is under examination made (unsurprisingly) minimal suggestions for sites within

¹ Other than DP10, where planning permission had already been granted before the plan was adopted.

² See e.g. CD5.1, Policy DP16, p.62.

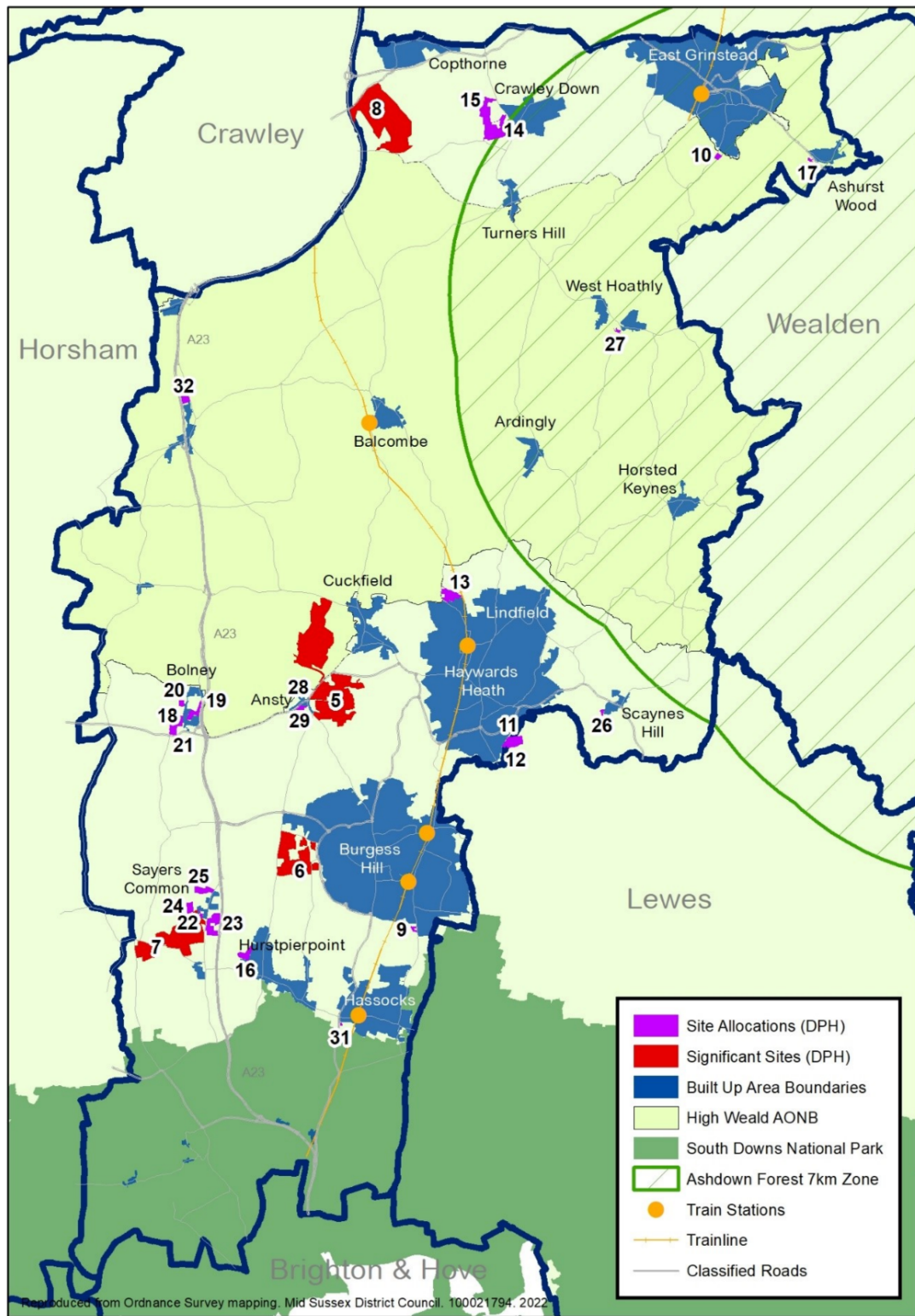
protected landscapes,³ and made the protection of the NL one of four central strategic priorities.⁴

8. Against that district-wide constraint context, sites in Mid-Sussex which are (i) *outside* those national designations, (ii) not subject to any technical constraints on delivery, and (iii) sustainably located with good connections to top-tier settlements such as Haywards Heath are at a premium.
9. That is why this site matters. Because the Council’s own assessments have consistently shown over many years that this is such a site:
10. In January 2022, a draft Regulation 18 plan was considered by the Council’s Scrutiny Committee.
11. Ansty was noted to be a “high potential growth” area, and the appeal site was included as a proposed allocation for 1,600 homes. Members were advised that the scheme had the “potential to significantly improve the sustainability” of Ansty:

³ CD5.18: DPA 4 – Land off West Hoathly Road, East Grinstead: up to 45 units; DPA 13 – The Paddocks, Lewes Road, Ashurst Wood: 8 – 12 Units.

