Hearing Statement – Matter 7: Sites Added by the Draft Main Modifications

Mid Sussex District Council – Examination in Public

Prepared on behalf of Miller Homes Ltd

Prepared by:

SLR Consulting Limited

Mountbatten House, 1 Grosvenor Square,
Southampton SO15 2JU

SLR Project No.: 433.000082.00001

21 October 2026

Revision: 01

Revision Record

Revision	Date	Prepared By	Checked By	Authorised By
01	21 October 2026	AG/NB	NB	NB
	Click to enter a date.			
	Click to enter a date.			
	Click to enter a date.			
	Click to enter a date.			

Table of Contents

Revision Record i

1.0 Introduction 2

2.0 Access and Sustainability 4

3.0 Ancient Woodland 6

4.0 Conclusion 9

Appendices

Appendix 1 **SoCG Addendum with MSDC (16-06-26)**

Appendix 2 **Transport SoCG with WSCC (09-06-26)**

Appendix 3 **MSDC Closing Statement (13-08-26)**

Appendix 4 **Miller/Appellant's Closing Statement (13-08-2026)**

Appendix 5 **MSDC Further Submissions on NPPF 2026 (03-09-2026)**

Appendix 6a **Miller/Appellant's Further Submissions on NPPF 2026 (03-09-2026)**

Appendix 6b **Miller/Appellant's Response to Rule 6 Party NPPF Submissions (14-09-2026)**

Appendix 7 **Appellant's (Julian Forbes-Laird) Arboriculture Proof of Evidence (June 2026)**

1.0 Introduction

1.1 This Hearing Statement (HS) has been prepared by SLR Consulting Ltd on behalf of Miller Homes Ltd ("Miller Homes").

1.2 Miller Homes has an interest in Site 844 under Main Modification 66 (MM66) of the EiP.

1.3 Miller Homes considers that the allocation is sound, and has requested only focused modifications in its Main Modifications consultation response, to sub-paragraphs 3, 5, 6 and 7.

1.4 The allocation is sustainably located and highly deliverable, given (a) Miller's identity as an established national housebuilder with a strong regional presence locally and (b) its current planning status (with an application for outline planning permission already submitted). It is an important part of the proposed housing land supply, which can be delivered rapidly to address existing major shortfalls.

1.5 This statement addresses the only two topic areas identified for consideration within the agenda for the hearing session.

1. Connectivity and Sustainability; and
2. Ancient Woodland.

1.6 Within those two topic areas, Miller seeks very focussed modifications to paragraph 3 in respect of reference to the TRO and a further focussed change to paragraph 6 (removing the final reference to "enhancements"). These are set out in Miller's consultation response, and in a SoCG exchanged with the Council at [2.4], in parallel with these submissions.

1.7 It is understood that a local group known as Protect Colwell Farm Action Group (PCFG) has requested that a hearing be held as part of the examination. The first and indeed the only submissions that we are aware of by PCFG to the emerging MSDC plan are those made to the Main Modifications consultation, dated 7th September 2026. In that context, without sight of PCFG's intended submissions, Miller have set out the broader context to the two issues, especially the current application / appeal position.

The Application, the Appeal and Council Support

1.8 The Site has recently been the subject of a s78 appeal for outline permission for 80 homes and associated development,[1] which was considered at a public inquiry that concluded on the 13th August 2026, with final submissions on the NPPF issued on 14th September 2026. The Appeal was not contested by MSDC at the inquiry. In closing submissions, MSDC expressly agreed that permission should be granted. A decision is anticipated shortly.

1.9 The appeal followed the initial refusal of outline planning Application.[2] . The Case Officer had expressly recommended approval and the relevant statutory consultee on transport, West Sussex County Council (WSCC), agreed that the site was well-connected and that permission should not be refused on transport grounds. There was no objection or any RfR on Ancient Woodland grounds.

1.10 In relation to the matters to which this hearing session relates, detailed evidence was presented by the Appellant's expert witnesses at the inquiry. MSDC supported Miller's position that permission should be granted.

[1] Appeal reference 6005786

[2] MSDC application reference DM/25/0445

1.11 In particular, MSDC and Miller Homes agreed that:

(1) The Site represents a sustainable and logical extension to Haywards Heath; and

(2) No ancient woodland is present within the Site, and the existence of ancient woodland off-site to the south is not a basis for refusal either.

1.12 The appeal decision is still pending at the time of writing. The outcome of the appeal is not determinative of whether the Site should be allocated. However, Miller's position is that the Action Group's objections are without any merit, for reasons explored during the inquiry.

1.13 The remainder of this statement summarises Miller Homes' position in respect of the two matters covered in the agenda. It does not seek to repeat in full the detailed evidence presented through the appeal process, which was tested comprehensively at the inquiry.

1.14 This HS refers where relevant to the following documents, which have been appended and excerpted to cover transport and ancient woodland matters only:

- Appendix 1: SoCG Addendum with MSDC (16-06-2026);
- Appendix 2: Transport SoCG with WSCC (16-06-2026);
- Appendix 3: MSDC Appeal Closing Statement (13-08-2026);
- Appendix 4: Miller/Appellant's Appeal Closing Statement (13-08-2026) (Transport and Ancient Woodland excerpts only);
- Appendix 5: MSDC Further Submissions on NPPF 2026 (13-08-2026);
- Appendix 6a: Miller/Appellant's Further Submissions on NPPF 2026 (03-09-2026) and NPPF 2026 rebuttal submissions (Transport and Ancient Woodland excerpts only);
- Appendix 6b: Miller/Appellant's Response to Rule 6 Party NPPF Submissions (14-09-2026) (Transport and Ancient Woodland excerpts only); and
- Appendix 7: Appellant's (Julian Forbes-Laird) Arboriculture Proof of Evidence (June 2026) (Written Ancient Woodland excerpts only).

1.15 This statement should also be read alongside Miller Homes's submissions to the Main Modifications consultation.

2.0 Access and Sustainability

2.1 The Site is sustainably located and accessible to key services and facilities to meet day-to-day needs.

2.2 The Site has undergone a thorough assessment through MSDC's site selection, SA and evidence gathering processes and been identified as sustainable. Miller's transport consultants have also undertaken considerable supporting work as part of the outline planning application and subsequent appeal. WSCC have agreed that the Site is sustainable.

2.3 The Site adjoins Haywards Heath as a Category 1 settlement, the most sustainable category of settlement in the district, containing facilities and services to meet the majority of residents' needs. It also benefits from a well-connected railway station with excellent cycle and vehicle parking facilities to enable onward travel.

2.4 The Master SoCG agreed with MSDC as part of the appeal confirms at '3.12 *"the proposed development is in an appropriate location in terms of transport and accessibility."*

2.5 WSCC Highways Authority also did not object to the original application. A SoCG was also agreed with WSCC Highways Authority which confirmed, amongst other things:

> *5.2 The site is in a location with good access to local amenities with a good network of paths and footways to help pedestrians navigate their way to amenities within a 10-minute walk.*

2.6 The SoCG agreed with WSCC (Table 1) (Appendix 2 to this HS) provides an accurate reflection of realistic walking and cycling distances from the Site access to nearby facilities, using the upgraded Public Footpath 29CU (for applicable journeys north). It confirms that (using the site entrance as a fixed starting point):

- Northlands Wood Primary Academy is 570m walk via Footpath 29CU (or 950m using alternative routes)
- Walnut Park shopping area, which includes a Tesco Express, Pharmacy and GP surgery are 720m walk (or 1,200m using alternative routes)
- Princess Royal Hospital, a major employer, is 1.1km walk or cycle away
- Haywards Heath Town Centre is 1.86km away by walking or cycling

2.7 There is a significant range of facilities within walking or cycling distance of the Site – which is unsurprising given the Site's location adjoining a category 1 settlement.

2.8 The application proposals will deliver a range of measures that were agreed in consultation with WSCC to improve the accessibility, sustainability and attractiveness of the routes from the Site, as summarised below:

1. Financial contributions towards improvements to Public Footpath 29CU, enhancing walking routes to local facilities and Northlands Wood Primary Academy school.
2. Financial contributions (via a 'Total Access Demand Contribution') towards cycle and pedestrian improvements to Scaynes Hill to Lindfield and/or pedestrian improvements at South Road, Haywards Heath.
3. Measures designed to encourage walking and reduce reliance on the private car, through implementation of a site-specific Travel Plan.

4. Contributions towards and support for a Traffic Regulation Order (TRO), including provision of a TRO highways works scheme if the TRO is successful, to extend the existing 30mph speed limit on Lewes Road past the proposed site access.
5. New pedestrian crossing facilities on Lewes Road to improve connectivity between the Site and Haywards Heath.
6. Removal of layby on Lewes Road north of the Site to provide a continuous footway.
7. Footway improvement works to Snowdrop Lane.
8. Pedestrian crossing improvements within the Walnut Park residential area north of the Site.

2.9 These measures improve the attractiveness of sustainable travel choices for future and existing residents located on and within the vicinity of the site. They also align with the draft site allocation policy requirements.

2.10 At the inquiry, PCFG referred to the Connectivity Tool. The Connectivity Tool is not a National Planning Policy Framework 2023 requirement. In any event, the NPPF 2026 NDMP TR3(2) makes clear that clear it should be used alongside other qualitative and quantitative evidence. The score is not determinative of a Site's sustainability and this was accepted by PCFG.

2.11 All the same, the Site has achieved a Local Authority banding of 'B', the second-highest band using the Local Authority banding, which compares the relative connectivity of locations across the LPA area. This means it has a relatively better connectivity score compared to most areas in the district, which is unsurprising given its location adjoining a category 1 settlement. This score does not take account of any of the proposed improvements to local walking and cycling facilities arising from the development.

2.12 PCFG's representations point to different locations that they consider more sustainably located and hence more appropriate for allocation, such as locations in the town centre. However, there is no certainty that such sites are deliverable or developable and so they cannot be relied upon to meet identified housing needs.

2.13 The evidence presented by PCFG on this matter[3] has been constructed using Artificial Intelligence to conduct a comparative assessment. This evidence should be given no weight at all. The authors did not explain the prompts used and there has been no professional review of the outcomes.

2.14 MSDC, in their closings to the inquiry concerning the Site, confirmed:

'6. If the Appeal Site [the site proposed for allocation] is regarded as unsustainable, it is highly unlikely the Council will be able to meet Inspector Bore's request.'

2.15 Miller Homes agree with this submission. The majority of sites proposed for allocation by MSDC are greenfield sites adjoining existing settlements. The majority of those other new allocations adjoin settlements which are lower down the settlement hierarchy. Such sites are less sustainable and less well-connected than this Site.

2.16 The Site is well connected to the facilities and services of the Category 1 settlement of Haywards Heath and is the largest of four proposed allocations in the parish. It is within walking distance of the range of local facilities to meet day-to-day needs.

[3] Appendices 4-7of the PCFG Main Modifications consultation response.

3.0 Ancient Woodland

Agreed Position with the Council

3.1 Miller Homes and MSDC are in complete agreement that no ancient woodland is present within the Site, and that ancient woodland will not impact the Site's ability to deliver 80 homes.

3.2 As MSDC's appeal closing submissions made clear, ancient woodland did not form any part of the reasons for refusal:

'10.4 It has never been part of the Council's case that the Appeal Site contains ancient woodland: that has only ever been a concern raised by the Rule 6 Party [PCFG].'

3.3 The only area of ancient woodland in proximity to the Site is Cains Wood, located off-site to the south and east. This is the only area of ancient woodland identified by Natural England within the ancient woodland Inventory in the vicinity of the Site.

The Allocation Policy and Mitigation

3.4 MM66, requirement (6) specifically requires the provision of an appropriate buffer to this woodland through the minimum 15m buffer proposed along the southern and eastern boundaries of the Site, in accordance with Natural England's standing advice.

3.5 Both Miller Homes and MSDC agree that this requirement provides an appropriate mechanism to ensure the protection of ancient woodland as part of the allocation. The application for development of the site shows how such a requirement can be appropriately accommodated.

3.6 Miller Homes and MSDC agree there is no evidence to support a positive conclusion that Ancient Woodland is present within the Site and this is supported by the consultee responses to the planning application.

3.7 Having regard to the relevant policy tests, published guidance, and the historic cartographic, aerial photographic evidence, development of the Site would not result in the loss or deterioration of ancient woodland, as discussed in more detail below.

PCFG's Submissions

3.8 PCFG only raised an allegation in respect of ancient woodland at a very late stage, 3 weeks after the inquiry CMC. They then failed to provide the requisite positive evidence of its presence and failed to apply Natural England's established methodology.

3.9 The PCFG's representations alleged that ancient woodland is located in two places, neither of which is supported by the cartographic evidence:

1. The hedgerows running broadly north-south through the Site; and
2. The vegetation at the north-eastern boundary (which they have sought to term 'The Shaw').

(1) Central Overgrown Hedgerows

3.10 In respect of the hedgerows running north-south through the Site, the historic cartographic and aerial photographic evidence does not support the conclusion that these features comprise ancient woodland. As MSDC noted in closing at [12c]:

'12c. the OS maps from 1874, 1896 and 1938 depict the hedgerows with a single line, which is consistent with the conclusion that these were then hedgerows rather than woodland. This is also what can be seen from the aerial photographs.'

3.11 This is consistent with the evidence presented by Mr Forbes-Laird[4] during the inquiry and the approach set out in Natural England's Ancient Woodland Inventory Handbook, which confirms that:

'A narrow or simple hedge shown on Epoch 1 [maps] that has expanded to become a thick strip of scrub or woodland on the current aerial photograph should not be assessed as woodland for Epoch 1 (and therefore not treated as long-established woodland).'

3.12 Accordingly, there is no evidential basis for concluding that the north-south hedgerows comprise ancient woodland.

(2) North-Eastern Boundary Feature

3.13 The second feature comprises the area to the north-eastern boundary of the Site referred to by PCFG as the 'shaw'. Again, the historic evidence does not support a conclusion that this feature comprises Ancient Woodland. As set out by Mr Forbes-Laird, Epoch 1 mapping shows no woodland present in this location, with subsequent historic mapping and aerial photography similarly failing to identify continuous woodland cover. Having regard to the available evidence and applying the normal civil standard of the balance of probabilities, there is no evidential basis for concluding that the shaw comprises ancient woodland.

3.14 PCFG claimed that it was necessary to identify whether Ancient Woodland Vascular Plant Indicator Species (AWVPS) were present in the 'shaw'. However, Natural England's Ancient Woodland Inventory Handbook on Page 105 makes clear that such evidence is not determinative, stating that *'the presence of AWVPs does not prove a wood is ancient'* and that *'there is no threshold species count above or below which the status of a wood becomes a certainty'.*

3.15 Such evidence should only be used as part of a wider assessment, which must first be grounded in the cartographic record. In this case, the available cartographic and aerial photographic evidence does not support a conclusion that there is any ancient woodland in this area either.

The NPPF Test and the Standard of Proof

3.16 Both Miller Homes and MSDC concluded in their closing submissions that a finding of conflict with Paragraph 193 of the NPPF 2024 (now comprised in the NPPF 2026's Annex A and N6(2)) requires a '*clear and positive conclusion'* that ancient woodland is present.

3.17 Miller Homes and MSDC further noted that this judgement should be made on the basis of the normal civil standard of the *'balance of probabilities'.*

3.18 The revised NPPF (August 2026) retains the same test.

3.19 Applying this test, the evidence does not support a positive conclusion that either the hedgerows running north-south through the Site or the north-eastern boundary feature comprise ancient woodland.

[4] The appellants expert arboriculture witness.

Further Submission on Development Area

3.20 There is one further reason why PCFG's position on the north-eastern boundary feature is completely without merit and has no bearing on soundness or delivery.

3.21 Even if it were concluded that the north-eastern boundary feature comprises ancient woodland (which is clearly wrong for the reasons set out above), this would not preclude allocation of the Site, or the delivery of 80 homes.

3.22 Given its position on just one area at the edge of the Site, the feature could be excluded from the developable area through an appropriate policy requirement / buffer, without compromising the delivery of the full 80 homes at the site.

3.23 This position was expressly recognised in MSDC's closing submissions at [13b] and Miller as Appellant concurred:

'13b. Even if (which the Council does not agree) the shaw is 'ancient woodland', it could be excluded from the developable area of the site at the reserved matters stage.'

3.24 Miller Homes therefore agrees with the conclusions made in MSDC's closing submissions:

'13d. On this basis, the Council does not consider that there would be any loss of or harm to ancient woodland such as to prevent the grant of planning permission, or preclude the allocation of the Appeal Site in the emerging District Plan.'

Summary

3.25 For all the above reason, ancient woodland has been fully accounted for in MM66.6.

4.0 Conclusion

4.1 In respect of Connectivity and Sustainability, the Site is a sustainable and accessible location for growth adjoining the Category 1 settlement of Haywards Heath. The Site benefits from access to a wide range of services, facilities and public transport opportunities and, through the planning application and appeal process, both MSDC and WSCC confirmed that the Site is appropriately located in accessibility and transport terms.

4.2 In respect of ancient woodland, both Miller Homes and MSDC agree that no Ancient Woodland is present within the Site. Furthermore, the evidence before the EiP demonstrates that development of the Site would not result in the loss or deterioration of Ancient Woodland, whilst MM66 contains appropriate safeguards to ensure the protection of the adjacent ancient woodland at Cains Wood.

4.3 Accordingly, Miller Homes agrees with MSDC's conclusion that MM66 is a sound and fully justified allocation capable of contributing towards the district's identified housing needs and supporting the overall soundness of the emerging Mid Sussex District Plan.

[Word Count: 2,974][5]

[5] Excluding appendices, footnotes, revision record and cover page.

Appendix 1 SoCG Addendum with MSDC (16-06-26)

Master Statement of Common Ground Addendum

Colwell Farm, Haywards Heath

Miller Homes Limited

Appeal Reference: 6005786

LPA Planning Reference: DM/25/0445 / AP/26/0023

Appeal By Miller Homes Ltd

16 June 2026

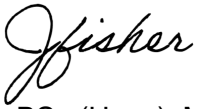
Revision: 04 - FINAL

Signed:



Nick Billington MRTPI
Technical Director – SLR Consulting on behalf of Miller Homes Ltd
Date: 16-06-2026

Signed:



Joanne Fisher BSc (Hons), MATP, MRTPI
Team Leader Applications on behalf of Mid Sussex District Council:
Date: 17-06-2026

Revision Record

Revision	Date	Prepared By
01 - SLR	05-06-2026	Nick Billington
01 - MSDC	11-06-2026	Joanne Fisher
02 - SLR	12-06-2026	Nick Billington
02 – MSDC	15-05-2026	Joanne Fisher
03 - SLR	15-06-2026	Nick Billington
03 – MSDC	15-06-2026	Joanne Fisher
04 – SLR (FINAL)	16-06-2026	Nick Billington

Table of Contents

1.0 MSoCG Addendum 3

2.0 The Emerging Mid-Sussex Local Plan 4

3.0 Additional Matters in agreement between MSDC and the Appellant 5

Appendices

Appendix A MSDC Letter to Planning Inspectorate (02-06-2026)

1.0 MSoCG Addendum

1.1 This Statement of Common Ground Addendum (MSoCGA) supplements the MSoCG agreed between MSDC and the appellant dated 5th May 2026.

1.2 By a letter dated 2nd June 2026 from MSDC's Head of Development Management, the Council communicated that (1) it would no longer be defending any of the Reasons for Refusal and (2) would not be submitting any evidence to the inquiry. A copy of the letter is appended to this MSoCGA.

1.3 The letter's paragraph 5 refers to an updated Statement of Common Ground to assist the inquiry. This is that document.

1.4 This MSoCGA first briefly sets out the background to the Local Plan position in Section 2. Section 3 then principally replaces Section 7 - 'Areas of Disagreement' to confirm the following overarching position: the Council agrees that permission should now be granted for the Application, subject to the conclusion of the Section 106 Agreement (which is presently being discussed by the parties in the usual way).

1.5 Conditions between the Council and Appellant will be agreed in a separate document.

2.0 The Emerging Mid-Sussex Local Plan

2.1 The Council will have to allocate a number of additional sites to ensure that the plan can be found sound, in accordance with the Local Plan Inspector's earlier direction. Although the Inspector has not set a precise number, the council expect that those additional sites will need to accommodate around 4,000 new homes.

2.2 On 15th May 2026, the site was included on the 'Long List' of sites which are being considered for allocation in the emerging MSLP. The most recent Council assessment of the site is the Site Selection Paper 7. Appendix 2, site ref 844, to the paper confirms:

A site of this scale has the potential to contribute to the five-year housing land supply. It is considered that the site is suitable for further testing.

2.3 The long-list entry of 15th May 2026 confirms that the Site is suitable for further in-combination testing.

2.4 On the 8th June the Council set out the next steps for the District Plan Examination. The outcome of the in-combination testing will be published w/c 13th July 2026. Subject to the outcome of the in-combination testing the Council will publish Main Modifications Consultation 27th July – 7th September.

2.5 Whilst the need for in-combination testing means there is still no certainty that any particular site or combination of sites will be taken forward for allocation, the decision to include the site on the long list reflects an in-principle acceptance by the Council that the harms previously identified in its reasons for refusal in this case are outweighed by the benefits of meeting the additional need which the Local Plan Inspector has asked the Council to meet.

2.6 Having regard to para 50a) of the NPPF, and notwithstanding the need for in-combination testing before it can be certain that the site will be allocated, given the scale of the appeal scheme the Council agrees an argument based on prematurity would not justify a refusal of planning permission.

3.0 Additional Matters in agreement between MSDC and the Appellant

Overview

3.1 The Council no longer defends any of the reasons for refusal 1-5.

3.2 The Council will not submit any evidence to the inquiry on these matters. Officers will be available to assist on conditions and the Section 106 Agreement.

3.3 In terms of RfR5, the Section 106 Agreement will progress through June 2026 and it is anticipated that this can be agreed well ahead of the start of the inquiry.

3.4 The parties agree that the appeal should be allowed, and planning permission be granted subject to the imposition of appropriately worded conditions and a section 106 agreement to secure the necessary affordable housing, financial contributions, off-site highway works and BNG.

The Overall Planning Balance and the Statutory Framework

3.5 It is agreed that permission should be granted, applying s70 of the Town and County Planning Act 1990 and s38(6) of the Planning and Compulsory Purchase Act 2004 and having regard to ss 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

RfR1a: The Settlement Boundary

3.6 It is agreed that (i) the location of the proposed development lies outside the settlement boundary and (ii) any conflict with DP12 are not a basis for refusal.

RfR1b: Character

3.7 It is agreed that any impact on local character (or any landscape and visual amenity matter) is not sufficient to outweigh the benefits of granting permission.

3.8 It is agreed that the Council is unable to meet housing needs without allocating and granting permission for development on sites which are outside the existing built-up urban area boundaries.

3.9 The Officer's Report recommending the grant of permission identified no conflict with Policies E5 and E9 in this respect. To the extent that there was a conflict with DP12, this was not considered a basis for refusal within the Officers report as a result of the benefits arising from the scheme.

3.10 The Appellant considers that the Appeal Proposal accords with Policies DP12, E5 and E9 in respect of any landscape matters and will cover this in its Planning and Landscape Proofs of Evidence.

3.11 It is agreed that even if any conflict were to be identified with any of the above development plan policies, this would not form a basis for refusal, having regard to the overall planning balance.

RfR2: Transport and Accessibility

3.12 It is agreed that the proposed development is in an appropriate location in terms of transport and accessibility.

3.13 The Officer's Report to Committee identified that the Proposal complied with policy DP21 of the MSDP relating to the accessibility of the site to facilities and services.

3.14 The Appellant considers that the Appeal Proposal accords with Policy DP21 or national policy and will address this matter in its Planning and Transport Proofs of Evidence.

RfR3: Heritage

3.15 The Officer's Report to Committee identified that the Proposal conflicts with policies DP34 and DP35 of the MSDP in that the proposal would result in less than substantial harm to the designated and non-designated heritage assets. However, when weighed against paragraphs 215 and 216 of the NPPF, the public benefits of the proposal are considered to be important benefits which outweigh the less than substantial harm in the planning balance. It is agreed, having regard to paragraphs 215 and 216 of the NPPF, that the public benefits of the proposals outweigh the 'less than substantial harm' caused to designated and non-designated heritage assets.

3.16 It is therefore agreed that heritage impacts are not a basis for refusal, having regard to both (a) the development plan/national policy and (b) the statutory framework under ss66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3.17 The Appellant considers that the proposals accord with the above policies and will address the heritage matters in its Planning and Heritage Proofs of Evidence.

RfR4: Trees

3.18 The Officer's Report to Committee identified no conflict with Policy DP37 of the MSDP, and in any case, that the benefits of the development would outweigh the harm arising from the limited tree loss.

3.19 The Appellant considers that there is no conflict with DP37 or national policy conflict and will address this in its Planning and Arboricultural Proofs of Evidence.

RfR: Legal Agreement

3.20 The Council and Appellant will continue to progress a planning legal agreement to secure necessary affordable housing and infrastructure requirements. Subject to the conclusion of this agreement, the proposal will comply with policies DP20, DP21, DP31 and DP38.

Other Development Plan Policies

3.21 As agreed in the Master SoCG at [4.9], the Council agrees that the Appeal Proposal complies with all other development plan policies not referred to in the RfR.

Other Matters

3.22 It is further agreed that there are no other reasons to refuse planning permission for the Appeal development.

Benefits

3.23 The Appellant will address the benefits and all questions of weight in its Planning Proof of Evidence.

3.24 In respect of the weight to be given to the provision of housing in the planning balance, the Council considers the positive weight should be substantial, and the appellant considers the positive weight should be very substantial.

3.25 Given the above agreement, the Appellant and Council will seek to agree a housing land supply figure for the purposes of this appeal, without the need to contest the deliverability of individual sites.

3.26 In respect of the weight to be given to the provision of affordable housing in the planning balance, the Council considers the positive weight should be substantial, and the appellant considers the positive weight should be very substantial.