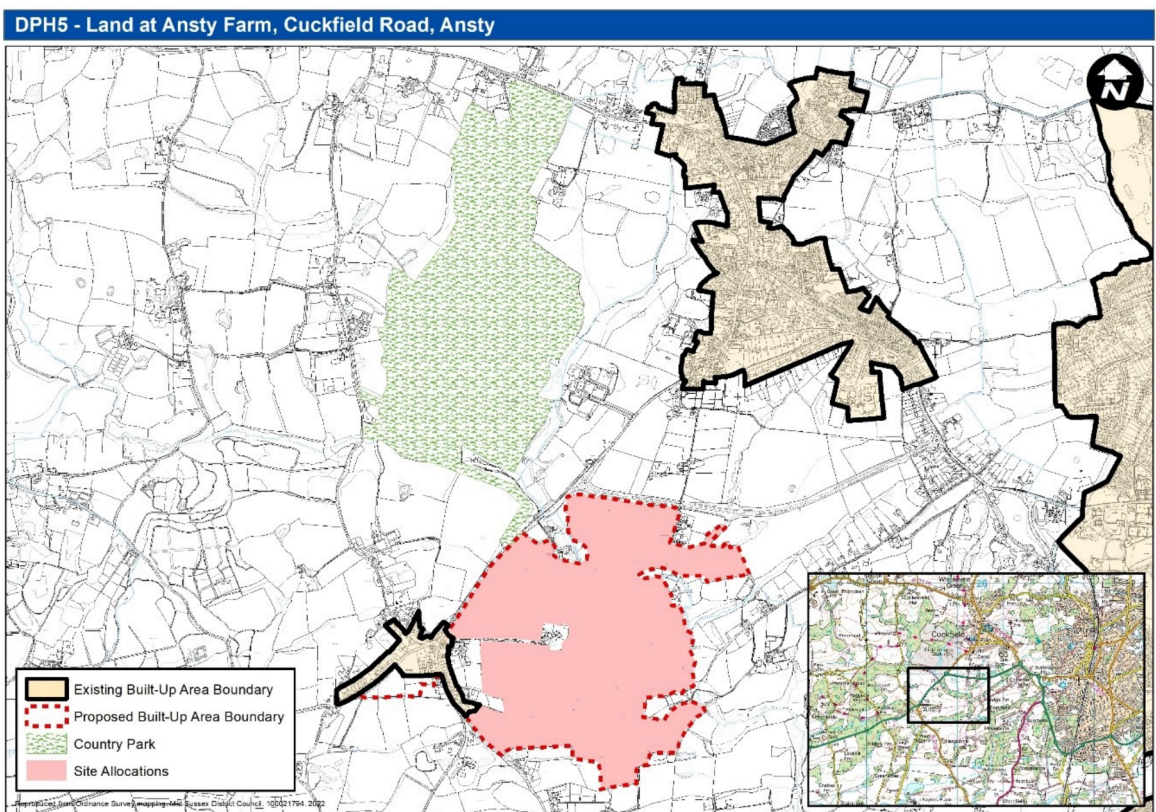
⁴ CD5.18, p.33.

Key Diagram



5

⁵ CD5.10, p.25.



12. That history matters, because it explains what happened next. Ultimately, the site was not included in the November 2022 version of the Regulation 18 consultation. But that was for one reason: highways. The Council was not, at that time anyway, satisfied that the scheme could come forward without severe impacts on the network. But we now know that it can.
13. To be clear: the only reason for taking the appeal site out of the Council's emerging plan has fallen away.
14. Since then, evidence-gathering from this Council has continued to emphasise, time and again, that:

⁶ CD5.10, p.91.

- (i) There are **no** significant constraints on the site that would affect its deliverability in principle.
 - (ii) This scheme would enable Ansty's existing residents to travel sustainably for their day-to-day needs and reduce reliance on the private car.
 - (iii) The site would, of course, unlike several of the other major development proposals in the area, avoid any direct impacts on the NL.
15. Just like the existing local plan, the emerging local plan in Mid-Sussex has consistently eschewed any major developments within the NL. In particular – to take one example – the Council has continually rejected a proposed allocation for land for 700 homes at Pease Pottage within the NL on the basis that it would cause (i) a high level of impact on the NL, and (ii) that there are no identified “*exceptional circumstances*” to meet the policy requirements in the NPPF.
16. That brings us to this application. This planning application was made in 2023. Unsurprisingly – given that the single reason for excluding the site from the emerging plan (highways) was resolved – officers recommended this scheme for approval in a comprehensive and exacting piece of analysis.
17. In particular, the officers' report (“**OR**”) confirmed that:
- (i) The most important policies for determining the application are out-of-date. Therefore, the scheme has to be considered under §11(d) NPPF.⁷

⁷ CD3.1, §12.21, p.27.

- (ii) There are no relevant “strong” reasons for refusal under §11(d)(i) NPPF. In particular:
- (a) The scheme’s impacts on heritage assets are clearly outweighed by its public benefits.⁸
 - (b) Because the scheme is in the *setting* of the NL, but not within it, FN7 of the NPPF is not relevant so far as NL policy.⁹
- (iii) So the scheme falls to be decided under §11(d)(ii) NPPF, i.e. it should be approved unless its adverse impacts both significantly and demonstrably outweigh its benefits.¹⁰
- (iv) On landscape, officers decided that:
- “Overall, a development of the size proposed will result in some harm to the adjacent protected landscape and as such there would be a conflict with policy DP16 of MSDP. However, steps have been taken to minimise the impact on the setting of the AONB, and there is scope for this to be further reduced at the detailed application stage. In the circumstances, your Planning Officer considers there is no conflict with para 189 of the NPPF.”
- (v) On transport, both the Council’s officers and the Highways Authority confirmed that the scheme would fully accord with national policy on locational sustainability and highways impacts.
- (vi) Given the housing shortfalls in this area (more on which below), and the national imperative to boost housing supply, substantial weight should be given to the scheme’s market and affordable homes. Together with the wide suite of further benefits, officers

⁸ CD3.1, §12.183, p.60.

⁹ CD3.1, §12.18, p.27 and also CD3.2.

¹⁰ CD3.1, §12.22, p.28.

concluded that the scheme’s adverse effects, “*many of which will in any event be mitigated so far as is possible*”, were outweighed, and that the test at §11(d)(ii) supports the grant of permission.

18. Members were, obviously, entitled to disagree. But they were not entitled to ignore national planning policy. So it is worth noting that in resolving to refuse permission, they did not engage with the relevant test, i.e. the test at §11(d)(ii) NPPF.¹¹

19. Also of note is that (i) the Committee met in October 2025, (ii) the draft local plan had been submitted for examination in July 2024, examination hearings had been ongoing for months, and yet (iii) there was no suggestion of any ground for refusal in relation to that emerging plan.

20. The question, then, is what changed:

(i) Inspector Nurser, who had confirmed that the Council had failed in its duty to cooperate, was replaced in late 2025 by Inspector Bore.

(ii) After further hearings in 2026, Inspector Bore told the Council that it needs to plan for around 4,000 further homes than it had in the submission plan.¹²

(iii) In May 2026, the Council published its “*long list*” of sites, which does not include this one.

¹¹ CD3.4, pp.6-8.

¹² CD5.35, p.2.

(iv) The Council now suggests that allowing this appeal would be premature, in light of that long list.

21. There are a number of basic problems with that idea:

(i) We now know that the plan *as submitted* was unsound. Further sites are required to make it sound. But the soundness of those further sites has not yet been assessed by the Inspector.

(ii) More fundamentally, the “long list” sites are not actually yet part of any emerging plan. They are not (yet) actually proposed for allocation.¹³ Of course, unless the EiP inspector sanctions the Council’s reversal in its spatial approach to development in the NL (on which see below), some of these sites may *never* be proposed for allocation.

(iii) The long list sites have not been subject to (among other things):

(a) Public consultation;

(b) EiP hearings;

(c) Sustainability appraisal (which will have to include an evaluation against reasonable alternatives, including the appeal site);

(d) Any justification by exceptional circumstances;

(e) Incorporation into the draft local plan; or, critically,

¹³ See Ms Salisbury’s proof at §4.38, “*The long list of sites was published without prejudice to the final decision by the Council on any further sites that it will ultimately propose for allocation...*”