3.27 It is agreed that the site is deliverable within the next 5 years. The Appellant and the Council will seek to agree a 5YHLS figure for the purposes of the appeal through a second document.

Tilted Balance

3.28 It is agreed in the context of this appeal that para 11d of the NPPF is engaged.

3.29 The Appeal proposal do not result in any 'strong reason for refusing the development' as set out at paragraph 11(d)(i) and footnote 7 of the NPPF.

3.30 It is further agreed that the benefits of granting planning permission are not significantly and demonstrably outweighed by the harms (including any conflicts with policy).

3.31 In conclusion, it is agreed that NPPF 11d(ii) is a material consideration in this appeal for the purposes of s38(6) PCPA 2004, and it is agreed that the Appeal proposal should be granted permission.

Appendix A MSDC Letter to Planning Inspectorate (02-06-2026)

MID SUSSEX DISTRICT COUNCIL

Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

Switchboard: 01444 458166

DX 300320 Haywards Heath 1
www.midsussex.gov.uk

Contact:
Steve Ashdown
Steve.ashdown@midsussex.gov.uk

2nd June 2026

Laurie Wordsworth
Inquiries and Major Casework Team
Planinng Inspectorate

By email only

Dear Laurie,

Re: Land at Colwell Farm, Lewes Road, Haywards Heath Appeal Ref: 6005786

I am writing to update the Inspector (and other parties) on the latest progress with the Council's emerging District Plan, and the implications of this for the Council's case at the Inquiry.

In its Statement of Case, the Council summarised the position relating to the emerging plan as it stood at that time, and (at para 5.9) advised that it would keep the inspectorate updated, as necessary. At para 6.7, the Council indicated its intention, as part of its on-going work with regard to the emerging district plan, to publish a long list of additional sites that (subject to in-combination testing) were considered suitable to meet the District Plan Inspector's request for the Council to increase the planned number of houses to support the unmet needs of adjacent authorities, namely Crawley and Brighton and Hove.

As means of an update, I can confirm that the long list was published on 15th May 2026 and that the appeal site was included on it. Although this does not necessarily mean the appeal site will be allocated (the list is still the subject of in-combination testing, and even if that is favourable, any new allocations will need to be advertised as main modifications which will then be the subject of further consultation) the decision to include the appeal site on the long list indicates an in-principle acceptance by the Council that the conflicts with policy previously identified in the decision notice are now outweighed by the need for the additional contribution to meeting the needs of neighbouring authorities which the District Plan Inspector is asking Mid-Sussex to make.

In light of the above, and in accordance with good practice and guidance, the Council has reviewed its position in respect of its reasons for refusal, and its case as set out in the submitted Statement of Case, and has concluded that it is no longer appropriate to resist the grant of planning permission on the appeal site. The Council therefore gives notice to the Inspector and the other main parties that it will not be defending the reasons for refusal and will not be submitting evidence to the Inquiry on those matters.

It is the Council's intention to engage with the Appellant to provide an updated Statement of Common Ground to assist the Inquiry.

The Council will still retain an interest in the Inquiry process and will be actively engaging with matters associated with the draft s106 Agreement and the draft conditions, to ensure that these elements are satisfactorily resolved.

Eric Owens
Interim Assistant Director Planning and Sustainable Economy

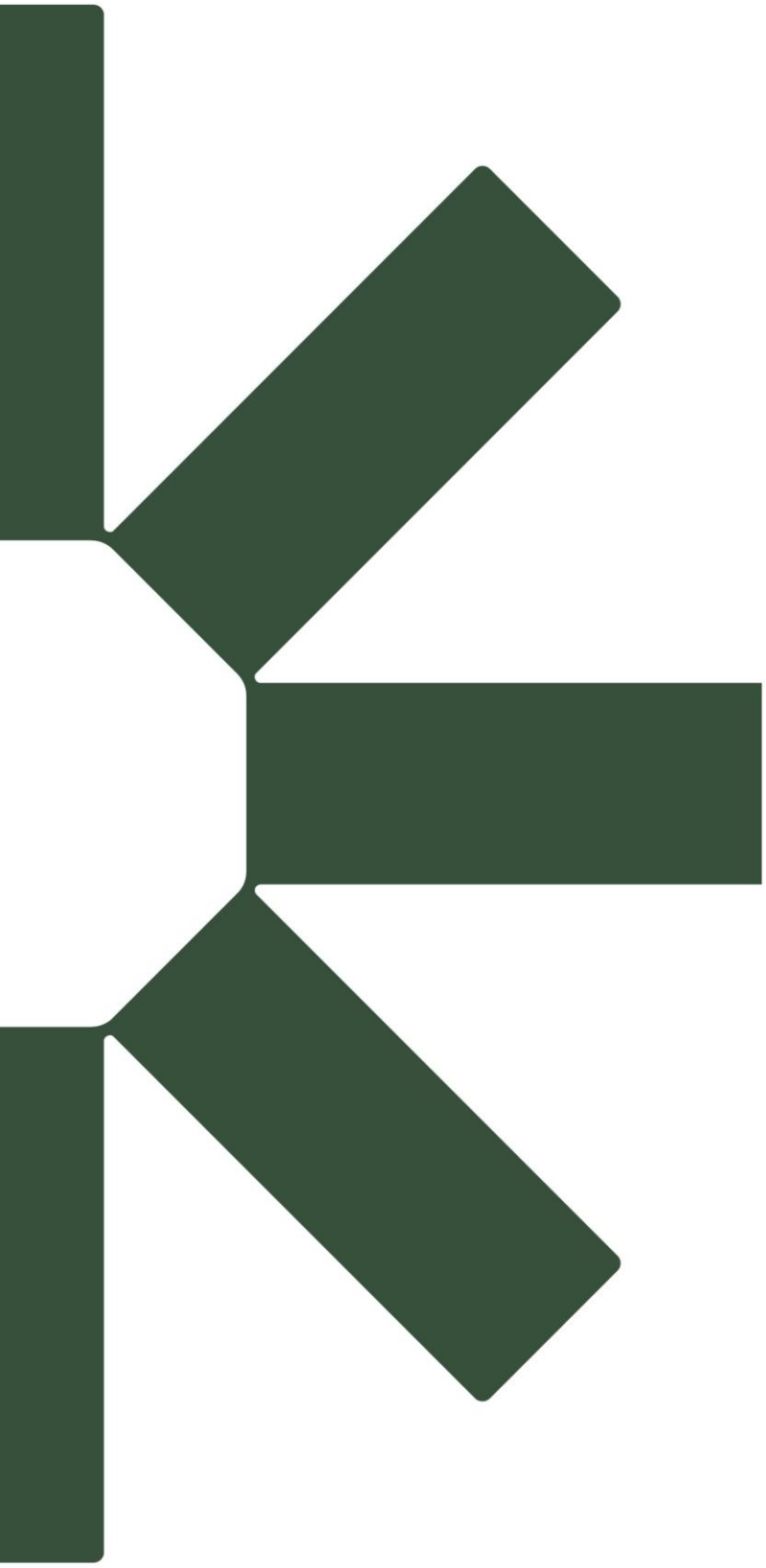
POSITIVE ABOUT DISABLED PEOPLE

The Council wishes to emphasise that this letter is a direct result of the District Plan Inspector's request that it seek to identify additional sites so as to make a greater contribution to the needs of Crawley and Brighton & Hove than was provided for in the Submission Draft of the new District Plan, and of the further work which the Council has done to identify the most suitable sites to meet that request. These matters represent a significant change in circumstances since the Council's decision to refuse permission. The Council has reviewed its position following publication of the long list as promptly as possible and is notifying the parties at the earliest opportunity.

Yours sincerely,



Steve Ashdown
Head of Development Management



Making Sustainability Happen

Appendix 2 Transport SoCG with WSCC (09-06-26)

Statement of Common Ground [V1]

Colwell Farm, Haywards Heath

Miller Homes Limited

Appeal Reference: 6005786

LPA Planning Reference: DM/25/0445 / AP/26/0023

Appeal By Miller Homes Ltd

26 May 2026

Revision: 02

Signed:



NEIL MARSHALL

Partner – i-Transport LLP on behalf of Miller Homes Ltd

Date: 3/6/2026

Signed:



Alison Meeus

On behalf of West Sussex County Council (Local Highway Authority):

Date: 01/6/2026

Revision Record

Version	Comment	Date	Author
1	Draft	26/05/2026	Neil Marshall
2	Final	3/6/2026	Neil Marshall & Alison Meeus

TOPIC SPECIFIC STATEMENT OF COMMON GROUND – TRANSPORT AND HIGHWAYS MATTERS

SECTION 1 INTRODUCTION

1.1 This Statement refers to the Section 78 Planning appeal against the Council's decision to refuse outline planning permission (Council reference: DM/25/0445) at a site known as Land at 'Colwell Farm, Lewes Road, Haywards Heath'. The agreed description of development is *"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".*

1.2 This Statement addresses the specific matters relating to transport, access, and highways. It covers matters that are agreed between the Appellant and West Sussex County Council as the Local Highway Authority and Mid Sussex District Council as the Local Planning Authority and includes:

1. Introduction
2. List of relevant Development Plan policies relevant to highway matters
3. List of relevant supplementary planning guidance published by the LPA and other material considerations.
4. List of transport and highways reports and drawings submitted with the planning application that are for consideration.
5. Matters of agreement.
6. Matters of disagreement
7. Potential planning conditions and obligations

Reason for Refusal 2

1.3 *"The site is considered to be an unsustainable countryside location where pedestrian access to the town centre would not be convenient or attractive for future residents, and this could not be sufficiently mitigated by the proposed off site works in this application. Therefore, the proposal would result in heavy reliance on the private car to address basic day to day needs from local services and shops. The proposal therefore conflicts with policy DP21 of the Mid Sussex District Plan 2014-2031 and the provisions of the NPPF which seeks to actively managing [sic] patterns of growth to make the fullest possible use of public transport."*

Reason for Refusal 5

1.4 *"The proposal fails to provide the required affordable housing, the infrastructure contributions, off site highway works and the biodiversity net gain requirements. The application therefore conflicts with policies DP20, DP21, DP31 and DP38 of the Mid Sussex District Plan and the Mid Sussex Supplementary Planning Documents 'Affordable Housing' and 'Development Infrastructure and Contributions'."*

SECTION 2 LIST OF RELEVANT DEVELOPMENT PLAN POLICIES RELEVANT TO HIGHWAY MATTERS

2.1 The adopted Development Plan comprises:

- Mid Sussex District Plan 2014–2031 (adopted 28 March 2018) – hereafter the MSDP
- Site Allocations Development Plan Document (DPD) (adopted 29 June 2022) – hereafter the SADPD
- Haywards Heath Neighbourhood Plan (2016–2031) (made in 2016) – hereafter the HHNP

2.2 The following Mid Sussex District Plan 2014–2031 policies are considered relevant to transport/highways matters:

- DP21 (Transport) – referenced within Reason for Refusal 2.
- DP20, DP31 and DP38 – referenced within Reason for Refusal 5 (alongside infrastructure contributions including off-site highway works).

SECTION 3 LIST OF RELEVANT SUPPLEMENTARY PLANNING GUIDANCE PUBLISHED BY THE LPA/LHA AND OTHER MATERIAL CONSIDERATIONS

3.1 The following are relevant supplementary planning guidance and other material considerations to highway matters published by the LPA:

- Mid Sussex Supplementary Planning Document 'Development Infrastructure and Contributions'
- Haywards Heath Town Centre Masterplan Supplementary Planning Document (March 2021).

3.2 The following is other guidance relevant to highways matters:

- WSCC Active Travel Strategy 2024-2036
- WSCC Transport Plan 2022-2036
- Haywards Heath Town Centre Masterplan (2023)
- Cycle Infrastructure Design – Local Transport Note 1/20 (July 2020)
- Inclusive Mobility Guidance 2021

3.3 The National Planning Policy Framework (NPPF) (2024) and PPG are also a material consideration.

SECTION 4 AGREED LIST OF TRANSPORT / HIGHWAYS REPORTS AND DRAWINGS SUBMITTED FOR CONSIDERATION

- Transport Assessment (i-Transport report reference ITL19597-001A, dated 9 January 2025).
- Framework Travel Plan (i-Transport report reference ITL19597-006A, dated 9 January 2025).
- Planning Application Highways Response (i-Transport report reference ITL19597-007, dated 26 March 2025).
- Planning Application Highways Second Response (i-Transport report reference ITL19597-009A, dated 2 June 2025).
- Proposed Site Access Arrangement from Lewes Road (A272) (Drawing No. ITL19597-GA-004 Rev H).
- Wider dropped kerb and tactile paving package (Transport Assessment Figure 6.2).
- Proposed footway improvements at Snowdrop Lane (Drawing No. ITL19597-GA-021 Rev A) .
- Potential Lewes Road footway improvements at existing lay-by (Drawing No. ITL19597-GA-018).
- Proposed uncontrolled crossing across Lewes Road (Drawing No. ITL19597-GA-011 Rev B).
- Plan showing local amenities and facilities (Transport Assessment Figure 6.1).

SECTION 5 MATTERS OF AGREEMENT

5.1 The key matters agreed between West Sussex County Council (as Local Highway Authority) and the Appellant's transport consultant (i-Transport LLP) are agreed based on information provided in the agreed list of reports and drawings provide at Section 3, and from the following WSCC documents:

- Pre-application Consultation Response received 1st August 2024
- Updated Pre-application Consultation Response received 19th August 2024
- Additional Pre-application Consultation Response received 9th September 2024
- Consultation Response received 20th March 2025

5.2 The site is in a location with good access to local amenities with a good network of paths and footways to help pedestrians navigate their way to amenities within a 10-minute walk.

5.3 There is a good provision of bus stops. The nearest stop has a good provision of real time information, seating, and shelter.

5.4 Haywards Heath railway station is 3.15km away and is within a reasonable cycle distance and only a 5-minute journey by car.

5.5 Section 4 of the submitted Transport Assessment provides an accurate summary of the existing local transport provision and services in the vicinity of the Appeal site at the time of its production.

5.6 Section 5 and Section 7.5 of the submitted Transport Assessment provide an accurate summary of the likely multi-modal trips to be generated by the Appeal site.

5.7 Section 6 of the submitted Transport Assessment provides an accurate summary of the location and routes to the existing services and facilities in the vicinity of the Appeal site at the time of its production.

5.8 Pedestrian connectivity via Public Right of Way Footpath 29CU is confirmed suitable for year-round use.

5.9 The shortest distances from the site access to the relevant services and facilities that will form part of the daily destinations for future occupiers of the site are provided in **Table 1**. All measurements are taken from the site access to the entrance to the named facility. The measurements all follow the most direct walking and/or cycling route from the site to the named location, using public highways and/or Public Rights of Way. Image 6.1 of the submitted Transport Assessment identifies the routes taken at the local level. Figure SOCG1 attached to this report shows this at the wider area. Where the shortest distance is not permitted by bicycle, the alternative distance is provided. The Haywards Heath Town Centre Boundary is defined in the Mid Sussex District plan 2014-2031 Policies Map (and Policy DP2).

5.10 Whilst the application is in outline, with all matters reserved except for access, based on the indicative site layout, the first dwelling is located 130m from the site access, the furthest dwelling is located 480m from the site access.

Table 1: Measured Distances from Site Access to Everyday Services and Facilities

Land Use	Name	Walking Distance (metres)	Cycle Distance (metres)
Education	Northlands Wood Primary Academy	570	950
	St Wilfrid's CofE Primary School	1770	1770
	St Joseph's Catholic Primary School	2120	2120
	Oathall Community College (secondary)	2500	3000
Leisure	Walnut Park and Forest Fields Play Area	580	750
	Post box	215	215
	Haywards Heath FC	1900	2400
	Dolphin Leisure Centre	3400	3600
Retail	Tesco Express	720	1200
	Shell Petrol Garage Shop	1010	1010
	The Co-op	1530	1530
	Boundary of Haywards Heath Town Centre	1860	1860
Health	Kamsons Pharmacy	710	1200
	Northlands Wood Practice (GP)	760	1250
	Princess Royal Hospital and Emergency Room	1100	1100
	Dentalessence Dental Surgery	2120	2120
Public Transport	Bus stop (Northlands Avenue)	770	n/a
	Haywards Heath Railway Station	3150	3300

Department for Transport Connectivity Tool

5.11 Since determination oof the application, the Department for Transport (DfT) Connectivity Tool has been made available in the public domain. The tool measures how easily (in term of opportunity) people can reach employment, services and social activities within one hour from a chosen location (using a 100m x 100m grid selection). It assesses connections to destinations across different transport modes, including walking, cycling, driving, and public transport.

5.12 The tool can show how connected a location is on a scale between 0 (poorly connected) to 100 (highly connected), this is a percentage of the highest score in England and Wales, being 100.

5.13 It is also possible to review how a location scores within a specific Local Planning Authority area, which in this case is Mid Sussex. The individual grid selection compares the connectivity scores within the Local Planning Authority area with results ranging between 'A' (highest connectivity) and 'J' (lowest connectivity), each band representing 10th percentile intervals.

5.14 In accordance with the guidance for use of the tool, for large sites where there are no internal connections shown within the tool (such as the Appeal site), the access location is taken as the starting point for determining the overall connectivity for the site. The tool does also not allow for the impact (improvement) of the score from new links and land uses.

5.15 The site access has a Connectivity score of 43 and a Local Authority Banding of "B".

Highways Safety

5.16 Automatic Traffic Counter (ATC) survey used for the highway designs was undertaken over a 7-day period from Thursday 7 December to Wednesday 13 December 2023 on Lewes Road adjacent to the proposed site access and recorded 85th percentile speeds used for visibility design of 41.3 mph eastbound and 42.5 mph westbound in the AM peak, and around 40.1mph eastbound and 41.2 mph westbound in the PM peak.

5.17 The proposed All Purpose Simple Priority Junction Access from Lewes Road (A272) (Drawing No. ITL19597-GA-004 Rev H) provides for safe and suitable access to the site for all users.

5.18 A Stage 1 Road Safety Audit has been undertaken of the access and there are no residual safety concerns with the access as proposed.

5.19 The visibility splays at the site access are achievable within the adopted highway and compliant with design standards (Drawing No. ITL19597-GA-004H).

5.20 The uncontrolled pedestrian crossing at the site access is appropriate and safe, with compliant pedestrian visibility splays and inclusion in the access design (Drawing No. ITL19597-GA-004H).

5.21 The off-site highway improvements agreed at determination provide appropriate mitigation, comprising:

- Dropped kerbs and tactile paving package (TA Figure 6.2).
- Snowdrop Lane footway improvements (Drawing No. ITL19597-GA-021 Rev A).

- Lay-by reinstatement to footway on Lewes Road (Drawing No. ITL19597-GA-018).
- Birch Close footway widening and uncontrolled crossing (Drawing No. ITL19597-GA-011 Rev B).

Highways Capacity

5.22 Section 7.6 of the submitted Transport Assessment summarised the operational analysis and indicates the access junction will operate within capacity with negligible queuing and delay.

5.23 Section 7.6 of the submitted Transport Assessment summarised the traffic modelling of the surrounding highway network, including the Birch Hotel Roundabout, and demonstrates that it will continue to operate within capacity with the development, with modelling showing low queues and delays in both base and future scenarios and no mitigation or upgrades are necessary to make the development acceptable.

Highways Contributions

5.24 The TRO process to seek extension of the 30mph limit east of the site access is desirable but not required for access acceptability; it will be progressed as a separate process, secured by S106, with delivery (if successful) via s278.

5.25 Additional off-site improvement since determination include: surfacing improvements to Public Footpath 29CU between Lewes Road and Cobbetts Mead to provide all-weather access, to be delivered by WSCC and funded by a £10,800 contribution from the Appellant.

5.26 The approved Framework Travel Plan will be secured through the Section 106 Agreement, including monitoring arrangements and agreed monitoring fee.

SECTION 6 MATTERS OF DISAGREEMENT

6.1 There are no matters of disagreement between WSCC and the Appellant.

SECTION 7 PLANNING CONDITIONS AND SECTION 106 OBLIGATIONS

7.1 Planning Conditions (agreed)

- Site access from Lewes Road: no development shall commence until the vehicular access and informal crossing point has been constructed in accordance with drawing ITL19597-GA-004 Rev H.
- Dropped kerbs and tactile paving: no dwelling shall be first occupied until the works shown on ITL19597 Figure 6.2 have been undertaken.
- Footway improvements on Snowdrop Lane: no dwelling shall be first occupied until the works shown on ITL19597-GA-021 Rev A have been undertaken.
- Footway improvements to lay-by on Lewes Road: no dwelling shall be first occupied until the works shown on ITL19597-GA-018 have been undertaken.
- Informal crossing across Lewes Road (east of Birch Close): no dwelling shall be first occupied until the works shown on ITB19597-GA-011 Rev B have been undertaken.
- Construction Management Plan: no development shall take place until a CMP has been submitted to and approved in writing by the LPA and thereafter implemented for the construction period.

7.2 Section 106 Obligations (agreed)

- Public Footpath 29CU surfacing: prior to commencement, the Appellant to pay a financial contribution of £10,800 for WSCC to deliver surface improvements between Lewes Road and Cobbetts Mead.
- Travel Plan: the Appellant to pay Travel Plan monitoring fee of £3,950 (excluding VAT) and annex the Framework Travel Plan (ITL19597-006A) to the Section 106 Agreement.
- Traffic Regulation Order (30mph extension): the Appellant to commence the TRO process (stated cost £10,205 as of 1 April 2025). If successful, the Appellant to design and deliver the TRO highway works under a s278 agreement to WSCC satisfaction covering all associated costs.

SECTION 8 CONCLUSIONS

8.1 In conclusion, the Transport Assessment, Framework Travel Plan and other transport submissions prepared by i-Transport are considered robust and acceptable to West Sussex County Council as the Local Highway Authority. WSCC is satisfied with regard to all highway and transport matters associated with the proposed development, and confirms it has no objection to the Appeal scheme subject to appropriate conditions and planning obligations to be secured in a Section 106 Agreement.

8.2 Subject to agreeing the necessary planning conditions and obligations (following the relevant tests in NPPF paragraphs 57 and 58) to ensure that the appropriate mitigation measures detailed in Section 3 of this Statement are secured and delivered, there are no outstanding matters of disagreement between the Appellant or WSCC on transport and highways matters.

8.3 All plans referenced in this SoCG are provided as Appendix A.

APPENDIX A

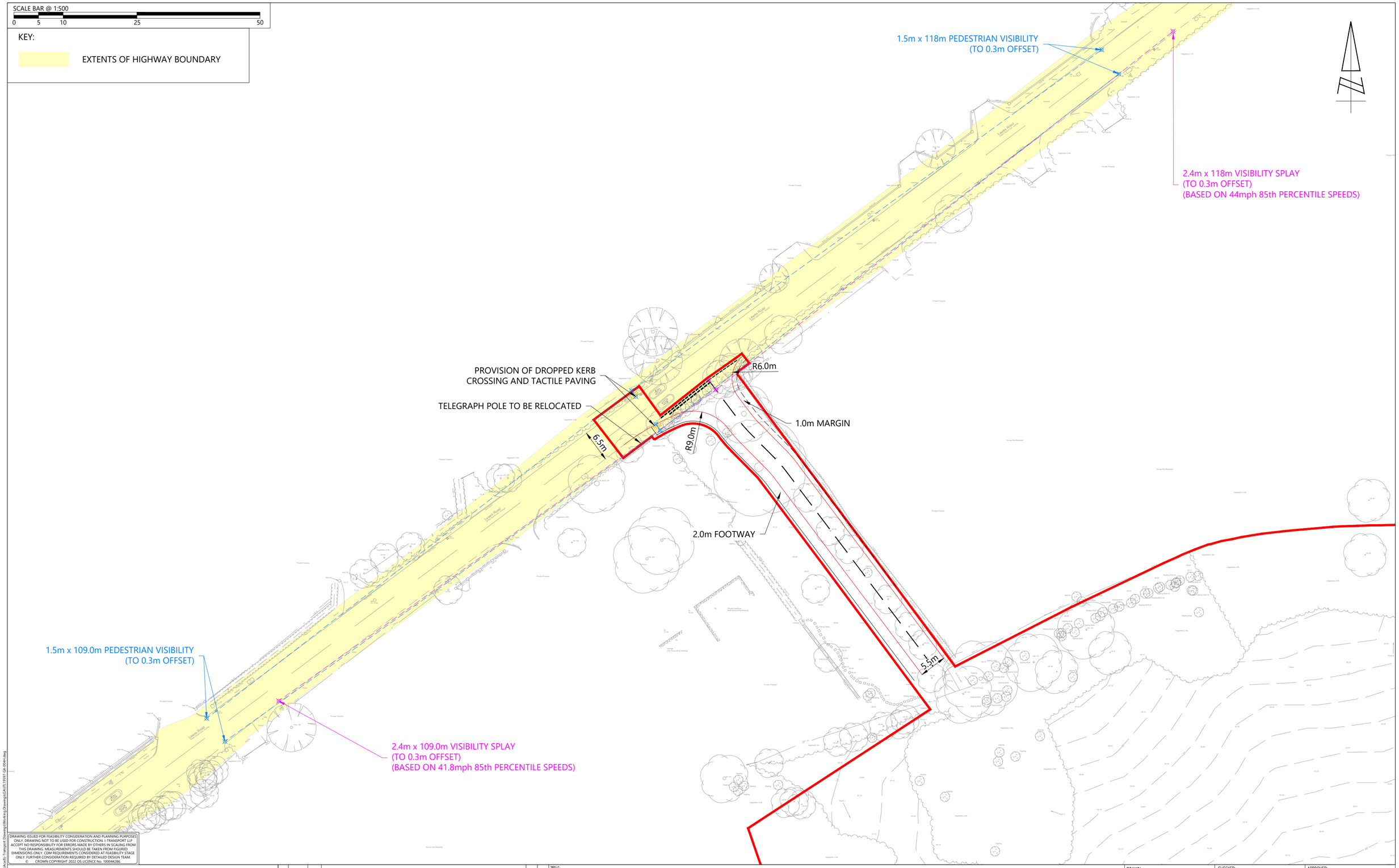
FIGURES AND PLANS

SCALE BAR @ 1:500

0 5 10 25 50

KEY:

EXTENTS OF HIGHWAY BOUNDARY



DRAWING ISSUED FOR FEASIBILITY CONSIDERATION AND PLANNING PURPOSES ONLY. DRAWING NOT TO BE USED FOR CONSTRUCTION. I-TRANSPORT LLP ACCEPT NO RESPONSIBILITY FOR ERRORS MADE BY OTHERS IN SCALING FROM THIS DRAWING. MEASUREMENTS SHOULD BE TAKEN FROM FIGURED DIMENSIONS ONLY. CDM REQUIREMENTS CONSIDERED AT FEASIBILITY STAGE ONLY. FURTHER CONSIDERATION REQUIRED BY DETAILED DESIGN TEAM.
© CROWN COPYRIGHT 2022 OS LICENCE No. 100044286.

i-Transport

33 Queen Street, London, EC4R 1AP Tel: 0204 531 3660

www.i-transport.co.uk

REV	DATE	BY	DESCRIPTION	CHK	APD
H	07.05.25	TA	VISIBILITY SPLAYS HAVE BEEN UPDATED	BC	MG
G	16.12.24	BC	REDLINE BOUNDARY UPDATED	BC	MG
F	12.12.24	BC	REDLINE BOUNDARY UPDATED	BC	MG
E	10.12.24	SH	SITE ACCESS UPDATED TO RSA COMMENT	BC	MG
D	27.11.24	JD	REDLINE BOUNDARY UPDATED	BC	MG
C	20.11.24	JD	SITE ACCESS UPDATED	BC	MG
B	11.07.24	MM	SITE ACCESS UPDATED	BC	MG

STATUS: FOR INFORMATION

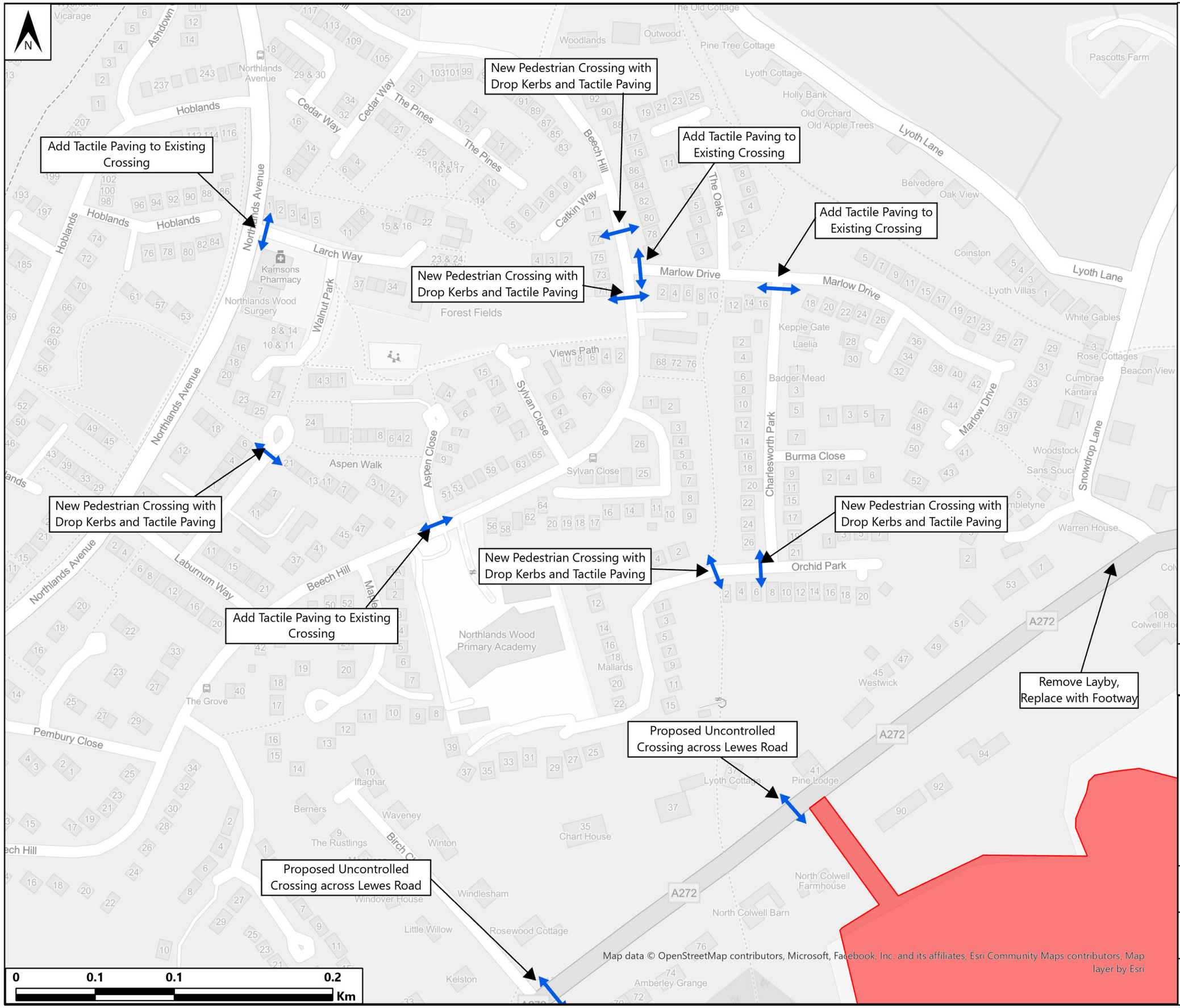
TITLE: PROPOSED SITE ACCESS ARRANGEMENT FROM LEWES ROAD (A272)

PROJECT: LAND AT NORTH COLWELL FARM, LEWES ROAD, HAYWARDS HEATH

CLIENT: MILLER HOMES

DRAWN:	CHECKED:	APPROVED:
SH	BC	VP
PROJECT No:	SCALE @ A2:	DATE:
ITL19597	1:500	24.01.24
DRAWING No:		REV:
ITL19597-GA-004		H

L:\PROJECTS\19000 SERIES\19597 - North Colwell Farm Fact Acuity - Transport Drawings\Working Drawings\GA\ITL19597-GA-004H.dwg



Key

Site Boundary

Pedestrian Crossing

Contains OS data © Crown copyright and database right 2022
Contains public sector information licensed under the Open Government Licence v3.0
© Crown copyright 2022 OS 100044286.

i-Transport

Basingstoke: 01256 898 366
Leeds: 0113 280 5805
London: 020 4531 3660
Manchester: 0161 830 2172
Solent: 0331 6300366

www.i-transport.co.uk

Title:
Potential Off-site Improvements

Project:
North Colwell Farm

Project Number:	Figure Number:	Revision:
ITL19597	**Figure 6.2**	**-**

NOTE:
PROPOSED FOOTWAY WORKS (S278)
SUBJECT TO TREE SURVEY ASSESSMENT AND
APPROPRIATE ARB METHOD STATEMENT

SNOWDROP LANE

PROPOSED SIGN NO. 544.1
PEDESTRIANS IN ROAD AHEAD

TP

PROPOSED 2m
DROPPED KERB

EXISTING 30/40mph SPEED LIMIT SIGNS
TO BE RELOCATED

PROPOSED SIGN NO. 544.1
PEDESTRIANS IN ROAD AHEAD

THE RUSHES

SNOWDROP LANE

Warren House

0.5m MARGIN

2.0m

PROPOSED 2m FOOTWAY

HAYWARDS HEATH ROAD

HAYWARDS HEATH ROAD

PROPOSED RELOCATED 30/40mph
SPEED LIMIT SIGNS

KEY:

- HIGHWAY BOUNDARY
- PROPOSED DROPPED KERB
- PROPOSED BACK OF FOOTWAY
- PROPOSED POST AND SIGN
- EXISTING POST AND SIGN

DRAWING ISSUED FOR FEASIBILITY CONSIDERATION AND PLANNING PURPOSES ONLY. DRAWING NOT TO BE USED FOR CONSTRUCTION. I-TRANSPORT LLP ACCEPT NO RESPONSIBILITY FOR ERRORS MADE BY OTHERS IN SCALING FROM THIS DRAWING. MEASUREMENTS SHOULD BE TAKEN FROM FIGURED DIMENSIONS ONLY. CDM REQUIREMENTS CONSIDERED AT FEASIBILITY STAGE ONLY. FURTHER CONSIDERATION REQUIRED BY DETAILED DESIGN TEAM.
© CROWN COPYRIGHT 2024 OS LICENCE No. AC0000813921.

SCALE BAR @ 1:500
0 5 10 25 50

i-Transport
33 Queen Street, London, EC4R 1AP
Tel: 0204 531 3660
www.i-transport.co.uk

REV	DATE	BY	DESCRIPTION	CHK	APD
A	02.06.25	TA	MINOR DRAWING UPDATES	BC	MG

STATUS: FOR INFORMATION

TITLE: PROPOSED FOOTWAY IMPROVEMENTS AT SNOWDROP LANE

PROJECT: LAND AT NORTH COLWELL FARM

CLIENT: MILLER HOMES

DRAWN:	CHECKED:	APPROVED:
TA	BC	MG
PROJECT No: ITL19597	SCALE @ A3: 1:500	DATE: 27.05.25
DRAWING No: ITL19597-GA-021		REV: A

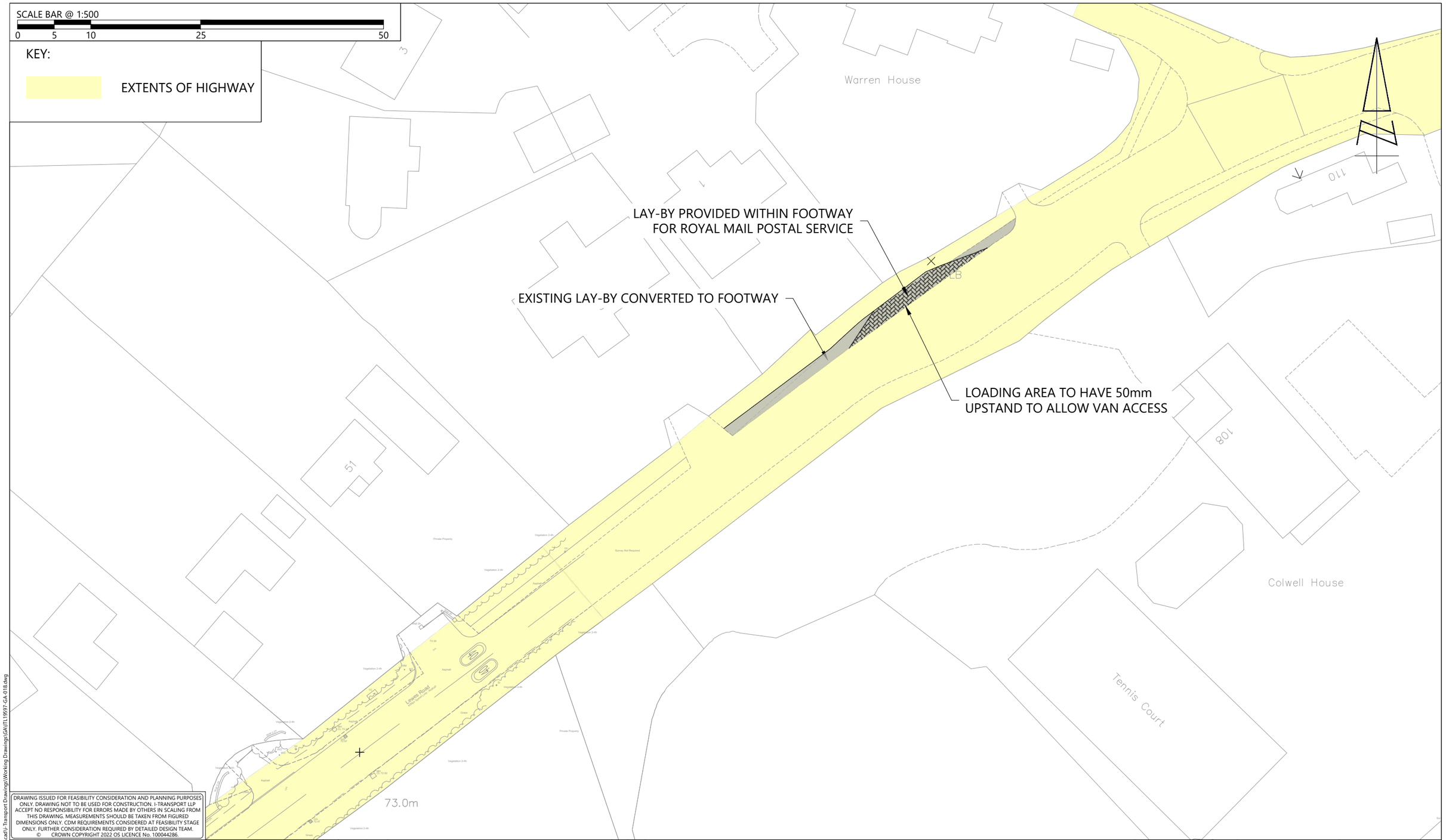
L:\PROJECTS\19000 SERIES\19597 - North Colwell Farm\Tech\Acad\i-Transport Drawings\Working Drawings\GA\ITL19597-GA-021A.dwg

SCALE BAR @ 1:500

0 5 10 25 50

KEY:

EXTENTS OF HIGHWAY



DRAWING ISSUED FOR FEASIBILITY CONSIDERATION AND PLANNING PURPOSES ONLY. DRAWING NOT TO BE USED FOR CONSTRUCTION. I-TRANSPORT LLP ACCEPT NO RESPONSIBILITY FOR ERRORS MADE BY OTHERS IN SCALING FROM THIS DRAWING. MEASUREMENTS SHOULD BE TAKEN FROM FIGURED DIMENSIONS ONLY. CDM REQUIREMENTS CONSIDERED AT FEASIBILITY STAGE ONLY. FURTHER CONSIDERATION REQUIRED BY DETAILED DESIGN TEAM.
© CROWN COPYRIGHT 2022 OS LICENCE No. 100044286.

i-Transport

The Square, Basing View,
Basingstoke, Hampshire, RG21 4EB

Tel: 01256 898366

www.i-transport.co.uk

REV	DATE	BY	DESCRIPTION	CHK	APD

STATUS: FOR INFORMATION

TITLE: POTENTIAL LEWES ROAD FOOTWAY IMPROVEMENTS AT EXISITNG LAY-BY

PROJECT: LAND AT NORTH COLWELL FARM, LEWES ROAD, HAYWARDS HEATH

CLIENT: MILLER HOMES

DRAWN:	CHECKED:	APPROVED:
SH	BC	BC
PROJECT No:	SCALE @ A3:	DATE:
ITL19597	1:500	17.03.25

DRAWING No: ITL19597-GA-018 REV: -

L:\PROJECTS\19000 SERIES\19597 - North Colwell Farm\Tech\Acad\i-Transport Drawings\Working Drawings\GA\ITL19597-GA-018.dwg

KEY:

HIGHWAY BOUNDARY

1.5m x 112m PEDESTRIAN VISIBILITY SPLAY (TO 0.3m OFFSET)

1.5m x 43m PEDESTRIAN VISIBILITY SPLAY (TO 0.3m OFFSET)

EXISTING FOOTWAY WIDENED TO 1.5m

1.5m x 43m PEDESTRIAN VISIBILITY SPLAY (TO 0.3m OFFSET)

PROPOSED UNCONTROLLED CROSSING WITH DROPPED KERBS AND TACTILE PAVING

1.5m x 88.0m PEDESTRIAN VISIBILITY SPLAY (TO 0.3m OFFSET)

TANGENT VISIBILITY SPLAY

1.5m x 178.0m PEDESTRIAN VISIBILITY SPLAY (TO 0.3m OFFSET)

North Colwell Farmhouse

North Colwell Barn

Rosewood

Kelston

LEWES ROAD

70.1m

i-Transport

The Square, Basing View,
Basingstoke, Hampshire, RG21 4EB

Tel: 01256 898366

www.i-transport.co.uk

SCALE BAR @ 1:500

0 5 10 25 50

DRAWING ISSUED FOR FEASIBILITY CONSIDERATION AND PLANNING PURPOSES ONLY. DRAWING NOT TO BE USED FOR CONSTRUCTION. I-TRANSPORT LLP ACCEPT NO RESPONSIBILITY FOR ERRORS MADE BY OTHERS IN SCALING FROM THIS DRAWING. MEASUREMENTS SHOULD BE TAKEN FROM FIGURED DIMENSIONS ONLY. DRAWING IS SUBJECT TO CHANGE AT DETAILED DESIGN STAGE ONLY. FURTHER CONSIDERATION REQUIRED BY DETAILED DESIGN TEAM.
© CROWN COPYRIGHT 2022 OS LICENCE No. 100044286.

REV	DATE	BY	DESCRIPTION	CHK	APP
A	12.05.25	TA	PEDESTRIAN VISIBILITY SPLAYS ADDED	BC	MG
A	29.08.24	MM	UNCONTROLLED CROSSING RELOCATED	BC	MG

STATUS: FOR INFORMATION

TITLE: PROPOSED UNCONTROLLED CROSSING ACROSS LEWES ROAD

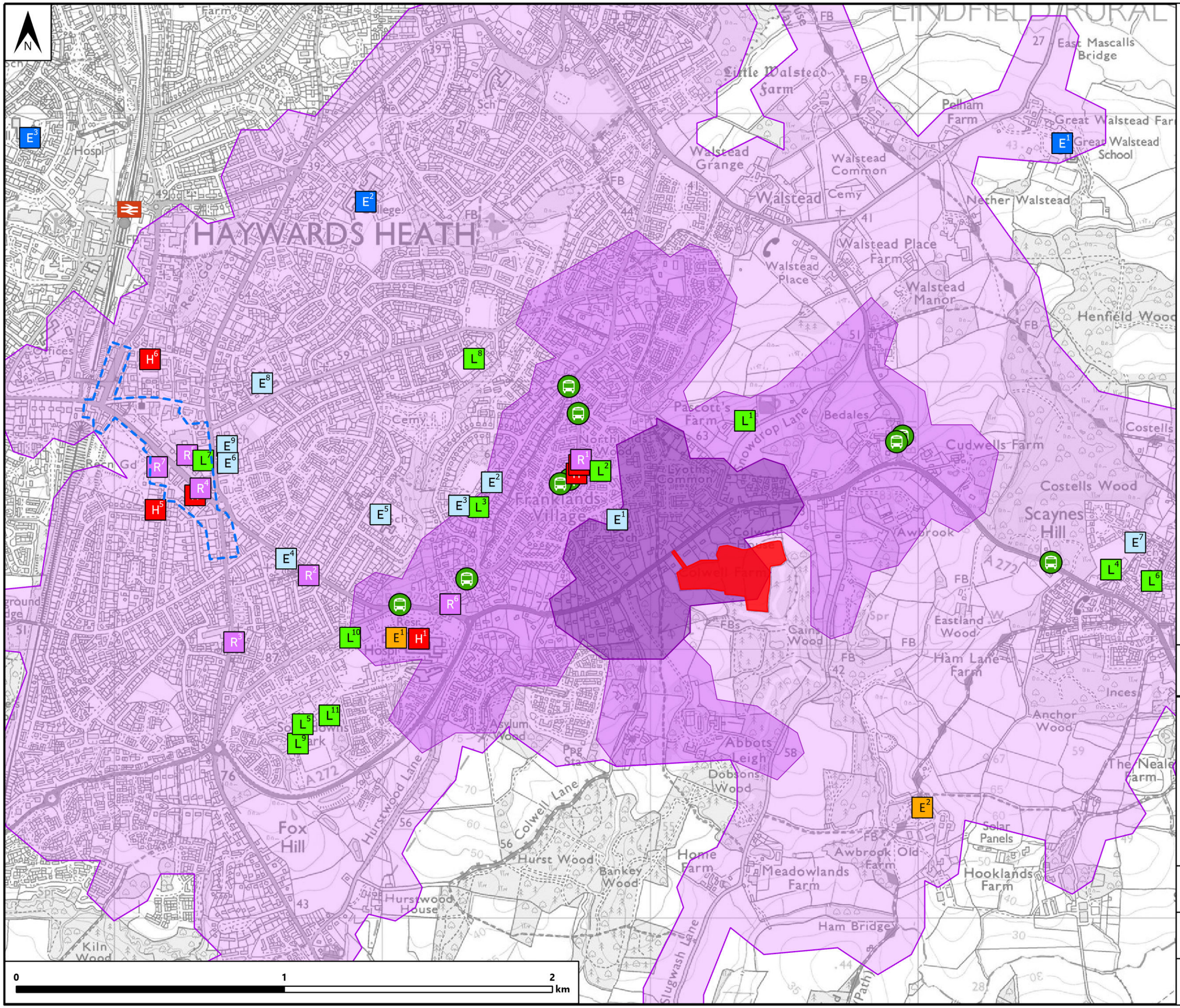
PROJECT: COLWELL FARM, LEWES ROAD, HAYWARDS HEATH

CLIENT: MILLER HOMES

DRAWN:	CHECKED:	APPROVED:
MM	BC	MG
PROJECT No:	SCALE @ A1:	DATE:
ITB19597	1:500	21.08.24

DRAWING No: ITB19597-GA-011 REV: B

I:\ITB\19597\D\ITB19597-GA-011 - Main Colwell Farm\Drawings\Planning\Working Drawings\ITB19597-GA-011.dwg



Key

- Site Boundary
- Bus Stop
- Town Centre
- Haywards Heath Train Station

Education

- E1 Northlands Wood Primary Academy
- E2 Snowdrop House Montessori Nursery
- E3 Treetops Day Nursery
- E4 Primrose House Montessori Nursery
- E5 St Wilfrid's CofE Primary School
- E6 St Paul's Pre School
- E7 St Augustine's CofE Primary School
- E8 Warden Park Primary Academy
- E9 St Joseph's Catholic Primary School
- E1 Great Walstead School
- E2 Oathall Community College
- E3 Haywards Heath College

Leisure

- L1 Snowdrop Inn Pub
- L2 Walnut Park and Forest Fields Play area
- L3 Haywards Heath Scout Hut
- L4 Scaynes Hill Recreation Ground
- L5 St Francis Swimming Pool
- L6 St Augustine's Church
- L7 Swich Gym
- L8 Hanbury Stadium
- L9 St Francis Rangers Football Club
- L10 St Francis Social and Sports Club
- L11 St Francis Bowls Club

Retail

- R1 Tesco Express
- R2 The Co-op
- R3 Sainsburys Local
- R4 Parade of Shops on South Road and St. Josephs Way
- R5 Marks and Spencer
- R6 Shell Petrol Garage
- R7 Iceland

Health

- H1 Princess Royal Hospital and Emergency Room
- H2 Northlands Wood Practice
- H3 Kamsons Pharmacy
- H4 Boots
- H5 S3 Dental
- H6 Newton Heath Centre

Employment

- E1 Princess Royal Hospital
- E2 Ham Lane Businesses

Walking Isochrones

- 0.8 km
- 1.6 km
- 3.2 km

Contains OS data © Crown copyright and database right 2022
Contains public sector information licensed under the Open Government Licence v3.0
© Crown copyright 2022 OS 100044286.

i-Transport

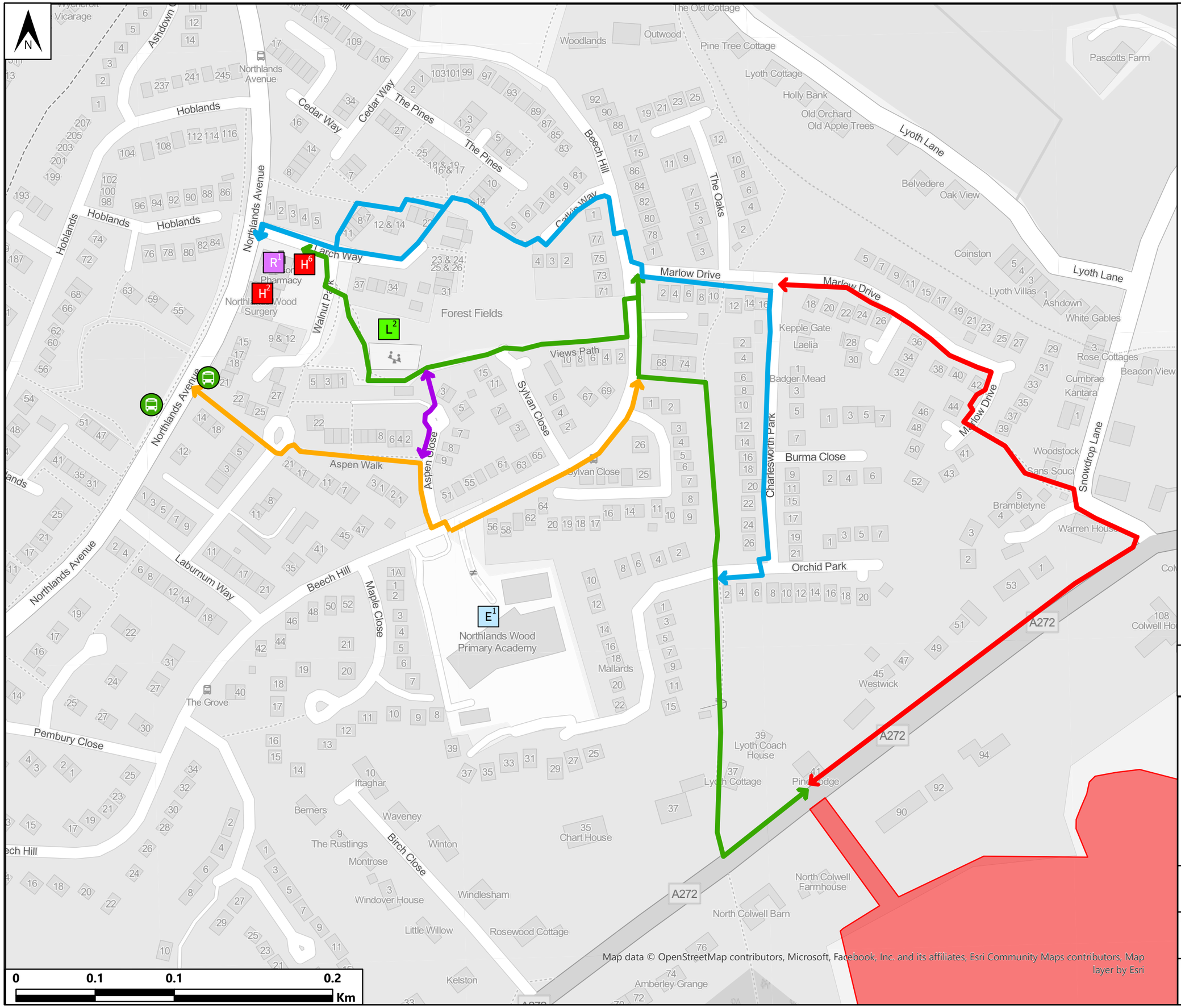
Basingstoke: 01256 898 366
Leeds: 0113 280 5805
London: 020 4531 3660
Manchester: 0161 830 2172
Solent: 0331 6300366

www.i-transport.co.uk

Title:
Local Facilities Plan

Project:
North Colwell Farm

Project Number:	Figure Number:	Revision:
ITL19597	**Figure 6.1**	**-**



Contains OS data © Crown copyright and database right 2022
Contains public sector information licensed under the Open Government Licence v3.0
© Crown copyright 2022 OS 100044286.