- (f) Any evaluation, still less approval, from the EiP inspector.
22. All of that matters, most of all, because this long list suggests the most remarkable *volte-face*.
23. Having for so many years built a strategy around avoiding major development in the NL, having designed a spatial strategy predicated on no major allocations in the NL, and having dismissed the possibility of major allocations within the NL on that basis, last month's long list (published without public consultation) now proposes no fewer than 9 sites **within the NL** amounting to **1,192 homes**. This includes, among many others, proposals for 700 and 196 homes within the NL at Pease Pottage, which had been ruled out in the Council's own recent analysis as unsupported by any "*exceptional circumstances*".
24. What are the implications of this *volte-face* for this appeal? The NPPF's approach, in a case like this, is clear:
- (i) This plan's examination has been long-running – long enough to be considered "*advanced*" under §49 and §50 NPPF.
- (ii) But the plan which was submitted (and has now been long-examined) is totally different from (and **antithetical** to) the plan which the Council is now suggesting be taken forward.
- (iii) So the extent to which there are "*unresolved objections*" to relevant policies in the emerging plan under §49(b) is (a) currently unknown, given the fact that the public and wider stakeholders have not yet commented on the long list, which in any event is not yet the subject of any draft policies, but (b) likely to be massive, given this unheralded reversal of the strategy in the Council's plan resulting in major developments within the NL.

- (iv) Per §49(c), even if the plan's examination as a whole has been going on for some time, key policies in it are **not** consistent with the NPPF. There is no ambiguity about that. The plan's housing allocation policies were not consistent with the NPPF as submitted (because they did not allocate enough homes). And they are not consistent now (because (a) they *still* do not allocate enough homes, (b) the long list is proposing 1,192 homes in the NL without being supported by any exceptional circumstances and, of course, (c) they are not yet actually part of the draft plan).
- (v) §50 NPPF cautions that prematurity objections are unlikely to justify a refusal of planning permission other than in limited circumstances. Both §50 and §51 require the Council to show how the grant of this consent would prejudice the ability of its plan to be adopted. There is no evidence that it would, and our evidence (for example, on highways) suggests that it would not. But, most of all, unless and until the draft plan has been re-written, and thereafter until the EiP has considered and ultimately sanctioned what is, in the end, a **totally new** spatial strategy inherent in the long list, this emerging plan still has a very long way to go, and this appeal should be considered (as it originally was by officers) on its own merits.
25. The Council's failure to maintain an up-to-date local plan has had real consequences for real people. Most of all, and for many years, this Council is nowhere close to meeting its real needs – including needs for market and affordable housing.
26. The shortfalls aren't marginal. They're substantial. Even on the Council's case, we're talking about missing the mark by scores of homes in the next few years alone. With all the terrible social, economic and environmental consequences that failing to plan will bring: families unable to afford somewhere to live, more people languishing on the housing register,

unsustainable solutions with people being forced to find a home further away from their family networks, and from where they work, shop and socialise.

27. Of course, there is a wider regional and national housing crisis. But that does not dilute the severity of what is happening – or rather, what is *not* happening – in this part of Sussex. On the Council’s case, housing delivery will fall well short of its minimum requirements in the NPPF over the next 5 years – a shortfall of over 1,750 homes.¹⁴ That is a substantial shortfall.
28. The Council says that it no longer “needs” this site to redress its housing shortfall, and that its shortfall will be remedied on adoption of a new local plan. That is, with respect, idle speculation: assertion, literally, devoid of evidence. The truth is that the Council has *no idea* whether, or to what extent, the shortfall will be remedied on adoption of a plan (if and when the plan is adopted) because:
- (i) We do not know what sites the plan will allocate. In particular, we have no idea whether the *volte-face* in this long list will lead to new allocation policies and, if so, which ones; whether those new policies will be supported by the public, by statutory consultees, by other stakeholders, and ultimately by the EiP Inspector; and, if they are not, what further changes will be required to make the plan sound.
 - (ii) So we do not know how many sites the plan will allocate, or which ones. Nor do we know the extent to which “*clear evidence*” of deliverability would exist should those sites be allocated.

¹⁴ §2.2 of the HLS SoCG at CD 7.5.

(iii) Which is why the main parties agree that this inquiry is in no position to assess the extent to which the current 5YHLS shortfall may or may not be remedied on adoption of a new plan in the future.

(iv) Which is why you should treat the assertion that this site is no longer “needed” with scepticism: the Council says so, but it cannot prove it, and it has agreed that it cannot be proved.