i-Transport

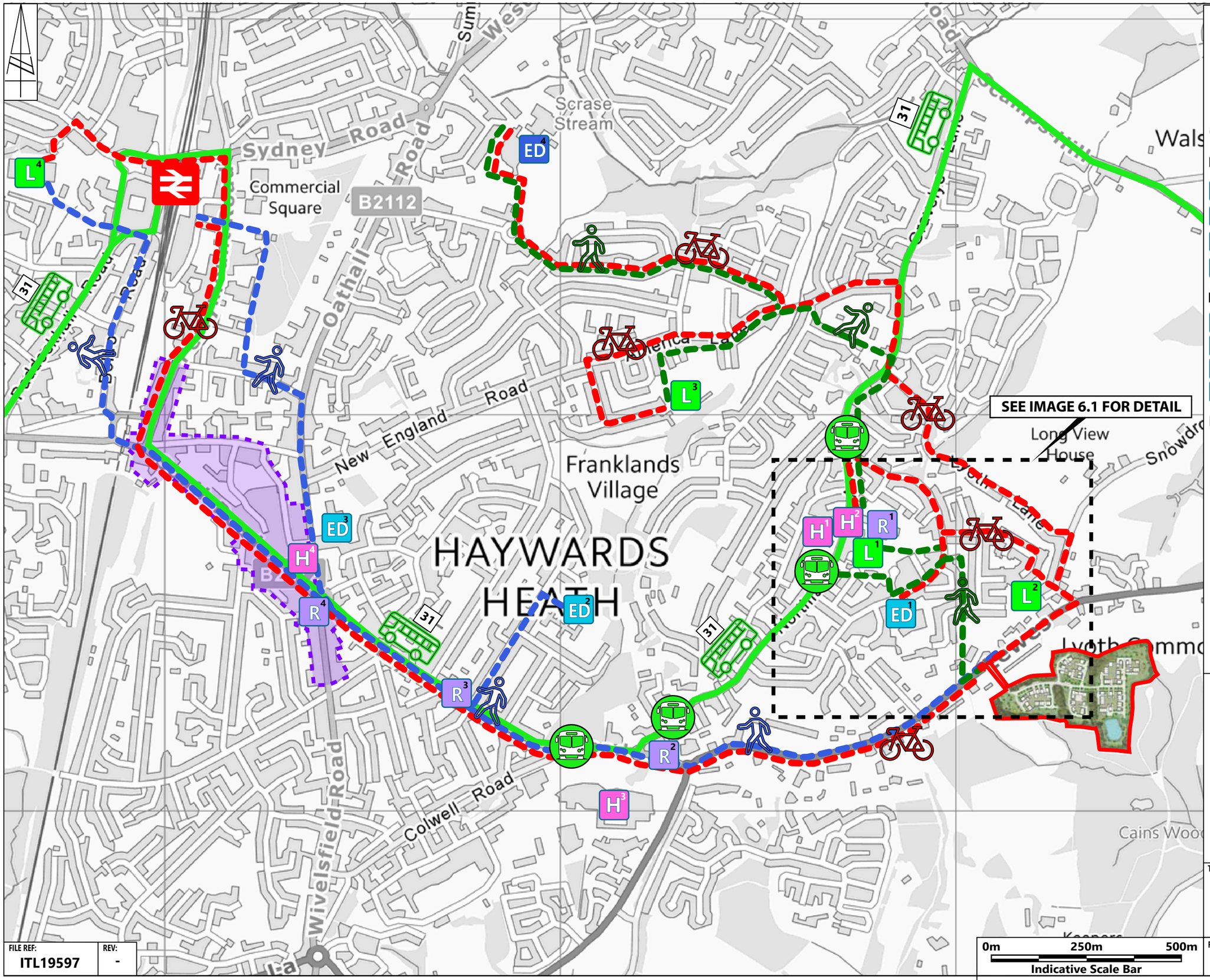
Basingstoke: 01256 898 366
Leeds: 0113 280 5805
London: 020 4531 3660
Manchester: 0161 830 2172
Solent: 0331 6300366

www.i-transport.co.uk

Title:
Routes to Walnut Park Area

Project:
North Colwell Farm

Project Number:	Figure Number:	Revision:
ITL19597	**Image 6.1**	**-**



KEY

- Site Boundary
- Haywards Heath Railway Station
- Town Centre Boundary
- Bus Stop

EDUCATION

- ED1 Northlands Wood Primary Academy
- ED2 St Wilfrid's CofE Primary School
- ED3 St Joseph's Catholic Primary School
- ED4 Oathall Community College (secondary)

LEISURE

- L1 Walnut Park and Forest Fields Play Area
- L2 Post box
- L3 Haywards Heath FC
- L4 Dolphin Leisure Centre

RETAIL

- R1 Tesco Express
- R2 Shell Petrol Garage Shop
- R3 The Co-op
- R4 Boundary of Haywards Heath Town Centre

HEALTHCARE

- H1 Kamsons Pharmacy
- H2 Northlands Wood Practice (GP)
- H3 Princess Royal Hospital and Emergency Room
- H4 Dentalessence Dental Surgery

i-Transport

33 Queen Street, London
EC4R 1AP
Tel: 020 3705 9215

www.i-transport.co.uk

TITLE:

LAND AT NORTH COLWELL FARM, HAYWARDS HEATH ACCESSIBILITY PLAN

FILE REF: ITL19597

REV: -

0m 250m 500m

Indicative Scale Bar

FIGURE No:

FIGURE SOCG 1

Reproduced from ordnance survey by the permission of the controller of her majestys stationery office. Crown copyright. All rights reserved. Licence number 100022432

Appendix 3 MSDC Closing Statement (13-08-26)

LAND AT COLWELL FARM

LEWES ROAD, HAYWARDS HEATH

WEST SUSSEX RH17 7TB

PLANNING INSPECTORATE REF: 6005786

CLOSING STATEMENT FOR MID-SUSSEX DISTRICT COUNCIL

Introduction

1. Although the Council has not been an active participant in most of this Inquiry, we have listened carefully to the arguments advanced. Despite the matters raised by the Rule 6 Party, there is nothing we have heard which justifies any change in our position from that which we outlined in opening.

2. The Council leaves it to the Appellant and the Rule 6 Party to make detailed submissions on the main issues. However:

    a. Although it is not for this Inquiry to prejudge the outcome of the Local Plan Examination, there are matters which need to be considered and understood in the light of the emerging District Plan.

    b. There are a number of areas where the Appellant and Rule 6 Party have advanced different arguments on the interpretation of policy, and where the Council's position is not squarely aligned with either side. It is not in the interests of any party that the decision on this appeal ends up being challenged in Court. We therefore set out the Council's approach to those matters, in the hope that it may assist.

Main Issue 1: Whether the proposal would comply with the development strategy for housing with regard to access to services and facilities.

3. Sustainability, and the extent to which occupiers of the proposed new dwellings would be reliant on the motor car was one of the members' concerns when refusing permission. To that extent, the Council understands why the Rule 6 Party persists with its arguments under this heading. However, these arguments have to be seen in the context of the scale of the need which Mid Sussex is now being asked to meet, and the nature of the District as a whole.

4. In particular, much of Mr Russell's argument (on behalf of the Rule 6 Party) relies on the DfT Connectivity Tool, which provides a scoring system for determining how well locations are connected to services and facilities by non-car modes of transport, and allows conclusions to be drawn about the relative sustainability of different sites across the country as a whole. That is all very well, as far as it goes, but the difficulty with applying it in Mid-Sussex is that - as the District Plan points out[1] - Mid Sussex is a rural district, within which there are only three towns large enough to qualify as Category 1 settlements and where even the most sustainable locations in the District compare poorly with sites in major cities.

5. In these circumstances, it is necessary to step back from comparisons on a national scale, and consider how the Appeal Site compares with what might reasonably be expected of any new site proposed for development in Mid Sussex. In that context, the Appeal Site sits on the edge of Haywards Heath, which is one of the three Category 1 settlements, which are defined in the District Plan[2] as having "a comprehensive range of employment, retail, health, education leisure services and facilities" which "will also benefit from good public transport provision" and "will act as a main service centre for the smaller settlements". While Mr Greaves is obviously correct in his comment that this does not mean every site on the edge of a Category 1 settlement is sustainable, Policy DP6(3) explicitly references the settlement hierarchy as a relevant factor in demonstrating sustainability, and as a general proposition it is obvious that sites on the edge of a Category 1 settlement are more likely to have access to a range of facilities

[1] CD para2.1
[2] Policy DP6, CD5.3 p. 36

than sites on the edge of lower tier settlements. Further, to the extent that it is necessary to drive to the "main service centre", those journeys are likely to be shorter from sites on the edge of a Category 1 settlement than from physically separate settlements which are further afield.

6. Against that backdrop, wedraw attention to the fact t hat, of the 35 sites recently proposed for allocation in the emerging District Plan, 26 are on the edge of settlements in Categories 2 and 3.[3] Although some of those might have particular characteristics which make them more sustainable than the Appeal Site, most of them will not. If the Appeal Site is regarded as unsustainable, it is highly unlikely the Council will be able to meet Inspector Bore's request.

Main Issue 2: The Effect of the Proposal on the Countryside/General Character of the Area

7. Policy DP12 of the District Plan seeks to protect the countryside "in recognition of its intrinsic character and beauty" by limiting the circumstances in which development will be permitted beyond the built-up area boundary.

8. It is common ground that Policy DP12 is breached, and that there would be adverse effects on the character of the countryside in the immediate vicinity of the Appeal Site. However:

    a. Development of any greenfield site beyond the settlement boundary will inevitably have an adverse impact on the character of that site;

    b. The Council is currently unable to meet housing need within its area without sites which are beyond the built-up area boundary. This is reflected in the fact that nearly all of the allocations in the emerging District Plan involve development in what is currently considered to be countryside;

[3] 10 in Category 2; 16 in Category 3: see Table 1 of ID14

c. There is nothing unusual or special about the Appeal Site which would raise the level of landscape harm above that which the Council must necessarily accept if it is to satisfy Inspector Bore's request to identify an additional 4000 homes. Indeed, in order to meet that request, it will be necessary to identify sites which are considerably more sensitive.

9. In the circumstances, although there will be some adverse impact, this is not a reason for refusal.

Main Issue 3: Loss of Trees/Ancient Woodland

10. Although the Decision Notice refers to the loss of trees, the Council's primary concern here related to the loss of the trees at the proposed entrance to the Appeal Site and the consequent impact on the character and appearance of the area and the Conservation Area.[4] It has never been part of the Council's case that the Appeal Site contains ancient woodland: that has only ever been a concern raised by the Rule 6 Party.

11. Ordinarily, we would say no more about this issue than that. However, in this case there has been lengthy and heated debate between the Appellant and the Rule 6 Party about:

    a. The definition of ancient woodland;

    b. The level of certainty required and the application of the precautionary principle;

    c. The evidential basis and process deciding whether something is ancient woodland.

12. All of these questions raise matters which are, or give rise to, points of law. They also have a bearing on arguments which the Rule 6 Party has raised about the reliance which should be placed on the Appeal Site's inclusion on the long list and in the Main Modifications which have been proposed to the emerging District Plan. In the Council's

[4] CD10.1 paras 7.2.4, 7.26, 7.36-7.45

view, there is a straightforward (and more legally robust) answer to all of these points, which sits mid-way between some of the more extreme propositions advanced by both the Appellant or the Rule 6 Party. In our view, the correct approach is as follows:

a. In order to find conflict with para 193 of the NPPF, there needs to be a clear and positive conclusion that there is ancient woodland on the Appeal Site.

b. That decision is to be made on the basis of the normal civil standard of the balance of probabilities.[5] References in the NE Handbook to cases where the issue is finely balanced should be read in that context.

c. The definition which should be applied is that set out in the NPPF glossary, but that definition needs to be read:

    i. in its entirety, rather than by cherry-picking individual sentences. In particular, when the NPPF says ancient woodland is "an area that has been wooded continuously since at least 1600 AD" that must be read alongside the specific inclusion of "plantations on ancient woodland sites (PAWS)". The concept of PAWS necessarily presupposes the clearance of existing trees and their replacement by a new "plantation", which may even be of a different species or mix of species;

    ii. alongside the Government Guidance on Ancient Woodland[6] which states that "'Wooded continuously' does not mean there's been continuous tree cover across the whole site" and that "Open ground, both temporary and permanent, is an important component of ancient woodlands".

    In this context, any suggestion that "continuously wooded" means there must at all times have been trees (or mature trees) on the Appeal Site is clearly wrong.

d. However, the specific inclusion of PAWS in the definition of ancient woodland is not a justification for extending ancient woodland to include hedges which

[5] CD21.2 para 6.1.1
[6] CD21.1

delineate agricultural fields. As Mr Forbes-Laird observed, the notion of "woodland" is as much about the dominant land-use as it is about the presence or absence of trees at any particular point in time. In that context, "plantation" should be given its normal meaning, which relates to a woodland or forestry-based use. An orchard will contain trees which have been planted, but that does not make it a plantation or a woodland, even if there were once oaks growing on the same site.[7] Similarly, a hedge may exist on the site of what was once ancient woodland, but that does not make it a "plantation". Indeed, the NE Handbook specifically advises that a "narrow or simple hedge shown on Epoch 1 that has expanded …should not be assessed as woodland".[8]

e. As to the approach to be applied when determining what is (and what is not) ancient woodland, the NE Handbook[9] specifically states that it is not intended to be prescriptive and is "not a guide to best practice on how to research individual woods or groups of woods". In those circumstances, Mr Forbes-Laird's view that the Handbook should be regarded as "determinative" clearly goes too far. However, this does not mean that the Handbook is irrelevant when dealing with individual sites: both Mr Carpenter and Mr Forbes-Laird have relied on it, and they are obviously right to do so. Leaving aside the fact that there is no other guidance directed at how decisions on individual sites should be made, there is no obvious reason why the principles set out in the Handbook (including that concerning the importance of cartographic evidence) would be any less correct or applicable on a site-specific analysis.

13. Applying this to the Appeal Site, the Council simply notes that:

a. The concerns raised by the Rule 6 Party are limited to the hedgerows which run approximately north-south through the site, and what has been referred to as "the shaw";

[7] CD21.2 para 3.3.3.6
[8] CD1.2 para 3.3.8
[9] CD1.2 paras 1.3

b. Of these, it is only the hedgerows which would necessarily be affected by the Appeal Scheme, because some removal would be essential in order to access the site. Even if (which the Council does not agree) the shaw is "ancient woodland", it could be excluded from the developable area of the site at the reserved matters stage;

c. The OS maps from 1874[10], 1896[11] and 1938 depict the hedgerows with a single line, which is consistent with the conclusion that these were then hedgerows rather than woodland. This is also what can be seen from the aerial photographs.

d. On this basis, the Council does not consider that there would be any loss of or harm to ancient woodland such as to prevent the grant of planning permission, or preclude the allocation of the Appeal Site in the emerging District Plan.

Main Issues 4 and 5: Heritage

14. Although it formed part of the Council's initial reasons for refusal, in the light of the additional need identified by Inspector Bore, the Council accepts that the less-than-substantial harm which it had previously identified to the Conservation Area, Colwell House and North Colwell Barn is now outweighed by the benefits of the Appeal Scheme for the purposes of paras 215 and 216 of the NPPF. Accordingly, it no longer contends that harm to heritage assets provides a clear reason for refusal for the purposes of para 11(d)(i) of the NPPF. However, given the statutory duties under the 1990 Act, this is a matter the Inspector will need to address. We make the following observations to guide that analysis.

15. First, there remains a difference between the Council and the Appellant as to:

a. whether the Appeal Site is within the setting of Colwell House and (if it is) the magnitude of the impact on the House;

[10] CD9.3a p. 13
[11] CD9.3a p. 14

b. the magnitude of the less-than-substantial impact on the Lewes Road Conservation Area and the non-designated North Colwell Barn.

16. Second, in opening,[12] Mr Corbett-Burcher referred to Mr Smith's explanation that the Appeal Site does not form part of the setting of Colwell House and asserted that there was "no other evidence to the contrary by any other Party at the inquiry". That is not strictly correct, and it would be wrong as a matter of law to proceed on that basis. Although the Council has not called a conservation witness, the consultation response from the Council's Conservation Officer is before the Inquiry[13]. We readily accept that the weight given to this may be reduced on the grounds that the author has not been called or been cross-examined upon it, but it is still "evidence". In this regard, the position of the Conservation Officer is no different to that of various other statutory consultees to whose consultation responses the Appellant expressly says weight should be given, even though the authors have not been called as witnesses. There cannot be one rule for consultation responses which favour the Appellant, and another for those which do not.

17. Third, the reason why Mr Smith (on behalf of the Appellant) argues that the Appeal Site does not form part of the setting of Colwell House is because there is only "some minimal perception of a white stuccoed building from limited northern parts of the Site's central field; it is fleetingly glimpsed in winter months and there is no legibility of the asset's significance".[14] Had heritage still been a reason for refusal, the Counicl would have cross-examined Mr Smith on whether that analysis did not conflate two separate issues, namely (i) whether the Appeal Site was within the setting of Colwell House, and (ii) whether (if it was) the views of and from the House contributed to the appreciation of its significance. As to the former, the conventional approach to setting[15] is that "setting is the surroundings in which an asset is experienced". If – as Mr Smith recognises – there are views of Colwell House from the Appeal Site, that would suggest that there is at least some "experience" of the heritage asset, and that the Appeal Site is therefore within its setting. Whether or not those views enable any understanding of

[12] Para 5.2
[13] CD4.35
[14] CD9.5 para 7.3
[15] See NPPF Glossary, as set expanded on in CD18.4, Historic England's Good Practice Advice on the Setting of Heritage Assets p.2

the significance of Colwell House is an entirely separate matter, which the Inspector will have been able to judge for himself on site.

18. We stress that we do not suggest that any of these points affects the final outcome: ultimately, even on the Council's case, the harm is less than substantial, the relevant test is that in para 215 of the NPPF and there is a compelling need for housing in the District. However, we arrive at the conclusion that heritage is not a reason for refusal by a different route to Messrs Smith and Billington, and the route by which conclusions are arrived at can be important if a decision is to be legally robust.

Main Issue 6: Ecology and BNG

19. It has never been part of the Council's case that permission should be refused for either of these reasons. Nothing we have heard in the course of this Inquiry has led us to conclude that such issues as might arise cannot be dealt with by condition or through the s.106 obligation.

Overall Planning Balance

20. Drawing the above together, the starting point (as prescribed by s. 38(6)), is the development plan.

21. On this issue, - and although we get there by slightly different routes - all parties agree that the appeal scheme does <u>not</u> accord with the development plan when read as a whole. That conclusion is self-evidently correct, simply on the basis that there is conflict with Policies DP6 and 12 because the appeal site is beyond the built up area boundary. These are strategic policies and – even if there were no other conflict – that would be enough of itself to give rise to conflict with the District Plan as a whole.

22. However, that is not and cannot be determinative, because s. 38(6) requires the decision-maker to ask whether there are material considerations which would justify the grant of permission, notwithstanding the conflict with the development plan.

23. In this regard, the principal "other material consideration" relied on by the Appellant is the fact that MSDC cannot demonstrate a 5YHLS, with the result that para 11(d) of the NPPF is engaged. That paragraph directs that, in circumstances where the policies of development plan which are most important for determining the application are out of date[16], planning permission should be granted unless one or other of paras 11(d)(i) or (ii) is satisfied. Of these:

    a. Para (i) relates to fn 7 designations. In this case, the Council accepts that the need for housing outweighs the harm to designated heritage assets, so the only fn7 designation still in issue is ancient woodland. For the reasons we have outlined, no part of the site itself is ancient woodland, and therefore para (i) does not apply.

    b. As regards para (ii), the Council's position at the date of its original decision was that the harms identified in the reason for refusal did clearly and demonstrably outweigh the benefits. However, a key element of that reasoning was the belief that what was then the emerging Local Plan would very soon address the shortfall in 5YHLS without any need for the Appeal Site. That is no longer the case: Inspector Bore has set the Council the task of identifying sites for around 4000 more homes than the Reg 19 Draft of the new District Plan provided for, and the Appeal Site is among those which the Council is now proposing to bring forward to address that request. In so doing, the Council has necessarily accepted that the need for the Appeal Site outweighs any harm which its development might cause.

24. Through Mr Greaves, the Rule 6 Party has argued that the Appeal Site could be removed from the long list without affecting the Council's ability to deliver the additional housing (and still provide a buffer). As a matter of pure mathematics, that is correct, but it is an argument that could be made with equal force of any of the smaller sites on the long list. As Mr Billington pointed out, there are a number of other sites on the long list which are in close proximity to the Appeal Site which are comparable in terms of their sustainability credentials. In addition, as the Council pointed out in opening, of the 35 sites on the list, 9 are in the High Weald National Landscape, and on 3 of those

[16] Which requirement is by definition satisfied if there is a shortfall in the 5YHLS: see fn 8

the scale of development proposed amounts to "major" development which para 190 of the NPPF indicates should normally only be permitted in "exceptional circumstances". In contrast, Colwell Farm is not within an area which has been designated (at either national or local level) for its landscape value, nor is it considered to be a "valued" landscape for the purposes of para 187 of the NPPF. It is also a site which is "oven ready" and can be brought forward quickly, which is particularly important.

25. It is not the place of the Inquiry to engage in any kind of beauty contest as to which (if any sites) should be allocated in the emerging District Plan. However, even if the long list is slightly longer than it needs to be, the Council is of the clear view that there are a number of sites which would have a better claim to removal than the Appeal Site.

26. This brings us to the overall planning balance. In that analysis:

    a. The main conflict with the development plan lies in the breach of Policies DP6 and 12. The Council's position as to the weight to be given to the breach of Policies DP6 and 12 is set out in the Officer's Report:[17] because Council is unable to meet housing needs without breaching the built-up-area boundary, the breach of Policy DP6 attracts limited weight. In so far as Policy DP12 seeks to protect the intrinsic character and beauty of the countryside, it is not inconsistent with the NPPF and should be afforded moderate weight, but the landscape impact in this case is contained and localised.

    b. Against this, the "output" of applying para 11 is an extremely weighty "other material consideration". The contribution the Appeal Scheme would make to the provision of housing and affordable housing are matters to which substantial weight should be given.

    c. Although, at the time of its decision to refuse permission, the Council was of the view that its emerging plan would soon provide the District with a 5YHLS without the need to release the Appeal Site, that situation has changed. Without the addition of sites like the Appeal Site, the emerging District Plan will not be found sound, over five years' work will have been wasted, Mid Sussex will be

[17] CD3.3 paras 2.8-2.9

left without an up-to-date development plan and will be dependent in speculative applications to maintain its 5YHLS. That is inconsistent with the plan-led system, and is not a situation the Council can contemplate.

d. Although the Rule 6 Party argues that it would be better for the Appeal Site to come forward as an allocation, at this point in the process that is essentially an argument based on prematurity, in circumstances where – as we observed in opening – the Appeal Scheme is simply not big enough to justify refusal on that ground. Having agreed that the Appeal Site should come forward for development, the Council can see no good reason in delaying that outcome.

27. For all these reasons, the Council accepts that it is now appropriate for planning permission to be granted.

PAUL BROWN K.C.

13 August 2026

Landmark Chambers
180 Fleet Street
London

Appendix 4 Appellant Closing Statement (13-08-2026) (Transport and Ancient Woodland excerpts only)

5) TRANSPORT

Whether the proposal would comply with the development strategy for housing with regard to access to services and facilities

5.1. The sustainable location of the Site has been explained in the Transport Assessment,[73] as further confirmed in Mr Marshall's Proof of Evidence[74] and Rebuttal Proof.[75]

5.2. The sustainable nature of the Site has also been confirmed by West Sussex County Council (as the Local Highways Authority) and by Mid Sussex District Council (as LPA) on at least six occasions:

(1) First, West Sussex County Council, as Local Highways Authority confirmed their support for the proposal in their consultation responses (as concluded on 18 August 2025);[76]

(2) Second, the Case Officer's Report to Committee (10 September 2025) then confirmed compliance at [13.21] with Policy DP21 (and no conflict with NPPF);[77]

(3) The Council's Policy team then confirmed in their Site Selection documents (dated May 2026), the locational sustainability of the Site, most notably by reference to the Primary School, Health and Retail.[78]

(4) The Council's further Sustainability Assessment Main Modifications Report (SAM) (July 2026) further confirmed locational sustainability in respect of access to the GP surgery, primary school, community facility, local facilities and retail provision;[79]

[73] CD1.19, pp25-31 Section 6; Opportunities to Promote Sustainable Transport Modes
[74] CD9.2
[75] CD9.12
[76] CD4.26
[77] CD3.3, p66, [13.21] and see also summary p5, [2.24]
[78] CD7.4a, p263
[79] ID13, pp81-82 – as summarised in the Appellant's Note: ID24, pp4-5 2.1.14-17

(5) The LHA again confirmed via the Transport Statement of Common Ground (dated 1 June 2026) that: "*5.2 The site is in a location with good access to local amenities with a good network of paths and footways to help pedestrians navigate their way to amenities within a 10-minute walk.*" (see also [5.3]-[5.9] with [5.8] confirming "*Pedestrian connectivity via Public Right of Way Footpath 29CU is confirmed suitable for year-round use.*"[80]

(6) Finally, the Council in its Master SoCG Addendum (16 June 2026), confirmed: "*3.12 It is agreed that the proposed development is in an appropriate location in terms of transport and accessibility.*"[81]

5.3. West Sussex County Council's position on all transport and locational sustainability matters should be accorded great weight or considerable weight as the statutory consultee. It would require compelling reasons for any departure from their view (in line with very well-established authority in this field). That position is especially strong in this case, given the LHA's extensive involvement from pre-application stage onwards,[82] including no less than three consultation responses,[83] culminating in the detailed SOCG.[84]

The Policy Framework: NPPF 110 and 115 and Policy DP21

5.4. Mr Marshall has explained extensively through his Proof and Rebuttal how NPPF 110's test of "genuine choice" of transport modes, must both applied using the express wording and also in the context of the final sentence of that paragraph:

> *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. 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.*

[80] CD8.5, p6, [5.2]
[81] CD8.2, p5
[82] CD14.5
[83] CD4.21 to 4.26
[84] CD8.5

> *115. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*
>
> *a) sustainable transport modes are prioritised* ***taking account of the vision for the site, the type of development and its location****;*
>
> *b) safe and suitable access to the site can be achieved for all users;*

5.5. It is not a requirement of NPPF 110, nor of NPPF 115(a) and (b), that all sustainable transport modes must be provided. Appropriate access by just one mode, notably walking, is entirely sufficient to make that a genuine choice, using the exact NPPF wording.

5.6. The Rule 6 Party's attempt to re-define "genuine" as "attractive" with the yet further addition of "for the majority of users"[85] is an attempt to read additional wording into the text that is not there. The text does not contain that term or require any specific level of modal shift. National policy is not written in such a prescriptive way in this respect.

5.7. Local Plan Policy DP21 merges various parts of the national policy tests but effectively provides for a similar pair of tests:

> *To meet these objectives, 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 up;*

5.8. The first limb recognises that sustainability will vary by location. The second limb recognises that the requirement is merely to explore and take up appropriate opportunities. All of this entails a broader judgement and is not fixed by the question of what is "attractive" to any kind of "majority". In any

[85] Russell XC and XX (Day 1)

event, as we shall see, when one examines Mr Russell's position on the quality of the walking route (via Footpath HAH-29CU), the Site is sustainably located even on his own interpretation of the test.

Services and Facilities

5.9. Mr Marshall and Mr Russell agree on the quality and range of services and facilities that can be reached from the Appeal Site, with the central dispute concerning (a) distance and (b) the nature of the route taken.

5.10. As a Category 1 settlement, Haywards Heath has an excellent range of services in walkable or cyclable distance, notably at the Walnut Park area.[86] Within the Walnut Park area, there is a Primary School, a Tesco Convenience Store, a GP and a Pharmacy, which can meet the day-to-day needs of most residents of the homes on the Appeal Site. There are also leisure facilities and two bus stops. Mr Russell agreed that this was a "very good" range of services, and indeed (absent the public transport element) would meet NPPF 110's requirements.[87]

5.11. The Appellant's position is that these services are walkable such that residents of the Appeal Site can (a) educate their children at the primary school; (b) buy daily provisions at the Tesco; (c) visit the GP; (d) collect prescriptions/medication; and (e) socialise and congregate at the leisure facilities. This level, type and quality of the services is both excellent in its own right and entirely commensurate with the Appeal Development's size.

5.12. Within 15 minutes' walk from the Site is the Princess Royal Hospital, a major local employer, and a bus stop with over ten services per hour to a very wide range of destinations.[88]

5.13. Haywards Heath Town Centre is within 2km (23 minutes walk) from the site access and only just over 2km from the midpoint.[89] It has a vast range of services

[86] CD8.5, p19: Figure 6.1
[87] Russell XX (Day 1)
[88] CD1.19, p29, Table 6.1
[89] ID2, p7, Table 1

that will have been observed and listed by Mr Marshall, including abundant retail and other destination facilities There is clearly a range of destinations to make the walking trip worthwhile: Clarks, Card Factory, Holland & Barratt, Marks & Spencer, Next, Robert Dyas, and Superdrug.[90] The town centre also includes various retail, personal business, and leisure offerings, including banks, a range of chain and independent restaurants and cafes. In addition to the walkable distance of Haywards Heath Town centre, the Railway Station is within cyclable distance, providing regular rail services to Brighton and London. All of this represents an excellent range of services and facilities for the purposes of NPPF 110 and 115 and for the purposes of DP21.

Walking Distances

5.14. Faced with this sheer range of facilities, the Rule 6 Party have attempted to argue that either (1) residents would not walk the distances on the basis that they are "excessive"; or (2) they would not use Footpath HAH-29CU at "dawn, twilight and night" and would therefore have to walk the longer distance via Snowdrop Lane. It is important to note in that latter respect, just how narrow their position on NPPF 115(b) safety is.

5.15. We shall address the first question of overall distance and then turn to the specifics of Footpath HAH-29CU.

5.16. Mr Marshall's evidence is that all distances to the Walnut Park area will be within 800m if measured from the site access and either within or just above 1000m if measured from the site mid-point.[91]

5.17. The CIHT guidance Table 3.2 "Preferred Maximum" is up to 2000m for Commuting/Schools and 1200m Elsewhere.[92] However, the CIHT Planning for Walking guidance[93] states that about 80% of journeys shorter than 1 mile (c. 1600m) are made wholly on foot. MfS also refers to 800m as a 'walkable

[90] CD9.2 Marshall PoE, p18, [5.3.20]
[91] ID2, p7, Table 1
[92] CD19.10, p52
[93] CD19.7, p4, [2.1]

neighbourhood', but does not discount walking trips as being viable for up to 2km.[94] The 2024 National Travel Survey (NTS) indicates that the average walk trip distance was 1,120m; and that 78% of trips under 1 mile were completed by foot.[95]

5.18. Appeal decisions have also confirmed that the use of a strict 800m cut-off is inappropriate, and that a higher, or more flexible, approach must be taken:

(1) Horsham, DL40-41, noting how few destinations outside London would be within a 800m walking distance;[96]

(2) Maldon, DL36, emphasising the use of a 2km walking distance and noting the Manual for Streets' observation that 800m is not upper limit and that walking offers the greatest potential to replace short car trips, particularly those under 2km.[97]

5.19. Mr Russell further accepted that there are "no hard and fast rules" and properly accepted that qualitative aspects must be taken into account in individuals walking further, in line with the CIHT Guidance.[98]

5.20. In summary, Mr Marshall's position should be preferred that individual site residents will walk considerably further than 800m, particularly given (1) the quality of the footways within the Site itself (2) the quality of the footways and pedestrian infrastructure beyond all the way up to the Walnut Park area, (including Footpath 29CU (as upgraded)).

[94] CD19.1, p46, [4.4.1]
[95] CD9.2 Marshall, p10, [4.1.7]
[96] CD12.20 Appeal Decision 3355546 Horsham Golf Club, Denne Park, Horsham (11 July 2025), DL40-41
[97] CD12.25 Appeal Decision 6004910 Land west of the Cemetery, London Road, Maldon, Essex, DL36
[98] CD19.7, p16, [16.4]: "*However, the propensity to walk or cycle is not only influenced by distance but also the quality of the experience; people may be willing to walk or cycle further where their surroundings are more attractive, safe and stimulating.*"

The Section of Footpath 29CU

5.21. For Footpath HAH-29CU, the sole issue in dispute is whether the short section (measuring 175m) marked purple on Mr Russell's plan[99] is suitable to enable pedestrian access, once it has been re-surfaced. Mr Marshall explained that this would be a compacted limestone surface with timber edging to retain the material. He explained that this was an all-weather smooth surface and was a standard PRoW treatment.[100] The type of resurfacing of the footpath has been expressly requested by the LHA. It will ultimately reduce the frequency of maintenance required, by inhibiting seasonal vegetation growth.[101]

5.22. This access via the Footpath provides the most direct route to majority of services and facilities, and a walkable distance to the Primary School.

5.23. The site visits will have confirmed the nature of that path, and that it provides an entirely appropriate pedestrian route towards Walnut Park from its entrance immediately opposite the Site. As noted already, it is relatively short (175m). The path is well over 2m in width. It has close wooden boards along its sides. Houses, at least at first floor level can clearly be seen through the middle section. The route is also straight, with good visibility ahead throughout its route.

5.24. Mr Russell therefore accepted (as he had to) that the majority of trips to the school, GP, pharmacy and Tesco would all take place in daylight hours.[102] Accordingly, it is entirely safe and appropriate for those trips. Mr Marshall confirmed that this would be the vast majority of trips.[103] The trips at "dawn, twilight and night" form a very small minority of such trips. It should further be recalled that the LHA, who maintain the path, did not require lighting.

5.25. Once Footpath 29CU is approached correctly as a genuine choice for walking during the vast majority of relevant trips, it is clear that the Site is entirely sustainable for the purposes of NPPF 110 and 115 and DP21.

---

[99] CD11.4 Russell PoE, p15, Figure 4.1
[100] Marshall XC (Day 2)
[101] Marshall XC (Day 2)
[102] Russell XX (Day 1)
[103] Marshall XC (Day 2)

5.26. To the extent that some individuals may choose to go via Snowdrop Lane outside daylight hours, this merely underscores the fact that there are range of pedestrian routes from the Appeal Site.

Cycling

5.27. Both the Appellant and the Rule 6 Party position agree on cycling distances.

5.28. The Appellant's position (as explained by Mr Marshall) is that the Site would provide good access to the Town Centre on the main road.

5.29. Mr Russell also fairly confirmed that he himself had cycled this very road and was a confident cyclist. The road therefore cannot sensibly be described as "dangerous" as the Rule 6 Party attempted in opening, and certainly no accident data was presented to that effect.

5.30. CIHT Planning for Cycling states that 80% of cycling trips are less than five miles and 40% less than two miles, but also that majority of trips by all modes are short distances (67% less than five miles, 38% less than two miles).[104]

5.31. Ultimately, Mr Marshall's position should be preferred. He has explained cogently how drivers are courteous locally and that the route does feel safe for a confident or regular cyclist. One should not assess site suitability purely by reference to an inexperienced cyclist. Mr Marshall's position is that the route up to Walnut Park is cyclable, but the walk is sufficiently short that this may not be necessary. The route to Princess Royal Hospital and thereafter towards the Town Centre is also cyclable.

5.32. Above all, the LHA never requested any cycle infrastructure improvements and accordingly determined the route is acceptable for the level of anticipated use.

[104] CD19.8, p4

Bus Service

5.33. The Appellant and the Rule 6 Party agree that the Northlands Avenue bus stop itself (at 770m from the site access and 1075m from the midpoint) is of good quality.[105] Equally, the Princess Royal bus stop has an extremely good range of destinations, at a very good frequency.[106]

5.34. Whilst a distance of 400m is generally proposed for bus stops, the PTAL guidance does use higher distances. Ultimately, the key consideration should be both the regularity of the service and the ultimate destination of such journeys.[107] For those walking to Princess Royal Hospital, they will be able to pick up a bus very rapidly which can in turn take them to the Town Centre or a vast range of other destinations beyond, including Brighton and Crawley.

Railway Station

5.35. Both parties are agreed that Haywards Heath Station provides an excellent service, with up to 20 services an hour. The distance is cyclable (as explored above). The sole area of difference is therefore limited to whether the DfT's Better Connected document expressly supports developments with a "park and ride"-type component, including through low emission and zero emission vehicles.

5.36. Mr Marshall's position, by reference to headings (4) and (5) is that DfT policy supportive:

> *4 Park-and-ride schemes should be deployed with cars, motorcycles or cycles being used for first and last mile journeys where needed. Car sharing schemes and car clubs should be readily available, supporting a shift to a more circular economy for vehicles.*
>
> *5* ***Use of electric vehicles should become the norm*** *for journeys that people take using a car, with reliable charging infrastructure readily available.*

5.37. The clear message is that the Site is well-located to ensure that longer journeys can be taken by a sustainable transport mode – even if the first element is taken

[105] ID2, p8, [5.8]
[106] CD1.19, p29, Table 6.1
[107] Marshall XC (Day 2)

by car. If an electric vehicle is used (and all dwellings will have an electric charger installed) then the whole journey will be by sustainable transport modes.

Connectivity Tool

5.38. Once the above "on the ground" assessments are considered, the limitations of the Connectivity Tool become very clear. It does not have any policy status, and this is not conferred by a brief reference in a Written Ministerial Statement from the DfT only.[108]

5.39. Mr Marshall made clear the significant practical limitations of the Tool,[109] and this is confirmed by the guidance itself in its own terms: "*The score should be used alongside local evidence, site knowledge and professional judgement.*"[110] As Mr Russell accepted,[111] the Connectivity Tool does not assess the quality of routes, it simply compares the location against the most well connected places in all of England and Wales (which is inherently city-centre biased). The addition of the Connectivity Matrix does not alter this, by providing a yet further comparison of similar "types" of location.

5.40. For all these reasons, the attempt to compare the site with others of a similar type is of no assistance in this case. As the Inspectors in the Langho[112] and Maldon[113] Appeal Decisions both made clear, the Connectivity Tool was not to be accorded any real weight, and whilst not express on the face of the decision, it is clear that both Inspectors accorded it limited weight. In Langho, a score of 53 was not a basis for refusal.[114]

---

[108] CD16.5
[109] CD9.12, pp18-20
[110] CD19.15
[111] Russell XX (Day 1)
[112] CD12.24 Appeal Decision 6002485: Land south of Longsight Road, Langho (11 June 2026)
[113] CD12.25 Appeal Decision 6004910 Land west of the Cemetery, London Road, Maldon, Essex (6 July 2026), DL41: "*I find neither interpretation very helpful as my assessment of accessibility is focused on the site rather than a comparison with other land in the district, and includes the accessibility improvements proposed as part of the scheme which do not feature in the connectivity tool output.*"
[114] CD12.25, DL14

Summary

5.41. The Appeal proposal is therefore in general accordance with the settlement hierarchy under DP4 and DP6, in being located at or contiguous to Haywards Heath. It fully accords with NPPF 110 and 115, and with Policy DP21 (as explored above). Future residents would have entirely appropriate access to facilities and services. As the emerging Local Plan exercise has demonstrated, there is a clear need for sites to come forward outside settlement boundaries and outside the town centre on deliverable greenfield sites.

5.42. Mr Marshall's evidence has therefore set out in very full terms how the Site is either sustainable in its own right and will be made sustainable, by offering a genuine choice of transport modes in accordance with NPPF 110 and NPPF 115.

5.43. There is no merit to the Rule 6 Party's varied submissions (a) that the distances are "excessive"; (b) the pedestrian and cycle infrastructure is unsafe/inadequate. This is clearly a sustainable location where future residents will have a genuine choice of travel modes to meet their day-to-day needs, as testified by the Council's and the LHA's support, and by the draft allocation of the appeal site.

6) ANCIENT WOODLAND

(a) Whether there is ancient woodland on site and
(b) The effect on any such woodland should it be present on site
(c) Whether there would be any impact on ancient woodland off-site

National Policy

6.1. The NPPF defines ancient woodland strictly:

> *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).*

6.2. Mr Forbes-Laird explained fully how the presence of ancient woodland should only be determined in accordance with the methodology in the Natural England Ancient Woodland Inventory Handbook.[115] This is the approach generally agreed by all specialists in this field. This being so, the Rule 6 Party have departed from both the NPPF definition and the Handbook.

The Rule 6 Party's Case

6.3. The first time that the ancient woodland allegation arose was on 19 May 2026.

6.4. In the Committee Report, the Case Officer expressly stated at [12.178]: "*The Ancient Woodland is not within the site*"[116] Later on the Council confirmed in the original SoCG at [5.43]: "*It is common ground that the proposed development does not give rise to any adverse impacts to irreplaceable habitat trees or woodland.*" Neither the Council's Ecology (Place Services) nor arboricultural consultees referenced the presence of Ancient Woodland within the site.

6.5. The Rule 6 Party did not set out their case on ecology at time of the CMC. It was only in their Updated SoC (on 19 May 2026) that they first alleged, and only in extremely vague terms, that there might be ancient woodland on site. They

[115] CD21.2
[116] CD3.3, p50

provided no cartographic support for this suggestion, and did not specify any locations. No reference was made to the Handbook either.

6.6. The Appellant then informed them at least twice that there was no cartographic evidence of ancient woodland.

6.7. It was not until Proofs of Evidence were submitted on 30 June 2026, that the Rule 6 Party set out their three ancient woodland points.

6.8. None of their three points in respect of (a) the central/eastern overgrown hedgerows; (b) the north-eastern boundary area; (c) the off-site drainage matters is methodologically correct or based on a correct approach to the NPPF definition.

6.9. None of the Rule 6 Party's various attempts to bring NPPF 193c into play are correct. There will be no loss of or deterioration of ancient woodland as a result of the Appeal proposal.

6.10. We shall address all three elements in turn, starting with some preliminary observations on the Handbook's methodology.

The Use of the Natural England Handbook for Decision-Taking

6.11. Mr Forbes-Laird set out comprehensively both in his Proof of Evidence why the Handbook's complete methodology should be used in decision-taking, and the full Phased process should be followed. There is no other published methodology in existence, and certainly none from Natural England.

6.12. Mr Carpenter accepted in response to Inspector questions that the Handbook should be accorded a "high weight". His repeated answers in cross-examination that certain elements were only relevant to carrying out an exercise at a "County" level were based on just a single line of the Foreword and in all the circumstances demonstrated a striking inconsistency and selectiveness in citation.

6.13. As Mr Forbes-Laird illustrated, the Phased approach must be applied in a systematic way, with a particular focus on the Epoch 1 map as the agreed starting point,[117] given Natural England's observation that these are some of the most accurate maps ever produced. Mr Forbes-Laird made clear that applying the methodology correctly, there was no need to go beyond Phase 1, but out of an abundance of caution he had proceeded to Phase 2 in examining the later maps and aerial photographs, which also reveal no ancient woodland beyond that already mapped by natural England.[118]

Continuity

6.14. At the outset, it is important to note that the NPPF requires continuity, as the NPPF Annex 2 definition makes very clear: "continuously wooded". There must be both (1) presence and (2) continuity of woodland throughout. If, at any material time an area does not comprised woodland, then it cannot be classified as ancient woodland.

6.15. This simple definitional point is not reflected in any of Mr Carpenter's various renderings of the test both in this Proof of Evidence and orally. In cross-examination, he first dismissed the NPPF definition as a "summary", and sought to deflect from the obvious need for continuity of the relevant habitat typology. Mr Forbes-Laird correctly described this as a "unique and fascinating approach" that was "unknown to specialists in the field". In reality, the "continuously wooded" test is not made out through retaining "ancientness" in the soil, nor by the presence of a hedge (it barely needs saying that this is a wholly different habitat typology). Moreover, and fundamentally in this case, there must be positive evidence of continuous coverage from 1600AD right the way through to the present day.

1600-1840

6.16. There is no cartographic evidence of ancient woodland existing at either the central hedgerows or in the north-eastern boundary. That is a very significant

[117] CD21.2, p17, Section 3.1 Required Data: Epoch 1 Map
[118] CD21.2, p16

gap of almost a quarter of a millennium in the cartographic record. It has never properly been addressed by Mr Carpenter beyond his general reference to a history of "assarting" in the landscape. The existence of areas of wood within the Site cannot be shown to the required standard (the balance of probability) to date back to 1600AD. The Appellant has provided extensive further evidence that the relevant areas were also not wooded beyond that date of 1840. However, it is vital to appreciate that the Rule 6 Party's entire case arises in the context of a major evidential gap for a period of over half of the requisite 426 year period.

The Central/Eastern Hedgerows

6.17. Mr Carpenter's first map is from 1795 and this does not show that the central/eastern hedgerows to be wooded at all.[119]

6.18. The 1813 Map relied upon by Mr Carpenter is more detailed than 1795. Again, this shows no woodland in this area either.[120]

6.19. Remarkably, despite this cartographic silence, My Carpenter sought to maintain that these maps somehow supported his contention that woodland was present within the body of the site in this period. According to Mr Carpenter, even no evidence is somehow positive evidence.

6.20. The 1840 Tithe Map records the existence of an area termed "Wood".[121] However, as Mr Carpenter accepted and Mr Forbes-Laird also observed, it is not possible to date that specific element to 1600AD, rather than merely having grown in, say, the previous two decades (Carpenter) to three decades (Forbes-Laird).

6.21. Mr Forbes-Laird also noted that the existence of the hedge on the western boundary of the Tithe Map woodland could be explained as a boundary feature to that area. It did not indicate that the hedge should be treated as part of that area. That is readily apparent on the ground.

[119] CD11.5 Carpenter, p12, [3.2.19]
[120] CD11.5 Carpenter, p12, [3.2.20]
[121] CD11.5 Carpenter PoE, p [3.2.1]

6.22. One then turns to the 1874 Epoch 1 Map,[122] which is where the Handbook expressly requires the investigation to begin. These maps are produced to a highly accurate standard. The Epoch 1 Map very clearly records a hedgerow as a single line, and no woodland. This continues consistently through 1896,[123] 1938[124] and 1954.

6.23. As the Handbook notes:[125]

> *"a narrow or simple hedge shown on Epoch 1 that has expanded to become a thick strip of scrub or woodland on the current aerial photograph should not be assessed as woodland for Epoch 1 (and therefore not treated as long-established woodland)",*

6.24. The aerial photographs from 1940, 1944 and 1947 simply complete the picture and confirm the accuracy of the Epoch 1-3 maps. The hedgerow shows no shadow of any trees and is clearly a thin feature, measuring well under 10m. Mr Carpenter declined to accept this obvious visual evidence, stating that he "could not say" what the photographs show. The Appellant submits that they show that Mr Carpenter is wrong and he was failing to accept what most neutral observers would say was obvious, further revealing the flaws in his approach.

6.25. Bringing all of these elements together, the central overgrown hedgerows do not qualify as ancient woodland, as the areas they occupy have not been continuously wooded for the requisite period.

The North-Eastern Boundary Feature

6.26. The above chronology applies in a similar way to the north-eastern boundary feature.

6.27. The 1795 map does not record any wood in that area and nor, notably does the 1813 map.

[122] CD9.3a, Forbes-Laird Appcs p13
[123] CD9.3a, Forbes-Laird Appcs p14
[124] CD9.3a, Forbes-Laird Appcs p13
[125] CD21.2, p41

6.28. The 1840 Tithe Map records an area termed "Shaw" for the first time. However, there is no positive evidence that this existed materially earlier than that date, and certainly it was not recorded on the more detailed 1813 map as just noted.

6.29. The Epoch 1 Map is key. It only identifies a double line of trees in that location. The Handbook expressly instructs that such a feature should be recorded as woodland at Phase 1. As the Handbook makes clear, the Epoch 1 cartographers took care to identify the individual bases of the trees and to map them to within approximately 1 metre. As the Handbook explains: [126]

> "*Rows of single, surveyed trees (see 5.2.1.1.1), even if confined both sides by a boundary feature should not be treated as woodland. Avenues - i.e.* ***double rows*** *of surveyed tree symbols with or without a routeway marked in between - should be* ***excluded*** *except where in the context of a larger containing polygon of long-established woodland, parkland or wood-pasture*"

6.30. The referenced section 5.2.1.1.1[127] confirms under "Keys and Accuracy"

> " *A very detailed map, which shows enclosed woodland annotated by tree type (conifer, broad-leaved or mixed), coppice and scrub as well as* ***individual trees within fields and field boundaries****, including boundary marker trees. Features within woodlands may be shown and the nature of external woodland boundaries – whether a formal enclosure or not – is often discernible…. Larger individual trees shown in parkland and on boundaries have been shown to closely correspond to individuals on the ground…* ***Trees*** *were shown unless they obscured boundary or other important symbols. The base of the plotted trunk marks the point of the tree to within one metre*".

6.31. The Epoch 1 map, on a proper interpretation as advised by the Handbook, makes clear that the north-eastern boundary simply contained a line of trees and not a wood.

6.32. The Rule 6 Party, through Mr Carpenter and in cross-examination of Mr Forbes-Laird sought to make something of the 1896 map's dashed line. However, as Mr Forbes-Laird made clear by reference to the Handbook, the dashed line simply connotes ownership. As the Handbook again makes clear:

---

[126] CD21.2, p41
[127] CD21.2, p53

> "*The Epoch 1 map is possibly the best of all sources available for distinguishing between thick hedgerows and narrow woods. In the latter the tree or shrub symbols are usually drawn with an indication of the extent of land occupied, typically a solid or dotted line. Even very small informal patches of unenclosed scrub will often carry a brace mark which shows to which larger parcel of land they belonged. These map features are valuable for deciding on whether a linear feature should be considered as woodland or not*".

6.33. Applying the approach in the Handbook's Figure 5, the 1874 Epoch 1 map shows no dashed line, only the aforementioned single trees.