29. There is also an acute and urgent need for more affordable homes in Mid-Sussex. There is a cumulative shortfall of over 1,213 affordable homes here in just the last 4 years.¹⁵ And things are going to get much, much worse. Even if a new plan were to be adopted, and even if it included the “long list sites”, there will *still* be a shortfall of almost 6,000 affordable homes here by the end of the plan period.¹⁶ Meanwhile, there are 2,333 households languishing on the Council’s housing waiting list, and they are waiting there – on average – not for months but for years.¹⁷ On 31 March 2025, 101 households were housed in temporary accommodation by the Council, including households with dependent children and children overall, and the Council spent £3,298,000 on temporary accommodation in 2024/25.¹⁸ The situation is acute. It is deteriorating. And it is urgent. Further still, there are very substantial shortfalls here in the delivery of (and needs for) self- and custom-build housing, and care beds.¹⁹

¹⁵ Ms Gingell’s proof, p.30.

¹⁶ Appendix SB1 to Mr Brown’s proof, §9.

¹⁷ Ms Gingell’s proof, p.21.

¹⁸ Ms Gingell’s proof, §4.54.

¹⁹ See the evidence of Mr Moger and Mr Warner.

30. Which takes us to the appeal scheme at Ansty:



31. It should not surprise us that the Council's officers recommended to its committee that permission should be granted because:

- (i) The site is in a highly sustainable location. We agree with the Council and the Highways Authority that it is well located in relation to nearby settlements. In particular, Cuckfield is within walking and cycling distance of the site and currently provides key services, including a secondary school, shops, public houses, and places of worship. Of course, the scheme itself includes its own primary school and other key services. Haywards Heath is also readily accessible, including by bike and by bus, with regular onward rail connections to a range of higher-order settlements across the South East, including

central London. Of course, the Rule 6 party disagrees on this topic with the Council and the Highways Authority, all of which we will explore in the evidence.

- (ii) The Council accepts that greenfield development on land currently outside its built-up area boundaries is inevitable.²⁰ Unlike most of the district, this site is, in effect, “white land”: outside any landscape designations at the national, regional or local level. It is, we agree with the Council, **not** a valued landscape within the language of national policy – again the R6 party disagrees with the Appellant and the Council on that, which we will explore in the evidence.

- (iii) The site is within the setting of the NL. However, the scheme will not directly affect the NL, and none of its “core characteristics” will be materially affected. On a point of policy interpretation, Ms Jarvis for the Council is wrong to suggest that the final clause of §189 NPPF is capable of providing a “strong” reason for refusal within the meaning of §11(d)(i) and FN7 NPPF. Unlike §190 NPPF – which presumes, in terms, that major development in the NL should be **refused** – §189 is a totally different kind of requirement. It is not an injunction to refuse permission, or even to avoid adverse effects on the NL, but simply to ensure that schemes are “*located and designed to avoid or minimise adverse impacts on the designated areas*”. The appeal scheme accords with that requirement, just as officers confirmed in the OR. But even if it did not, that would not provide a “*strong reason for refusal*” under §11(d)(i) NPPF.

²⁰ SoCG CD7.1, §4.10, §4.16.

- (iv) Further, as Mrs Brockhurst explains, Ansty and Cuckfield will remain physically separate and will not experience visual or perceptual coalescence. Both settlements will retain their own distinctive identities.
 - (v) In the end, with the appropriate design approach – all of which is capable of being addressed at reserved matters stage – the proposals can deliver a high-quality and attractive scheme which reflects local character. Effects on the wider landscape will be contained both by landform and vegetation.
 - (vi) As the main parties have agreed,²¹ the lower order levels of heritage impacts do not substantiate a reason for refusal, and would be readily outweighed by the scheme's benefits.
 - (vii) The education authority's concern about noise is addressed regardless of whether you decide to proceed under Scheme A or B. There are no other outstanding technical objections on, for example, highways, ecology, drainage, flood risk, or any other matter.
32. Which means that, for all the many documents before you, the determinative question in this appeal is simple:

Would the scheme's harms both significantly and demonstrably outweigh its benefits?

Unless they do, permission should be granted: §11(d)(ii) NPPF.

33. In striking that balance, we must remember that even on the Council's case, you are asked to give our benefits substantial weight in relation to (at least) the delivery of market homes,

²¹ See the heritage SoCG.

affordable homes, care, and custom- and self-build plots, along with significant weight to a wide range of other matters.

34. In the end, our case is straightforward: given the disastrous scale of shortfalls in delivery of housing of all kinds in Mid-Sussex, and the failures to plan to address these needs, this scheme's benefits are profound, the imperative to bring them forward on a sustainable site is compelling, and they would not be outweighed – still less significantly or demonstrably outweighed – by what will only be a localised impact to this appeal site and its surroundings.
35. For those reasons, which we will develop in our evidence and in closing, the balance weighs decisively in favour of granting planning permission, and we will ask you to allow the appeal.

ZACK SIMONS K.C.

ANJOLI FOSTER

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9th JUNE 2026