6.34. The 1896 map continues to show individual trees, not woodland symbols (see by contrast the Handbook's Figure 6).[128]

6.35. Mr Forbes-Laird made clear, through the introduction of the 25 inch Epoch 2 map that the extent of the brace marks to the eastern side, whilst retaining individual tree markers, demonstrated that the dashed line did not show the existence of a wood in that location, but was better explained by broad homogeneity of land use. When examined closely, as Mr Forbes-Laird explained, the absence of any depiction of secondary vegetation by (for example) stippling between the individual trees, confirms the surveyor's understanding that only mature trees were present behind the dashed line.

6.36. The 1938 Map shows a dashed line but little further.

6.37. By 1940, however, the feature is recognisably a simple hedgerow, with just two singular trees. The 1944 aerial photograph is the clearest in this respect. The 1947 aerial photograph shows most of the growth on the northern side, i.e. within the garden of Colwell House, plus the crowns of the two individual trees referred to already.

6.38. By 1954 only a simple hedgerow is shown on that year's OS map, the first in the decimal series.

[128] CD21.2, p33

6.39. In summary, the north-eastern boundary feature has not been positively shown to have been continuously wooded for the whole period. The four key factors are as follows: (1) no evidence prior to 1840 (indeed contradictory evidence in the 1795 and 1813 maps); (2) Epoch 1 mapping showing merely a line of trees; (3) the Epoch 2 and 3 maps are consistent with the Epoch 1 map position; (4) the aerial photographs show a simple hedge with no more than 2 trees.

Ancient Woodland Indicator Species and Botanical Surveys

6.40. The Rule 6 Party's case has never been properly grounded in the cartographic record. It has been premised on a complete misreading of the Handbook and established methodology to the effect that the identification of ancient woodland "requires" botanical surveys. The Handbook does not say this, indeed expressly warning against such an approach.[129] Forstal Shaw is an entirely different example, where it was the Epoch 1 map that was ultimately relied upon, rather than unofficial "generic" maps.[130]

6.41. The Boughton Lane Decision confirmed this.[131] The Rule 6 Party's entire position on site access was therefore wholly misconceived. They did not provide a single map to the Appellant explaining what they would survey and why. Mr Carpenter never contacted the Appellant and never issued a site survey brief. The entire premise of their position that AWI survey was "required" was wrong.

Precautionary Principle

6.42. Turning finally to the precautionary principle, it is important to note that this is not part of the NPPF definition. That definition requires a positive finding that a site has been continuously wooded for the full period. That must be established on the conventional civil standard of proof, the balance of

[129] CD21.2, p106
[130] CD21.2, p154
[131] CD21.23 2227839 Land at Boughton Lane, Loose, Maidstone, Kent (3 March 2016), DL20 and IR257 and 259 see also 9.3 Forbes-Laird PoE, pp16-18, [4.5.2]-[4.6.5]

probabilities. This is confirmed in terms in the Handbook by Natural England.[132]

6.43. The precautionary principle is only used in the Handbook in a very specific and limited sense:

> "*Where there are contrary indications within the evidence base for a site then the reliability of each source must be carefully considered and* ***the most likely and most defensible explanation for the whole evidence base determined****. Inevitably situations do arise where indications of antiquity and counter indications are* ***too finely balanced*** *to judge beyond doubt and then the precautionary principle must be applied pending further evidence.*"

6.44. This is not a "finely balanced" case. The counter indications of any antiquity on both the central/eastern hedgerows and the north-eastern boundary feature are overwhelming. In this regard, Mr Carpenter's assertion during evidence in chief that "there was no contrary evidence" to his hypothesis was wholly inaccurate.

The Ancient Woodland Off-Site

6.45. Mr Carpenter introduced the potential impact on ancient woodland off-site only with his Proof of Evidence. It is plainly not pressed with any conviction by the Rule 6 Party because there is no merit in it. As the Drainage Note by Mayer Brown[133] demonstrates, the SuDS system has been designed to match the existing position in terms of surface water run-off. The Standing Guidance permits SuDs to be constructed within the buffer area and there will be no impact on the water table.[134]

Summary

6.46. In summary, there is no ancient woodland on site and would not be any impact on ancient woodland off-site. There is therefore no NPPF 193c issue in this case and NPPF 11d(i) cannot be engaged on this basis.

---

[132] CD21.2, p102
[133] ID1
[134] CD21.1, p9

Appendix 5 MSDC Further Submissions on NPPF 2026 (03-09-2026)

MID SUSSEX DISTRICT COUNCIL

Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

Switchboard: 01444 458166

DX 300320 Haywards Heath 1
www.midsussex.gov.uk

CONTACT: Joanne Fisher
PHONE: 01444 477330
EMAIL: joanne.fisher@midsussex.gov.uk
DATE: 3rd September 2026

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990

Mid Sussex Ref:	**AP/26/0023**
Planning Inspectorate Ref:	**6005786**
Land At:	**Land At Colwell Farm, Lewes Road, Haywards Heath, West Sussex,**
Proposed Development:	**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.**

Annex 1 para 1 of the National Planning Policy Framework 2026 states that 2026 NPPF is a material consideration which must be taken into account in decision-making from the day if its publication. Following the Inspector's request dated 20th August the Council has reviewed its position, and comments as follows.

The 2026 NPPF does not alter the Council's overall conclusions as set out in its Opening Statement (ID7) and Closing Statement (ID25). However, the Council does consider policies DP12, DP20, DP21, DP34, DP35, DP37, and DP38 of the District Plan, and policy E9 of the Haywards Heath Neighbourhood Plan (which are referred to in the reasons for refusal) to be materially inconsistent with the national decision-making policies in the Framework, and therefore to have very limited weight.

The Framework is a material consideration of critical importance for making decisions on development proposals in England (paragraph 1) and it maintains support for a planning system that is "genuinely plan-led". It sets out that applications should be determined in accordance with the development plan, unless material considerations indicate otherwise (paragraph 3). It confirms that the new Framework is a material consideration and the policies should be read alongside the policies in the development plan.

In terms of the NPPF, policies S3 and S5 are considered to be the most important policies in the determination of the appeal.

Policy S3 relates to the presumption in favour of sustainable development and sets out that decisions should apply a presumption in favour of sustainable development.

Policy S5 relates to the principle of development outside of settlements and sets out a list of certain forms of development which should be approved outside of settlements. Policy S5(1j) relates to '*Development which would address an evidenced unmet need (including, but not limited to, development proposals involving the provision of housing where the local planning authority cannot demonstrate a five year supply of deliverable housing sites or scores below 75% in the most recent Housing Delivery Test), and where the development would:*

i. *Be physically well-related to an existing settlement (unless the nature of the development would make this inappropriate) and be of a scale which can be accommodated taking into account the existing or proposed availability of infrastructure;*'

While the Council has performed excellently in respect of housing delivery, the most up-to-date local housing need figure generated through the standard method exceeds the housing requirement contained within the adopted District Plan. As a consequence, and having regard to the requirement to apply the appropriate buffer, the Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with Plan-making policy HO3 and Annex D of the NPPF. As explained in the Council's Closing Statement, the Council considers the appeal site is sufficiently well-related to Haywards Heath to satisfy sub-paragraph (i).

Policy S5 (2) goes onto state that *'In applying this policy, the circumstances in which the benefits of approving development proposals are likely to be substantially outweighed by adverse effects include, but are not restricted to, situations where the development proposal would fail to comply with one of the national decision-making policies which state that development proposals should be refused in specific circumstances.'*

Such circumstances relate to policies referred to in the Framework (relating to habitats sites and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets; and areas at risk of flooding or coastal change.

In relation to this appeal, the proposed access falls within the Lewes Road Conservation Area and lies within the setting of the designated heritage asset of the Grade II Listed Colwell House and North Colwell Barn, an undesignated heritage asset.

It is noted that the revised Framework at policies HE4, HE5, HE6, HE7 and HE9 have changed the approach to the consideration and assessment of potential effects on designated and non-designated heritage assets and conservation areas. However, the agreed position between the Council and appellant in the SoCG (CD8.2) that the public benefits outweigh the identified harm remains unchanged. Policy HE6(1) clarifies that substantial weight should be given to conservation of designated heritage asset.

Whilst it was identified that there would be some adverse impact on the effects on the character of the countryside and the loss of trees, having regard to policies N2 and N6 of the NPPF and the view that there would not be any loss of or harm to ancient woodland such as to prevent the grant of planning permission, these policies of the Framework are not circumstances which would result in adverse effects which would substantially outweigh the benefits of the scheme.

Having to the regard to the balancing exercise that is required under policy S5(2), the benefits of the scheme (and their weighting) remain as previously agreed in the SoCG (CD8.2).

In light of the above, it is considered that the proposal accords with policies S3 and S5 of the NPPF and that planning permission should be granted.

Yours faithfully

JFisher

Joanne Fisher
Team Leader Applications

Appendix 6a Miller/Appellant's Further Submissions on NPPF 2026 (03-09-2026) and NPPF 2026 rebuttal submissions (Transport and Ancient Woodland excerpts only)

4.0 The NPPF and the Main Issues

4.1 This section will consider each of the main matters and how changes in the new NPPF have been considered against those matters.

Main Issue 1: Whether the proposal would comply with the development strategy for housing with regard to access to services and facilities.

4.2 Appendix B of this note provides a detailed assessment by the Appellant's Transport Witness, Mr Marshall, of the appeal scheme against relevant Transport NDMPs of the new NPPF. This confirms that the appeal scheme adheres to the latest NPPF requirements relating to Transport, and specifically NDMPs TR3, TR4, TR6 and TR8. The appeal scheme is hence accessible to a range of facilities and services and provides a genuine choice for future residents as to how they travel to meet their day-to-day needs.

4.3 The new NPPF advocates sustainable patterns of growth. The NPPF also continues and strengthens the requirement for Local Authorities to meet their housing needs.

4.4 As the Appellant has advocated, and the Council make clear in their closings, Mid Sussex is a rural district which inevitably is not going to have the same access to sustainable modes of travel as, for example cities such as London or Birmingham. It nonetheless has an acute, and locally derived, housing need that is not currently being met, as demonstrated by MSDC's lack of 5YHLS, and the need to allocate additional sites.

4.5 As the Council confirm in their closings (ID25[5]), the appeal scheme is on the edge of one of three category 1 settlements – settlements with the highest range of facilities, employment and public transport opportunities in the district.

4.6 The sustainability of the site is underlined by the Council's decision to allocate the appeal site, and also three other sites in close proximity to the appeal site, including one which directly adjoins the appeal site.

4.7 As the Council rightly put in their closings (ID25 – [5-6]), 26 of the 35 sites proposed for allocation do not adjoin a category 1 settlement and are likely to be *less* sustainably located than the appeal site.

4.8 NPPF NDMP S5(1)(j) provides a strong positive and permissive approach to residential development in the countryside adjoining settlements, where there is not a 5YHLS. It underlines the government's understanding that in order to deliver against their objective of significantly boosting housing supply, where needs are not been met, growth at the edge of settlements should be permitted unless the new tilted balance is not satisfied: in short, permission should be granted in such locations unless a substantial level of harms would result. That plainly is not the case with the appeal scheme.

4.9 S5(1)(j) does not include any express requirements itself in respect to accessibility, beyond its need to be physically well-related to the settlement. Neither does S5(2), whereby no NDMPs relating to accessibility state proposals should be refused.

4.10 Policy S5 has a separate criterion S5(1)(h) which, separately, supports development within a reasonable walking distance of well-connected rail stations. As set out in my Planning Rebuttal (CD9.10 - Paragraphs 4.2-4.9) in relation to the draft version of this NDMP, this criterion has no bearing on the applicability of S5(1)(j) – they are entirely separate criteria.

4.11 It would be incorrect to apply a rigid approach to accessibility – to do so would significantly hinder the ability to meet the acute housing needs which are a core pillar of the Government's objectives. Appeal 3355546 (CD12.20) remains highly relevant in this regard.

4.12 The Council, with whom I agree on this matter, have clearly explained the consequence of adopting the rigid approach to sustainability advocated by the R6 party (ID25 [6]):

"*If the Appeal Site is regarded as unsustainable, it is highly unlikely the Council will be able to meet Inspector Bore's request.*"

4.13 In short, the Council would not be providing nearly enough houses if the R6 Party's approach to accessibility was adopted. Their approach is inconsistent with the new NPPF, just as it was inconsistent with the NPPF (2023) and (2024).

4.14 Finally, in respect of TR6, no case is brought that the proposals would result in a severe impact on the Transport Network and there is no objection from the Highways Authority. Based on these facts and the evidence of Mr Marshall, the proposals adhere to NPPF NDMP TR6.

4.15 Consequently, on the basis of Appendix A to this Note and my own findings in respect of the new NPPF, I consider the proposal continues to adhere to the NPPF.

Main Issue 2: The Effect of the Proposal on the Countryside /General Character of the Area

4.16 The NPPF's approach to consideration of the effect of developments on the countryside and character of the area is considered across several parts of the new NPPF.

4.17 In respect of landscape matters, NDMP N2(1), states that proposals should

'(a) Consider…landscape character and the natural beauty of the country…'

4.18 It further states at N2(1)(d) and (e) in respect of Landscape related matters that proposals should:

d. Conserve and enhance existing natural features of visual, historic or nature conservation value (such as established trees and hedgerows) where possible; and use appropriate landscaping to help create a well-designed place and integrate the development into its surroundings;

e. Use green infrastructure provided as part of the scheme and nature-based solutions to secure multiple benefits: such as for biodiversity; surface water and pollution management (including maintaining flow rates and water quality); climate change mitigation and adaptation, and recreation;

4.19 In respect of general 'character' matters, NDMP DP3 requires that development proposals respond to their context, which includes the area's history, character and features.

4.20 Overall, the new NPPF does not fundamentally change the approach to the consideration of landscape or character matters compared to the NPPF24.

4.21 In respect of the consistency between LDP policies relating to landscape matters (wholly or in part), and having regards to Annex A, paragraph 2 of the NPPF, I set out my findings:

4.22 **MSDP Policy DP12** – Notwithstanding my findings in respect of the more restrictive approach adopted by DP12 to the *principle* of development in the countryside (see paragraph 3.7 regards NDMP S5, I find in landscape terms the policy is in general but not complete adherence, with NDMP N2(1)(a).

4.23 DP12 reflects the wording of the past NPPF in requiring recognition of the *'intrinsic character and beauty of the countryside'*. I consider the wording of N2(1)(a) places a lower weighting on the protection of the countryside for its own sake, with greater emphasis on site-specific assessment of a site's contribution to 'landscape character' and 'natural beauty'. Furthermore, NDMP N2(1)(a) requires only 'consideration' of these matters, rather than

directing that automatic 'recognition' of the 'intrinsic character and beauty of the countryside' be applied. Consequently, I find moderate conflict in landscape terms between DP12 and the NPPF NDMP N2(1)(a), the latter of which should be preferred.

4.24 Furthermore, Mr Cook clearly demonstrated via his PoE and his oral evidence at the inquiry that the proposals had 'recognised' the character and beauty of the countryside. It hence follows that in giving recognition, the proposals have also considered those same qualities through a site-specific landscape assessment.

4.25 **HHNP Policy E5** – In landscape terms, I find a degree of conflict between Policy E5 and specifically planning-making policy S2(1)(c). Plan making policy S2(1)c) confirms when it may be appropriate to define gaps between settlements. As per my PoE [4.63-4.64] I do not consider E5 a true gap policy, but all the same, in defining all land outside of the BUAB as gap, it adopts a blanket approach to 'gap designation' which does not meet the requirements of S2(1)(c). Consequently, a lesser level of weight can be afforded to Policy E5.

4.26 All the same, I have shown, aided by Mr Cook's Landscape Evidence, that the proposals comply with Policy E5, a positively worded policy. Neither the R6 party nor the Council alleges conflict with Policy E5 in their closings.

4.27 HHNP Policy E9 – In landscape terms, I find general conformity between Policy E9 and the NPPF, specifically NDMP N2 and DP3, where they relate to Landscape Matters.

4.28 I have shown, aided by Mr Cook's evidence, that the proposals, adhere to Policy E9.

4.29 All the same, neither the R6 party or the Council have presented any expert evidence at the inquiry on landscape or character matters. The Rule 6 Party has expressly confirmed several times that it does not present a landscape case. No conflict is alleged with policies on landscape grounds, specifically:

- MSDP Policy DP12
- HHNP Policy E5
- HHNP Policy E9

4.30 As set out in Mr Cook's Evidence, and in closings, whilst the proposals will cause a level of localised landscape harm at the site level, as is inevitable with any green field development, the proposals have carefully considered the landscape and character of the area.

4.31 Consequently, I find the appeal scheme continues to comply with the provisions of the new NPPF relating to landscape and the general character of the area.

Main Issue 3: Ancient Woodland

4.32 In respect of Ancient Woodland, the Annex B definition of Ancient Woodland has been extended to include ancient wood pasture and parkland (AWPP) and infilled ancient wood pasture and parkland (IAWPP), but these additions are not relevant to the appeal. The Sites does not have any AWPP or IAWPP and the Rule 6 Party have never alleged this. Otherwise, the definition remains as per the NPPF24 version.

4.33 For the reasons expressed in Mr Forbes-Laird's evidence, there remains no reason, based on the new NPPF, that Ancient Woodland should be considered as being present on site.

4.34 Notwithstanding this, NPPF24 Paragraph 193(c) is largely replicated by NDMP N6(2). This retains a requirement that the loss of Ancient Woodland requires 'wholly exceptional reasons'.

4.35 However, as per paragraphs 2.21 and 2.22 of this proof, unlike the NPPF24, a finding that the appeal scheme results in the loss of Ancient Woodland (a finding which the Appellant has disputed and which the Council also agrees) does not disapply the NDMP 'tilted balance' requiring a substantial weight of harms to outweigh the benefits.

4.36 All the same, and to be clear, it is the Appellant's position, supported by the Council, that the evidence shows there would not be any loss of or harm to Ancient Woodland resulting from the proposals(ID25[13], ID27[6.46]).

4.37 It is clear that the hedgerows dissecting the site are, as evident from the cartographic and aerial photography evidence, hedgerows. The new NPPF's N6(2) is therefore not engaged.

4.38 It is also clear that, on the balance of probability, the area at the north-eastern boundary of the Appeal Site is not an Ancient Woodland based on the same extensive cartographic and photographic evidence. That again confirms that N6(2) is not engaged. The new NPPF, again, does nothing to change that assessment.

4.39 Moreover, in any case, if the area to the north-eastern boundary were considered Ancient Woodland, the appeal scheme can avoid harm to that woodland for the same reasons set out by the Council and the Appellant in closing, given the outline nature of the scheme; in short, if required, an appropriate buffer to this alleged Ancient Woodland could be incorporated at the Reserved Matters Application stage. N6(2) is also not engaged, for this additional reason. Again, the new NPPF does nothing to change that assessment.

4.40 The requirements of N6(2) would therefore not be breached by the Appeal scheme as no loss or deterioration of irreplaceable habitats would arise from the Appeal Scheme. Therefore, the N6(2) 'exceptional reasons' test is not applied. There will be minor loss of hedgerow arising from the development to facilitate access within the site, which is entirely appropriate and consistent with the new NPPF, just as it was under the previous NPPF.

Trees

4.41 As set out in closing submissions, the Rule 6 Party's submissions on tree loss were very limited at the inquiry. Accordingly, these submissions can again be focused.

4.42 In respect of Trees NDMP N2 and N3 do not, like the NPPF24, place a bar on the loss of trees. The proposals have sought to retain and enhance trees '*where possible*' and continue to retain the majority of trees on site, including all high quality trees. There will be a net gain in trees on site resulting from the proposals.

4.43 The Appeal Proposal therefore conforms with national policy in respect of trees generally.

Main Issues 4 and 5: Heritage

4.44 The new NPPF makes a number of changes in respect of heritage matters within section 20: Conserving and Enhancing the Historic Environment. These are summarised in the heritage note provided by Mr Jonathan Smith accompanying this note, with which I agree.

Annex A, Paragraph 2: Compliance with NPPF

4.45 **Policy DP34:** There is a degree of inconsistancy that arises between policy DP34 and the NPPF due to the changes in the way harms are categorised, as well as the greater recognition now given to positive changes that may arise to the significance of heritage assets arising from a proposal. The NPPF approach should be preferred as the latest expression of policy on heritage matters with which local plans should adhere. Consequently, DP34 should attract **very limited weight** as this is the effect of Annex A, paragraph 2. In practice, heritage assets are still protected via NPPF.

4.46 **Policy DP35:** I had identified a conflict between DP35 and the NPPF24. There remains a conflict between Policy DP35 and the new NPPF. Given the direction of paragraph 2 of Annex A, I attach **very limited weight** to DP35, preferring the approach adopted by the NPPF to assessing the effect of development on the significance of heritage assets.



Appendix A i-transport NPPF 2026 Review

North Colwell Farm, Haywards Heath: National Planning Policy Framework 2026 Review

Ref: NM/BC/ITL19597-015a TN
Date: 1 September 2026

1 Introduction

1.1.1 The new National Planning Policy Framework (NPPF) was adopted on 17 August 2026. This supersedes the previous version published in December 2024 which was in place at the time of the drafting of application and appeal documents, including the Transport Assessment (CD1.19) and the Transport and Highways Proof of Evidence (by Neil Marshall) (CD9.2), and which was considered at the inquiry.

1.1.2 This note provides a review of the new NPPF in relation to relevant transport and highways policy and provides a commentary on how the appeal documents respond.

1.1.3 The NPPF sets out the government's policies for plan making and for making decisions on development proposals in England.

1.1.4 Section 15 of the NPPF is related to 'Promoting sustainable transport' with relevant national decision-making policies including:

- TR3: Locating development in sustainable locations.
- TR4: Street design, access and parking.
- TR6: Assessing transport impacts.
- TR8: Public rights of way.

1.1.5 Each of the above policies are considered below, with an analysis of the changes and the relevance of those to the appeal. Policies TR1: Vision-led approach to planning for transport and TR2: Local parking standards relate to the plan-making process. Policies TR5: Roadside facilities, TR7: Marine ports, airports and other aviation facilities are not relevant to the appeal scheme.

1.1.6 Overall, the text of TR3, TR4, TR6 and TR8 is similar to that under the previous NPPF 110 and 115(a) and (b) which were discussed at the inquiry, and which have informed the allocation of the Site by the Council (as discussed in ID14)

© The contents of this document must not be copied or reproduced in whole or in part without the written consent of iTransport. If this report is to be placed on any approved website for planning purposes, this should comply with data protection principles, please seek our permission and you must ensure that all the private and personal information and data within this report is redacted. iTransport is a trading name of i-Transport LLP.

1.2 New NPPF Wording

1.2.1 In this section, I briefly introduce the wording of the new relevant policies, before reviewing each policy in detail in later sections.

1.2.2 Policy TR3 paragraph 1 again states that significant movement generating 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. The text is very similar to the original NPPF 110 and 115(a) and (b), whilst fusing elements of both together:

> ***"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 sustainable (or which can be made so, taking into account planned improvements, including any provided for as part of the development itself). This means the location should limit the need to travel, particularly by private car, and offer a genuine choice of transport modes for residents and users, unless the nature of the development would make this impractical."***

1.2.3 The Framework therefore directs development to locations that are sustainable (or can be made so). The need to travel should be reduced, and there should be a choice of travel modes available to people. The Framework also acknowledges that the test needs to be seen in the context of the area in which it is located "in the context of the area which they would be situated".

1.2.4 The text does not include any of the various interpretations or additional wording provided by the Rule 6 Party during the inquiry, and should be applied in its own right.

1.2.5 The NPPF states in Policy TR3 that the site's connectivity should be assessed using a range of tools, with a reference to the Connectivity Tool. However, the Connectivity Tool is described in a very specific way (reflecting amendments from the consultation version):

> ***"2. The Connectivity Tool… should be used alongside other relevant quantitative or qualitative evidence in assessing the connectivity of particular locations proposed for development."***

1.2.6 Policy TR3 and TR4 set out the main transport tests for development proposals. For the Appeal scheme, the relevant tests are:

- Will a genuine choice of transport modes be offered, such that the need to travel, particularly by private car, be limited? (NPPF Policy TR3 paragraph 1(a))
- Will conflicts between pedestrians, cyclists, and vehicles be minimised such that highway safety impacts are not unacceptable (NPPF Policy TR4 paragraph 1(ci))
- Will the cumulative traffic impacts be acceptable? (NPPF Policy TR6 paragraph 3)

1.2.7 The opportunity to travel via sustainable modes should be prioritised, whilst accounting for the site's vision and its location. A judgement is therefore required to ensure that the site's location is accounted for when assessing whether sustainable transport modes are prioritised, with safe and suitable access for all modes and for all users to be provided to ensure the sustainable travel opportunities can be realised.

1.2.8 The NPPF also establishes a need to ensure places are well designed, connecting to nearby settlements via sustainable modes, with Policy DP3 paragraph 2(d) stating that well-designed places:

> ***"provide transport infrastructure and choices which support the design vision for the site, provide good connections to the wider settlement (or those nearby), and prioritise walking, wheeling, cycling and public transport."***

1.2.9 The Framework continues to set a deliberately high bar for preventing development from coming forward for transport highways reasons, with Policy TR6 paragraph 4 confirming that ***"Development proposals should be refused if they would have a severe adverse impact on the transport network (in terms of capacity and congestion, including cumulative impacts), or an unacceptable impact on highway safety; taking into account any mitigation measures proposed as well as any wider network improvements, including measures to support sustainable patterns of movement. This applies both during the construction phase and following completion"***.

1.2.10 Such transport reasons for preventing development from coming forward should only be used when the impact, cumulative with other developments, following mitigation, and accounting for all reasonable future scenarios is severe or has an unacceptable impact on highway safety. This is to follow the test in Policy TR6 paragraph 3, relating to access to sustainable modes of transport, safe and suitable access, and using a vision led approach to mitigate impacts.

1.2.11 The remainder of this note reviews how the evidence submitted in support of the Appeal aligns with the new NPPF requirements.

1.3 TR3: Locating development in sustainable locations

1.3.1 Policy TR3 contains elements of text that are similar to sections within the 2024 NPPF at paragraphs 109b, 109d, 109f, 110, 115a and 115d. The only notable addition is the reference to the Connectivity Tool, with the specific requirement that it be used alongside other quantitative and qualitative evidence.

1.3.2 As set out in Neil Marshall's Proof of Evidence (CD 9.2) the appeal scheme was assessed against these previous policies in NPPF 110 and 115 and there has no significant change in the wording that affects the conclusions reached.

1.3.3 The updated NPPF requires development proposals that could generate a significant amount of movement to be located in sustainable locations, or locations that can be made sustainable through planned improvements, including those delivered as part of the development itself. The policy emphasises the need to limit the need to travel, particularly by private car, and to offer a genuine choice of transport modes for residents and users. The NPPF also now provides a definition of connectivity as "the degree to which a location provides access to jobs, services, and facilities by sustainable transport modes".

1.3.4 There remains no definition of "genuine", nor any recommendations on distances to services and facilities within the updated NPPF. In fact, the new NPPF establishes that the definition of a reasonable walking distance is only applied to two purposes: (1) to railway stations (of 800m) and (2) to hot food takeaways (of 400m). The NPPF is expressly not saying that 800m is a cap on walking distances for other purposes. The Proof of Evidence (CD9.2) recorded the same position in respect of the NPPF 2024, and therefore this definition does not change any conclusions relating to suitable walking distances provided, other than noting that there is no specific distance threshold.

1.3.5 In addition, the policy adds a new test; the requirement to assess the connectivity of a site. The policy confirms that the DfT's Connectivity Tool should be used alongside other quantitative and qualitative evidence. Whilst it was not a policy test requirement at the time of the site's submission and during the Inquiry, the evidence submitted, including in the Proof of Evidence (CD9.2) section 5.5 and Rebuttal (CD9.12) section 9 provided an analysis of the connectivity of the site, including use of the Connectivity Tool.

1.3.6 As set out in paragraph 5.5.6 of the TA (CD1.19), the Connectivity Tool assumes people are willing to walk up to one hour to services and facilities. There is no cap on distances, other than a reduced propensity to walk as distances increase. This utilises the data from the National Travel Survey (NTS), again as used as the starting point for reasonable walking distances of up to 1.6km in the Proof of Evidence (CD9.2). This further supports the position that there is no appropriate or reasonable upper limit to suitable walking distances to services and facilities, and why no such cap is given in the NPPF. The policy test is clear, it is for the assessor to determine what is appropriate to provide a genuine opportunity, utilising a range of quantitative and qualitative measures alongside the Connectivity Tool The tool should not be used in isolation, and it is just a single technique to be used alongside a wide evidence base to determines whether a site is well connected in its context. This is exactly the approach taken in the Proof (CD9.2), to determine that the site is well connected to range of services and facilities via a genuine choice of sustainable travel modes.

1.3.7 There is no requirement to use the tool as a comparator against other locations/sites (using either the Local Authority banding or the Matrix), but to use it as part of the range of means to determine if a site can provide access to services via non-car modes.

1.3.8 The full evidence base submitted clearly confirms that the site is well connected. Using an analysis consisting of use of the Connectivity Tool, a detailed walking audit, site observations, and a calculation of trip demands from the site, it is concluded that the site provides (following improvements to pedestrian infrastructure either directly delivered or funded by the site) access within a reasonable walking distance to a wide range of everyday services and facilities. These include a primary school, local convenience store, pharmacy, and medical centre. It is also within a reasonable walking distance to the district's main hospital; a significant source of local jobs. Cycling also provides a genuine opportunity for some to travel towards the railway station and Haywards Heath town centre. Bus connections are available, to a range of higher order settlements from bus stops within a reasonable walking distance from the site, with some stops providing a high frequency of 10 services per hour to the centre of Haywards Heath.

1.3.9 The Transport Assessment (CD1.19) and Travel Plan (CD2.20) submitted with the application set out opportunities to promote sustainable transport modes, including off-site highway improvements. The Transport and Highways Proof of Evidence (CD9.2) also explains how sustainable travel opportunities can be prioritised. Section 8 of the Proof fully details the sustainable characteristics of the site, confirming it to be within a reasonable walking distance of a range of everyday facilities including a primary school, convenience retail, pharmacy, and medical centre. This limits the need to travel by private car, and offers a genuine travel option for future residents.

1.3.10 In addition, the Transport and Highways Statement of Common Ground (CD8.5) with West Sussex County Council records agreement on the sustainability credentials of the site's location and agreed distances and routes to the local facilities. This includes routes following existing footways and footpaths, all of which are existing, but will be enhanced through financial contributions from the Appeal site (public footpath 29CU to be resurfaced, at the request of the highway authority, to enable all weather usage, and a series of dropped kerb and footway improvements towards the existing services along the A272 Lewes Road and residential roads to the north are to be delivered).

1.3.11 This use of the existing transport infrastructure ensures delivery of the Appeal site can support more walking, wheeling, and public transport use in accordance with the Policy TR3 paragraph 1(b) requirement.

1.3.12 The updated policy also refers to the use of existing or proposed transport infrastructure to support walking, wheeling, cycling and public transport use. As set out in the TA (CD1.19) this site is located on the edge of the built-up area of Haywards Heath, with existing footway and footpath connections to both the local district centre of Walnut Park (and its primary school, convenience store, pharmacy, and medical centre) and Princes Royal Hospital and onwards to the town centre. The detailed site audit accompanying the application identified where there were any gaps in the existing infrastructure, and identified how the appeal site will improve the infrastructure in order to ensure there are consistent, safe, and attractive connections along the desire line routes. The appeal material therefore explains the opportunities available to improve connectivity and support non-car modes.

1.3.13 The NPPF also requires significant adverse impacts on the transport network or highway safety to be mitigated to an acceptable degree using a vision-led approach. This is addressed in the Transport Assessment (CD1.19) through the Stage 1 Road Safety Audit and designer's response (Section 5), junction capacity assessment (Section 7) and conclusion that no highway capacity mitigation is necessary. The Proof of Evidence similarly concludes that the traffic increases arising from the development are acceptable, while the Statement of Common Ground (CD8.5) records matters of agreement with West Sussex County Council relating to highway safety and capacity.

1.4 TR4: Street design, access and parking

1.4.1 Policy TR4 paragraph 1(a) is almost identical to the previous NPPF paragraph 117a. It requires transport considerations to be integral to the design of development giving priority first to walking, wheeling and cycling movements, both within the scheme and with neighbouring areas, and then to facilitating access to high quality public transport where possible.

1.4.2 The Indicative Masterplan (CD1.6) shows the likely outline layout, including pedestrian footways, links and shared space streets. The Transport Assessment (CD1.19) Section 4 describes the existing highway conditions, whilst Section 6 sets out the proposed off-site highway improvements to support walking to local facilities, as well as the existing public transport opportunities. The Proof of Evidence (CD9.2) Section 5 provides a summary of why people travel, what acceptable travel distances are, and the walking and cycling opportunities and nearby public transport options that exist to ensure that priority is given where possible to sustainable travel links to the identified local facilities. The Statement of Common Ground (CD 8.5) also confirms proposed surface improvements to Public Footpath 29CU between Lewes Road and Cobbetts Mead to provide all-weather access via a section 106 contribution.

1.4.3 Policy TR4 paragraph 1(b) also requires development to incorporate appropriate features such as permeable street networks, continuous footways, segregated cycle facilities, secure cycle parking, public seating and good quality waiting facilities for public transport where appropriate. At this outline stage, the Indicative Masterplan (CD1.6) demonstrates the likely arrangement of the scheme, with further design detail to be addressed through the reserved matters process.

1.4.4 The updated policy also requires (in policy TR4 paragraph 1(c)) streets and routes to be safe, inclusive and attractive for all users, including those with limited mobility, while minimising conflict between pedestrians, cyclists and vehicles and avoiding unnecessary street clutter. This part of the NPPF also references back to Policy DP3 paragraph 2 (d) to ensure that site provides good connections through prioritising walking, wheeling, cycling, and public transport to the wider nearby settlement. This is addressed in the Transport Assessment (CD1.19) through the Stage 1 Road Safety Audit and designer's response (Section 5) that confirms that the site access designs, as well as all of the off-site improvements (that ensure pedestrian priority measures are provided where possible) ensure safe movement is available for all. In addition, these design matters are appropriately capable of being addressed through detailed design at the reserved matters stage, informed by the outline layout and the relevant national design guidance.

1.4.5 Vehicle access and servicing matters are addressed by the Proposed Site Access (CD1.21) drawing and swept path analysis for refuse (CD1.23) and fire appliances (CD1.24), which demonstrate that the access arrangements can accommodate the required vehicle movements to ensure compliance with Policy TR4 paragraph 1(d). The Indicative Masterplan (CD1.6) also shows a likely layout with appropriately placed vehicle turning heads, with further internal layout and swept path details to be provided at reserved matters stage. Parking provision requirements set out in Policy TR4 paragraph 1 (e) are addressed in the Indicative Masterplan (CD1.6) and Transport Assessment (CD1.19), including intended compliance with West Sussex County Council guidance and provision for electric vehicle charging infrastructure.

1.5 TR6: Assessing transport impacts

1.5.1 Policy TR6 paragraphs 1 and 2 are considered to be a re-write of the previous NPPF paragraph 118.

1.5.2 The first parts of the Policy TR6 paragraphs 1(a) and 1(b) require a Transport Assessment and Travel Plan to be produced so that the likely impacts of the development can be assessed and monitored. The original submission addresses this requirement through the Transport Assessment (CD1.19) and Travel Plan (CD1.20).

1.5.3 Policy TR6 paragraph 2 of the NPPF also expects transport assessments and travel plans to reflect the transport vision for the development and the transport strategy for the area. The Transport Assessment (1.19) and Travel Plan (CD 1.20) provide the relevant basis for this assessment, including consideration of the development's transport impacts, multimodal trip generation and opportunities to promote sustainable travel, with the Travel Plan's (CD1.20) targets being a transport vision for the site.

1.5.4 The Transport Assessment (CD1.19) considers, in Section 7 the future year scenarios using committed developments (section 7.3), background traffic growth (section 7.4) and development traffic generation (section 7.5). It also identifies (in Table 5.2) multimodal trip generation and sustainable transport opportunities (Section 6). The assessment concludes that the proposed development would provide safe and suitable access from the A272 Lewes Road for all users and would generate approximately 40 vehicle movements in a weekday peak hour, which would not have a significant impact on the operation of the local highway network in terms of safety or capacity, and therefore will not have a severe adverse impact on the transport network (in terms of capacity, congestion or highway safety) as required by Policy TR6 paragraph 4.

1.6 TR8: Public rights of way

1.6.1 This policy is a new addition to the NPPF. It requires development proposals to protect and enhance the public rights of way network and to take opportunities to extend, link or improve existing routes where this would improve access to green spaces, provide new direct or circular routes, connect to services and facilities, or improve links to public transport stops and interchanges.

1.6.2 The Statement of Common Ground (CD9.2) confirms that surface improvements to Public Footpath 29CU between Lewes Road and Cobbetts Mead would be secured via a section 106 contribution to provide all-weather access. The Proof of Evidence also records the proposed improvements to this route, including West Sussex County Council's preference for a rolled stone surface, with the works to be secured through the Section 106 Agreement. This improvement to an existing route will enhance commuting to services and facilities and bus stops.

1.7 NPPF Glossary

1.7.1 The Glossary includes new and additional definitions that are relevant to general transport and highways matters, but do not alter the overall policy compliance identified above.

1.7.2 A new definition is provided for a "reasonable walking distance". This definition is expressly to be used for only two purposes – where that wording is applied in relation to railway stations (in relation to well-connected station policies S5, L3, and GB7) and for distance to hot food takeaways (in relation to policy HC5). The distance are different for both (800m for stations and 400m for hot food takeaways). There are no specified walking distances relating to services, facilities, and bus stops, and therefore these must be considered on a case-by-case basis. The NPPF is expressly not saying that 800m is a cap on walking distances. The Proof of Evidence (CD9.2) recorded the same position in respect of the NPPF 2024, and therefore this definition does not change any conclusions relating to suitable walking distances provided, other than noting that there is no specific distance threshold.

1.7.3 The definition of sustainable transport modes has been updated to be ***"Any efficient, safe and accessible means of transport with overall low impact on the environment, including walking, wheeling, cycling and public transport."*** Part of the Proof of Evidence (CD9.2) states that the use of ultra-low and zero emission between the Appeal site and Haywards Heath would enable a full car/train journey to be considered to be sustainable. Whilst that position is no longer supported by the policy, the presence of the high frequency rail service available from Haywards Heath station (even if driven to via a traditional internal combustion engine car) ensures that the location should limit the need to travel, particularly by private car (in accordance with Policy TR3 paragraph 1(a)). Similarly, the Department for Transport's support for park and ride for first and last mile connections in Better Connected, A Strategy for Integrated Transport (April 2026) (CD19.14) so that "travellers can drive to a station, park and continue their journey by train" remains a relevant sustainable transport mode easily accessible for future residents of the Appeal site.

2 Summary

2.1.1 This report has reviewed the Appeal site against the relevant transport and highways tests set out in the updated August 2026 version of the National Planning Policy Framework. In particular, it has considered the site against the requirements relating to sustainable location, genuine choice of transport modes, safe and suitable access, street design, parking, public rights of way and the assessment of transport impacts.

2.1.2 The submitted evidence demonstrates that the site is located where sustainable travel opportunities are available and can be enhanced through the proposed mitigation and contributions. It also demonstrates that safe and suitable access can be achieved for all users, that the residual cumulative transport impacts would not be severe, and that there would be no unacceptable impact on highway safety.

2.1.3 On this basis, the review finds that the Appeal scheme satisfies each of the relevant NPPF transport and highways tests. The update to the NPPF does not alter the overall conclusions of the original submission or appeal evidence, and the scheme remains compliant with national planning policy in transport and highways terms.

Appendix 6b Miller/Appellant's Response to Rule 6 Party NPPF Submissions (14-09-2026) (Transport and Ancient Woodland excerpts only)

3.0 Sustainability of the Appeal Site's Location – Transport and Travel

Policy TR3

3.1 Mr Greaves contends that the appeal scheme conflicts with Policy TR3 because it provides "no meaningful improvements" to infrastructure or services, including in relation to cycling infrastructure, bus services and the footpath network. However, this is a misinterpretation of the policy.

3.2 Policy TR3 does not prescribe specific infrastructure improvements that must be delivered, nor does it require developments to provide new bus services or cycling infrastructure. Rather, the policy requires development to be located in places that are sustainable, or which can be made sustainable, taking account of planned improvements, including those delivered as part of the development.

3.3 Mr Greaves' assertion that the proposal delivers no meaningful improvements is particularly surprising given the package of connectivity and accessibility measures secured through the development, which were agreed with and influenced by West Sussex County Council in its capacity as Highway Authority. These include:

- New crossing points on Lewes Road to improve pedestrian connectivity towards Haywards Heath town centre.
- Improvements to footway provision along Lewes Road and Snowdrop Lane to enhance the pedestrian environment.
- Reinstatement of the lay-by to footway on Lewes Road.
- Facilitating delivery of reduced speed limit on Lewes Road via a Traffic Regulation Order.
- A financial contribution towards the resurfacing of Public Footpath 29CU to facilitate year-round use and improve pedestrian access to local facilities and the primary school,

  [All secured through the Section 106 Agreement and agreed through the Transport and Highways Statement of Common Ground.]

3.4 To suggest that these measures do not constitute meaningful improvements is wrong.

3.5 Collectively, they will improve pedestrian connectivity to existing services, facilities and bus stops, enhance accessibility to Haywards Heath town centre, and improve the local walking environment. Importantly, these measures will assist in limiting the need to travel, particularly by private car, and were agreed with and influenced by West Sussex County Council in its capacity as Highway Authority, which was satisfied that the site could be appropriately served by the surrounding transport network.

3.6 As such, Mr Greaves' attempt to disregard these measures is unjustified. The improvements will be secured through the development and were considered necessary and appropriate by WSCC as Highway Authority.

3.7 Furthermore, Policy TR3 does not require a proposal to deliver improvements to every aspect of the transport network identified by Mr Greaves, nor does it require development to remedy all perceived shortcomings in accessibility. Rather, the policy requires development to be located in places that are sustainable, or can be made sustainable through planned improvements, including those secured as part of the proposal. Mr Greaves therefore applies a more onerous test than that contained within the text of the new NPPF itself.

Electric Vehicles

3.8 In Paragraph 63, Mr Greaves contends that electric vehicles are no longer supported by virtue of the revised NPPF's definition of sustainable transport. The glossary defines sustainable transport modes as:

*"**Any efficient, safe and accessible means of transport** with overall **low impact on the environment**, including walking, wheeling, cycling and public transport" [my **emphasis].***

3.9 The Appeal scheme is entirely sustainable having regard to all the named modes, so little turns on the absence of reference to electric vehicles in any event. However, this definition does not provide an exhaustive list of all forms of transport that may contribute towards sustainable travel. Rather, it establishes a broader principle that sustainable transport modes are those which are efficient, safe, accessible and have a low environmental impact. The use of the word "including" clearly indicates that the examples provided are illustrative rather than exhaustive. As such, Mr Greaves adopts an unduly narrow interpretation of the definition.

3.10 Furthermore, the revised NPPF continues to support measures which facilitate the transition to lower-emission forms of transport. For example, Policy TR2 requires parking standards to support the use of sustainable transport modes and includes provision for electric vehicle charging infrastructure. This demonstrates that the Framework continues to recognise the role of electric vehicles within the wider objective of reducing transport-related emissions.

3.11 Accordingly, the revised NPPF still supports electric vehicles in the context of locational sustainability. They have not ceased to form part of the transport measures capable of improving the sustainability of a development. Mr Greaves therefore adopts an overly restrictive interpretation which is not supported by either the wording of the definition or the wider transport policies of the Framework. Given the availability of walking, cycling and public transport from the Appeal Site, very little turns on this point.

800m Walking Distance within Policy S5

3.12 Turning back to Policy S5, Mr Greaves' conclusions on sustainability rely heavily upon his assertion that criteria h(i) and h(iii) are not satisfied [66]. In particular, he places considerable emphasis on the fact that the appeal site is not within a ''reasonable walking distance'' of a well-connected railway station, with reference to Mr Russell's evidence.

3.13 S5(1)(h) is a separate route to permission / compliance with S5 and has never formed any part of the Appellant's case. Mr Greaves' approach represents a clear misinterpretation of Policy S5. As set out in my original submissions on the revised NPPF, Policy S5 identifies a number of separate circumstances, set out in categories (a) to (j), in which development outside settlement boundaries should be supported. Where a proposal satisfies one of those categories, S5(1) confirms that development should be approved unless the benefits are significantly outweighed by the identified harms.

3.14 The NPPF Annex B is carefully worded in the way it applies the concept of 'reasonable walking distance', reserving the application of the 800m distance to specific circumstances, namely S5(1h), L3(2c) and GB7(1h) where they relate to land around well-connected stations. It does not apply to criterion (j), which is the relevant policy route in this appeal.

3.15 Both the Appellant and the Council have demonstrated that the appeal proposal satisfies criterion (j) of S5(1). That is because the term "reasonable walking distance" does not limit compliance with TR3.

3.16 Mr Greaves' submissions therefore place weight on a requirement that relates to an entirely separate limb of Policy S5. This is entirely the wrong approach. To read the reasonable walking distance test into criterion (j) would effectively import policy requirements that the Government has deliberately chosen not to include within that part of the policy. If they

wished it to apply to S5(j) they would have stated as such in the criteria or the Annex B reasonable walking distance definition.

3.17 Policy TR3 deals with locating development in sustainable locations and contains no requirement for development to be located within a reasonable walking distance of a railway station.

3.18 The railway station test is deliberately confined to S5(1)(h) and should not be applied more broadly across the Framework and cannot reasonably be treated as a universal test of sustainability. A walking distance over 800m therefore remains entirely appropriate, acceptable and policy-compliant.

3.19 Mr Greaves' assessment wrongly relies heavily upon a criterion that is not relevant to the policy route through which the appeal proposal is advanced. His conclusions, therefore, are misplaced and fail to recognise that criterion (j) was introduced specifically to support development that addresses evidenced unmet housing needs in locations outside settlement boundaries.

Connectivity Tool

3.20 In paragraphs 74-78 of his submissions, Mr Greaves places considerable reliance on the Connectivity Tool and treats it as a determinative assessment of whether a site is sustainable. However, as demonstrated by Mr Marshall during the Inquiry, this is not the test, nor what the revised NPPF says. The Connectivity Tool is one of a number of tools available to assist in assessing the sustainability and connectivity of a site and is expressly required to be considered alongside other quantitative and qualitative evidence. The NPPF does not change this.

3.21 The revised NPPF is clear on this point. References to the Connectivity Tool consistently state that it should be used alongside other relevant quantitative or qualitative evidence, including:

- *Policy TR1, which states that the Connectivity Tool should be used to inform the assessment and selection of sites for development **alongside other relevant quantitative or qualitative evidence**" [my **emphasis];***
- *Policy TR3, which states that the Connectivity Tool should be used **alongside other relevant quantitative or qualitative evidence** in assessing the connectivity of locations proposed for development" [my **emphasis]**; and*
- *The wider references within the Framework which similarly identify the tool as an input into the assessment process rather than a standalone or determinative assessment.*

3.22 To be clear, TR1 is a plan-making policy and cannot be used for decision-making. The reference here simply illustrates the overall policy intention is not to restrict assessment only to the Connectivity Tool, even at the plan-making stage.

3.23 Accordingly, the revised NPPF does not elevate the Connectivity Tool above all other evidence, nor does it suggest that the outputs of the tool should be treated as determinative of whether a site is sustainable. Had this been the Government's intention, the repeated reference to considering the tool alongside other evidence would not have been included.

3.24 In addition, Mr Greaves states at paragraph 76 that national policy confirms a "high degree of emphasis" should be placed on the Connectivity Tool. Whilst the tool is a material consideration, this is not what the policy wording actually says. Rather, the NPPF recognises the Connectivity Tool as just one means of determining the degree to which a location provides access to jobs, services, and facilities by sustainable transport modes, as part of a

wider assessment exercise, drawing together both quantitative and qualitative evidence in order to reach an overall planning judgment.

3.25 Mr Marshall's approach is therefore entirely consistent with national policy by considering the Tool alongside the extensive evidence before the Inquiry. The relevant question as explored by Mr Marshall is therefore not whether the Connectivity Tool produces a particular score, but what conclusions can reasonably be drawn when its outputs are considered in the round alongside the wider evidence base. This is precisely the approach advocated by the revised NPPF and adopted within Mr Marshall's Proof of Evidence (CD9.2).

Footpath and Safety - Routes from the Site

3.26 Mr Greaves claims that the footpath leading away from Lewes Road is unsuitable because in his assertion: (a) it is not overlooked, (b) it is overgrown and (c) it is unlit. That does not reflect the full evidence before the Inquiry. Mr Marshall demonstrated that this is a relatively short section of footpath, which is straight and has good visibility looking ahead. The sections of the route are overlooked by adjacent development, including a number of houses' windows at first-floor level. In any event, the route forms part of the existing public rights of way network, and is already well-used by the public.

3.27 The concerns regarding vegetation growth are wrong given that the route will be maintained and, following the proposed resurfacing works, the frequency of maintenance required would be reduced, because of the surfacing. The resurfacing itself was specifically requested by the Highway Authority and is intended to facilitate all-weather use of the route. The new surfacing will expressly prevent overgrowth and therefore amount to a clear improvement in its usability.

3.28 In relation to lighting, no improvements were required by West Sussex County Council in its capacity as Highway Authority.

3.29 During cross-examination Mr Russell accepted that the majority of trips to key day-to-day destinations, including the primary school, GP surgery, pharmacy and Tesco, would occur during daylight hours. Mr Marshall emphasised that in his view it would be the vast majority of such trips. As such, the concerns raised by Mr Greaves place undue emphasis on a matter which (a) neither the Highway Authority considered necessary to address nor (b) which would materially affect the ability of future residents, including women and girls, to access day-to-day services and facilities.

3.30 Mr Greaves' reliance on Policy DP3 in relation to the safety of specific groups is also unsupported by the evidence. No evidence has been submitted by the Rule 6 Party to demonstrate that the short section of public footpath in question is unsafe, gives rise to any actual crime or personal safety concerns, or would deter its use by future residents, particularly when the vast majority of trips will be during daylight hours.

3.31 Policy DP3 does not require every pedestrian route to be lit in order to be considered safe, secure and accessible, noting that the majority of trips will in any case be undertaken in daylight hours. Rather, the policy requires an overall assessment of whether development provides safe and inclusive movement opportunities for all users. In this case, the evidence demonstrates that the route will remain available, maintained and enhanced through the proposed mitigation measures and wider pedestrian improvements secured through the development.

3.32 Mr Greaves paragraph 81 tacitly appears to agree that Mr Russell's concern was that the path's quality (as Mr Russell saw it) would only *'…deter **some** users from walking along this path, **particular** [sic] **at dusk, dawn and nighttime**'.* Mr Russell confirmed in cross-examination that the majority of use would be during daylight hours, including those accessing the primary school.

3.33 As such, Mr Greaves has not demonstrated that the route would be unsafe or inaccessible, nor that the appeal proposal would conflict with Policy DP3. Rather, his conclusions rely upon concerns that are either addressed through the mitigation package secured by the development or unsupported by the evidence before the Inquiry.

3.34 Furthermore, Mr Greaves has not recognised the improvements to the PRoW that would come about directly as a result of the proposed development. NDMP TR8 confirms that

'Development proposals should… take opportunities to… improve the quality of existing routes where this enables...the provision of accessible, safe and convenient links to services and facilities and improved connections with public transport stops.

The proposed development does precisely that through improvements to the surfacing of the PRoW footpath secured through the agreed S106, which will enhance the route's year-round accessibility.

The View of the Highways Authority

3.35 Mr Greaves finally attempts to suggest the Highway Authority may have reached a different recommendation had the appeal scheme been assessed against the revised NPPF 2026. This is entirely speculative and unsupported by any evidence before the Inquiry. Indeed, it is flatly contrary to the Local Highway Authority's detailed consideration of the scheme, as evidenced in multiple consultation responses and the Transport and Highways Statement of Common Ground .

3.36 Mr Greaves places emphasis on the removal of the former NPPF paragraph 116 wording that development should "only be refused" on highways grounds in certain circumstances. He fails to acknowledge that the Highway Authority assessed the proposal against the wider transport policy framework and also agreed the Statement of Common Ground, including the sustainability credentials of the site's location, agreed routes and distances to local facilities, and a package of transport improvements to be secured through the development.

3.37 Furthermore, Policy TR3 does not impose a new prohibition on development in locations such as the appeal site. Rather, it requires development to be located in places that are sustainable, or can be made sustainable through planned improvements, including those delivered as part of the development itself. The only relevant evidence before the Inspector from the statutory highways consultee is that the development is acceptable subject to the agreed mitigation. There is nothing in the NPPF or otherwise to suggest they would now reach a different view.

Tree Cover

4.10 Mr Greaves considers that the loss of tree cover places the appeal scheme in conflict with Policy DP3(2)(c). That is also wrong. Policy N3, to which DP3(2)(c) expressly refers and Policy N2 do not place a bar on the loss of trees. Rather, NDMP N2 requires development proposals to:

"conserve and enhance existing natural features of visual, historic or nature conservation value (such as established trees and hedgerows) ***where possible*** *[my* ***emphasis]****".*

4.11 The appeal proposals have sought to retain and enhance trees wherever possible, with only those required to facilitate access being proposed for removal. The vast majority of trees and hedgerows are retained, including all high-quality trees, and the scheme will deliver a net gain in tree planting overall. Accordingly, the proposal is consistent with the requirements of Policies N2 and N3 and there is no basis for concluding that it conflicts with Policy DP3(2)(c) simply because a limited number of trees are proposed for removal.

Water Quality Improvement

4.12 Mr Greaves finally attempts to make a wholly new submission on water quality without any evidence. He states that it is unclear how water quality associated with the development would be improved. Again, requirements relating to water quality are not new and were similarly reflected within the NPPF 2024.

4.13 The R6 Party made no case throughout the Inquiry to suggest that the proposed development would fail to achieve appropriate water quality outcomes, and have provided no evidence to substantiate that claim. Again, it is therefore inappropriate to seek to introduce a new criticism through submissions on the revised NPPF at this late stage.

4.14 In any event, no objection has been raised by any statutory consultee in relation to water quality, including the Local Lead Flood Authority (CD4.15). Furthermore, appropriate water quality measures will be secured through planning conditions, including draft Condition 5 currently before the Inspector. In the absence of any technical evidence or statutory consultee objection to the contrary, there is no basis for concluding that the proposal conflicts with Policy DP3(2)(c) in this regard.

Ancient Woodland

4.15 There is no Ancient Woodland on site, based on the clear evidence presented, and agreed by the Council. The cartographic and aerial evidence presented does not indicate that the hedgerows running north-south through the site or the boundary features to the north-west of the site are Ancient Woodland.

4.16 At [105] and [106], Mr Greaves introduces for the first time, an unevidenced accusation that the proposals would "harm" the 'ghyll stream' to the south of the site within the designated Ancient Woodland.

4.17 The R6 party did not provide any evidence to support the submission that there would be any harm. To the contrary, both the LLFA and the Council's ecology consultee raised no objections. The Appellant also provided evidence from their own Drainage consultant to confirm that there would be no harm, given that the drainage arrangements would replicate the existing position (ID1). This was confirmed by Mr Forbes-Laird. Simply put, this is a new point for which the R6 present no evidence that there will any such harm.

4.18 At [107] Mr Greaves erroneously states that 'great weight' should be given to the 'likely' presence of Ancient Woodland, 'taking a precautionary approach'. Nowhere does the NPPF, past or present, suggest that either 'great weight' or a precautionary approach should be applied to Ancient Woodland. To apply such approaches would be an incorrect application of policy.

4.19 The correct approach, as the Appellant emphasised and as the Council has also confirmed in their closings (ID25 [12]), is that there needs to be a clear, positive conclusion that an area is ancient woodland. This decision is to be made on the basis of the normal civil standard of the 'balance of probabilities'. The new NPPF does nothing to change this. On the basis of the evidence, the overgrown hedgerows running north-south within the Site and the features at the north-eastern boundary are not Ancient Woodland areas when applying the above principles.

4.20 There is therefore no loss or deterioration to Ancient Woodland on or off site, or to the Ghyll stream associated with the offsite Ancient Woodland. The proposals therefore comply with NDMP N6.

4.21 In respect of NDMP N2, the proposals retain the majority of existing trees, and all important Category A trees, and do not result in the loss of ancient woodland. The drainage strategy will maintain the existing surface water flow rates and water quality leaving the site and therefore continue to conserve the nature conservation value of the ghyll stream. There is therefore no conflict with NDMP N2.

4.22 In respect of NDMP DP3(2c) the appeal proposals maintain a network of multifunction green infrastructure spaces, including hedgerows and open spaces enhanced to improve their ecological value. The drainage proposals also mimic existing surface water flow rates leaving the site and will incorporate measures to treat water quality. Drainage measures can be controlled in detail by condition 5 agreed between the Council and Appellant and not disputed by the R6 Party (ID23).

4.23 Overall, there is no conflict with NDMP N6, N1 or DP3(2)(c).

6.0 Summary

Main Issue 1: Status of and conflict with the development plan

6.1 Mr Greaves' paragraph [119] repeats the error previously made in failing to engage at all with Annex A, paragraph 2, in respect of the consistency of policies with the NPPF. Specifically, no reference is made to inconsistency between NDMP S5 and countryside policies DP6, DP12 and DP15 of the MSDP, to which I attach **very limited weight**, as directed by the NPPF.

6.2 It is also worth noting that Mr Greaves' [114] implies he has found an inconsistency between emerging policies and the NPPF, but does not elaborate on this further.

Main Issue 2: Sustainability of Location – Transport and Travel

6.3 Mr Greaves' [122] alleges conflict with NPPF TR1, TR3, TR4, S5, DP3 and P5.

6.4 The Appellant disagrees that there is any conflict with any elements of these policies.

6.5 Furthermore, TR1 is a plan-making policy, not a policy for consideration when making decisions on applications.

6.6 I have addressed the points raised at Mr Greaves' [123] at paragraph 3.1-3.19.

6.7 The application of the 'reasonable walking distance' definition by Mr Greaves is incorrect – being applied to policies to which the definition, as plainly written, does not apply.

6.8 The approach adopted by Mr Greaves to electric vehicles (EVs) is over-simplistic. National policy continues to support access to a site by EVs.

6.9 Mr Greaves' [126] has been addressed at paragraph 3.20 – 3.25. Mr Greaves' reliance on the Connectivity Tool is overstated and ignores the full text of TR3. Whilst acknowledging that it plays a part in the assessment of sites, this continues to be required 'alongside other relevant quantitative or qualitative evidence'.

6.10 Mr Greaves' [127] has been addressed at paragraphs 3.26 – 3.34. The routes from the site are and will feel safe for the majority of users at the majority of times, and will be made yet safer by the improvements delivered as part of the appeal scheme.

6.11 Overall, the R6 submissions on the sustainability of the site in relation to the NPPF are incorrect, overstated and not supported by the evidence, which shows that the site plainly is a sustainable location for development, well-related to the category 1 settlement of Haywards Heath, where S5(1) supports development.

Main issue 2: Sustainability of Location – Ecology, Trees and Ancient Woodland

6.12 Mr Greaves' allegations of conflict with DP3(2)(c), DP3(2)(f) and N2(1)(d) are all incorrect and/or made without any requisite evidence.

6.13 In respect of DP3(2)(f), no evidence has been presented to support this alleged conflict on the basis of public space and safety.

6.14 In respect of DP3(2)(c) and N2(1)(d), the Appellant's evidence, supported by the Council, has identified no conflict with these policies.

6.15 In respect of [131], and the allegation of 'good evidence' of Ancient Woodland or 'PAWS' on site, this is not supported by evidence. There is no Ancient Woodland or PAWS and this is confirmed by the Appellant's evidence and by the Council (ID25[13]).

Main Issue 3: Emerging Local Plan – Allocations

6.16 The matter of the status of the emerging allocation has been explored at section 5 above.

6.17 Put simply, the site has a draft allocation for exactly the same number of units, based on a very strong existing evidence base. There is no evidence that the allocation should be removed. The soundness of the allocation is a matter for the local plan examination inspector to consider.

6.18 The Appellant disputes and will continue to dispute as part of the examination the points made by the R6 party as to why they consider the site should not be allocated.

6.19 All the same, the Council have clearly set out why they consider the site is both appropriate for allocation and is required to make the site sound. They have been clear that they consider:

1 Other sites proposed for allocation are less sustainable than this site, and

2 Without sites such as the appeal site, Inspector Bore's requirement for further housing needs to be met is unlikely to be satisfied.

6.20 The new NPPF does nothing to change either of these facts.

Conclusion

6.21 Having carefully and fully reviewed the NPPF, I maintain my position, as per my initial submission (ID32), that the NPPF fully supports the appeal scheme. Indeed it is precisely the type of development the appellant has brought forward that the changes to the NPPF, and specifically NDMP S5 are designed to support.

6.22 My position remains, therefore, that the appeal should be allowed based on the very strong support provided by the NPPF and its NDMPs as material considerations for the purposes of s38(6) PCPA 2004.

Appendix 7 Appellant's (Julian Forbes-Laird) Arboriculture Proof of Evidence (June 2026) (Written Ancient Woodland excerpts only)

4 Ancient Woodland

4.1 Background information

4.1.1 Ancient woodland is defined both in the NPPF Glossary and in primary legislation[2] (albeit in immaterially different terms) as land that has "been wooded continuously since at least 1600 AD". From this, it is apparent that presence at that date and continuity thereafter to the present day, are both necessary ingredients for the ancient woodland definition to be met. Where either of these two ingredients is not met, a candidate woodland is not referable as ancient.

4.1.2 On 19 May 2026, the Rule 6 Party for the first time in the application and appeal history attempted to suggest that there was ancient woodland on site, specifically the two linear features within the centre of the Site. They explained that they were proceeding on the advice of a firm of ecologists called BioScan.

4.1.3 Their case is essentially that there is a possibility (as expressed in the R6P Updated Statement of Case, para. 3.22) that the two, grown-out, thickened hedgerows that sub-divide the site in a broadly north-south direction, could be fragments of ancient woodland left behind by 'assarting', that is to say the clearance of woodland for agriculture.

4.1.4 On Monday 22 June 2026, I provided to the Inspector my Technical Note[3] on this topic, appended at JFL4. This Technical Note followed (and expanded upon) the provision of a suite of maps on 18 June 2026, and followed prior correspondence with the R6P's solicitors, in which BioScan were informed that historic mapping showed that the Site had not been continuously wooded for an extended period from at least 1874, and hence did not meet the criteria for application of the ancient woodland descriptor. It is regrettable that these simple facts were ignored. The allegation by the R6P is baseless and entirely speculative. It is not based on a proper application of the correct methodology.

[2] S.136(2) Levelling Up and Regeneration Act 2023
[3] FLAC Note 43-1039 Technical note R6 Party's Requests for Ancient Woodland Vascular Plant (AWVP) Indicator Species Survey

4.1.5 The internal spine road would need to cross through these features, but would only require a modicum of localised removal. Reference has been made to a potential breach of NPPF 193c, the protective policy for irreplaceable habitats. However, that policy does not apply as the features concerned are not ancient woodland.

4.2 The identification of ancient woodland – Natural England's approach

4.2.1 The Ancient Woodland Inventory is compiled and maintained by Natural England. The grown-out hedgerows are not listed within the Ancient Woodland Inventory. It is accepted that, first and foremost, this can probably be explained by their size, which is well below the 2ha investigation threshold used by Natural England's Inventory research team.

4.2.2 However, it is appropriate to apply the standard Inventory research method in order to test whether they would qualify as ancient woodland if the size threshold were removed. This method is set out in detail in Natural England's *Ancient Woodland Inventory Handbook*[4] (**CD21.3**).

4.2.3 As the Handbook makes clear, the starting point for this type of historic landscape investigation, is to check for the presence of woodlands on the Ordnance Survey's First Series of the six miles to an inch county maps, known as Epoch 1. These maps date from the 1840s to the 1880s. If no woodland is present on the Epoch 1 map at a given location, the search ends. If it is present, the research is extended forward in time until either the woodland disappears from a subsequent map, or the woodland remains present throughout until the today. If that is the outcome, the woodland concerned is identified as provisionally ancient, and included within the Inventory. Where available, aerial imagery is consulted by Natural England's researchers to support the cartographic evidence.

4.2.4 Arising from the foregoing, the suggestion from BioScan that the grown-out hedgerows might be ancient woodland can, therefore, be tested by the simple expedient of consulting the same cartographic evidence that Natural England's research team would have used, if the features had not been below its investigative size threshold.

[4] https://publications.naturalengland.org.uk/publication/4876500800634880

4.3 Review of the evidence

4.3.1 The results of a correctly undertaken cartographic examination demonstrate that no woodland was present in the period 1874 to 1954. Three aerial photographs from the 1940s concur (1940-1947).

4.3.2 Recalling that Natural England's process starts with an examination of the Epoch 1 map, that for the Appeal Site shows no woodland. Instead, it shows simple linear field boundaries, consistent with either hedgerows or fences. Had Natural England examined the Site without curtailment by feature size, it would have stopped there, case closed. As noted, all subsequent elements of the 1874-1954 evidence bundle concur. This establishes a period of woodland absence of a minimum eight decades.

4.4 Further considerations

4.4.1 In case BioScan seek to assert that the hedgerows are somehow to be regarded as ancient woodland fragments, the Handbook provides the following relevant advice on its p.41:

> *A narrow or simple hedge shown on Epoch 1 that has expanded to become a thick strip of scrub or woodland on the current aerial photograph should not be assessed as woodland for Epoch 1 (and therefore not treated as long-established woodland)*

4.4.2 The correspondence from the R6P's solicitors has included a series of repeated requests for access in order for BioScan to undertake a botanical survey for ancient vascular plant indicator species (AWVPs). Whilst there is, now, no need to examine the wholly falsified proposition of ancient woodland any further, for completeness we can look at what the *Handbook* has to say about AWVPs. From its p.105:

> *The indicator species (AWVP) tool is inexact but simple: the more species recorded on the site, the more likely that site is to be ancient (the presence of AWVPs does not prove a wood is ancient and neither does their absence prove recentness).*
>
> *…There is no threshold species count above or below which the status of a wood becomes a certainty. For this reason, AWVP information should be used as a supporting part of the wider investigation.*

4.5 Assessment of BioScan's approach

4.5.1 It appears that BioScan is unaware of Natural England's methodology, which is considered by experts in this field to be the standard starting-point for testing the ancientness potential of woodland in England. I say this because it is clear that BioScan has failed to undertake even basic cartographic investigations. This seminal error has then been compounded by an attempt to apply a methodological approach which appears to be beyond its understanding: BioScan is seemingly convinced that the presence of a number of AWVPs is confirmative of ancient woodland, both generally, and regardless of the cartographic and photographic evidence.

4.5.2 Because the facts are so plain, there is no need for me to dwell on the Rule 6 Party's suggestions at paragraphs 17-19 of their solicitors' letter dated 16 June 2026, as these appear founded on substantive ignorance of the applicable and accepted methodology. As such, they can be dismissed immediately. As for the demand for access for AWVP surveying, there is neither need for, nor would be benefit from this exercise, as the results could add nothing material to the matters before the Inquiry.

4.6 The Boughton Lane Appeal Decision

4.6.1 The *Boughton Lane* appeal (PINS ref. 2227839) concerned alleged loss of ancient woodland and examined at considerable length the question of its identification. The issue arose as to whether the woodland in question (known as Five Acre Wood) was correctly included within the Ancient Woodland Inventory. My evidence before the Called-In Inquiry was that it was not. Although not wholly replicative of the precise circumstances before the present Inquiry, I consider there to be sufficient points of similarity to assist the Inspector. The Decision Letter is appended at JFL5.

4.6.2 I appeared for the Appellant as an expert on the identification of ancient woodland. I contended that Five Acre Wood was not ancient because there was no evidence of woodland on the site before the C19 (1840, to be precise). Natural England argued that the onus was on the challenger to the Inventory to prove the negative, whilst also contending that maps earlier than the Tithe Survey (of, in this case, 1840) could not be relied upon to show small areas of woodland, based on the maxim that *absence of evidence was not evidence of absence*.

4.6.3 The Inspector rejected Natural England's position. In his Report, to the Secretary of State he held that:

> ***IR256*** *…There is no statutory procedure for the designation of Ancient Woodlands, and therefore the inclusion of a site in either the Inventory or the [MAGIC] Database does not amount to such a designation. Rather, it is an indication that a woodland may be ancient.*
>
> ***IR257*** *In the case of Five Acre Wood, although the woodland is 'provisionally' identified as ancient, there is no evidence to that effect. The earliest mapped evidence dates from 1840, whereas the accepted definition requires continuity of woodedness since 1600. Although the appellants' survey found 16 vascular [plant] species, which are possible ancient woodland indicators, NE acknowledges that such evidence is normally used only for the purposes of confirmation, in situations where there is already other evidence from historic mapping. That is not the case here.*
>
> ***IR258*** *There is no map-based evidence before this inquiry that shows any basis for believing Five Acre Wood to date back to 1600. If any such evidence existed, I can see no reason why it would not have been revealed during the course of Mr Forbes-Laird's lengthy correspondence with NE on this matter. When challenged on such a matter, it seems to me that it is incumbent upon NE to disclose any such evidence. The arguments presented by NE in that correspondence, and indeed by [their specialist] Dr Sansum subsequently, suggest merely that ancientness cannot be ruled out. In the absence of any underlying evidence of a positive nature, this is not enough.*
>
> ***IR268*** *I conclude that Five Acre Wood should not be treated as ancient woodland for the purposes of this appeal.*

4.6.4 The Inspector's reasoning was explicitly endorsed by the Secretary of State in his Decision Letter of March 2016. From its paragraph 20:

> *The Secretary of State agrees with the Inspector's analysis (IR256 – 258) and conclusion that, for the purposes of this appeal, there is no proper basis for applying paragraph 118 of the Framework or any other policies that relate only to ancient woodland.*

4.6.5 Two matters of relevance to the present Appeal are relevant from the *Boughton Lane* decision:

1. Positive evidence of woodland across the material period is required for a woodland to be treated as ancient for planning purposes, and
2. The presence of (even a considerable number of) AWVPs does not bridge a material gap in the cartographic evidence.

4.7 Conclusion on ancient woodland

4.7.1 In the present case, replicating the process adopted by Natural England finds no ancient woodland on the Appeal Site, with abundant evidence confirming that the contrary applies. This is reinforced by the *Handbook*, which explicitly confirms that narrow hedgerows on Epoch1 which have subsequently thickened are not to be treated as ancient woodland.

4.7.2 As confirmed by *Boughton Lane* and, more recently, by the Handbook, botanical indicators (AWVPs) are not determinative of landscape history. It follows that there would no basis for the findings of any AWVP survey to countervail the straightforward conclusion arising from the cartographic evidence.

4.7.3 The Rule 6 Party is seeking to create something complicated from something that is actually very simple: the definition of ancient woodland is not met by the features concerned, and for this reason BioScan's speculative frolic into a misunderstanding of landscape history is doomed to fail.

43-1039_JFL
NORTH COLWELL FARM

S.78 Appeal, PINS ref. 6005786

In viva presentation by Appellant's witness on arboricultural matters –

Index to slides

Slide	*Source*	*Source name*	*Page*	*Depiction*	*Purpose*
1	CD9.3a	Appendix 4 to JFL Proof, Technical Note	PDF15	OS 6" 1874	EiC - cartographic evidence of land use
2			PDF16	OS 6" 1896	
3			PDF17	OS 6" 1938	
4			PDF18	Luftwaffe aerial image 1940	EiC - aerial imagery evidence of land use
5			PDF19	USAF aerial image 1944	
6			PDF20	OS Air Photo Collection 1947	
7			PDF21	OS 1:2500 1954	EiC - cartographic evidence of land use
8	CD1.18	Heritage Statement, Fig.4	PDF33	OS 25" 1896	
9	ID10	Inquiry document	Single	OS25" 1896 zoomed extract	
10	CD21.2	NECR248 Ancient Woodland Inventory handbook for England	Pag.25	Aerial photograph of example woodland	Sequential illustration of NE Phase 1 candidate ancient woodland identification process (see also CD21.2 at 3.3.3.8 at pag.41f/ PDF43f)
11			PDF27	Epoch 1 map ditto	
12			Pag.26	Raster image of land division polygons	
13			PDF28	Outcome hatch, Phase 1 search = 1	

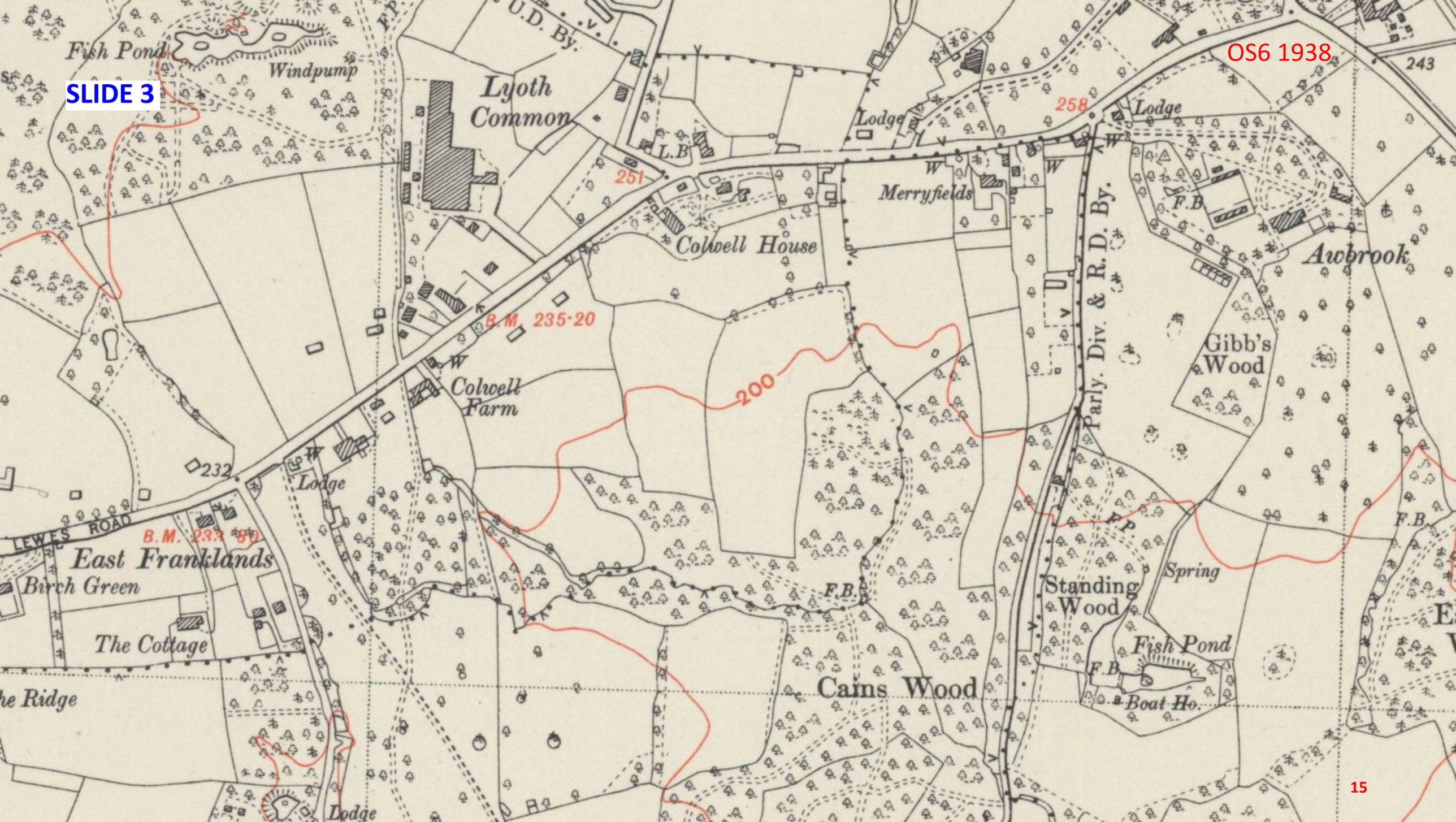
Note – all slides are taken directly from documents before the Inquiry


SLIDE 1
OS6 1874
Lyoth Common
Colwell House
Merryfields
Gibbs Wood
Lyoth House
Colwell Farm
East Franklands
Cains Wood
Standing Wood
Well
Lodge
Wells
B.M.264.3
B.M.231.9
247
240
236
223
199
200
13

SLIDE 2

OS6 1896

Fish Pond
Windmill
Lyoth Common
247
239
Lodge
B.M. 242·3
259
249
Merryfields
242
Gibb's Wood
Colwell House
B.M. 239·9
Lyoth House
Colwell Farm
F.P.
Lodge
B.M. 234·7
East Franklands
P
The Cottage
Briarlea
199
F.P.
8
Cains Wood
W
Standing Wood
Fish Pond
F.B.
200


SLIDE 3
OS6 1938
Fish Pond
Windpump
Lyoth Common
U.D. By.
F.P.
L.B
251
Lodge
258
Lodge
243
Merryfields
F.B
Colwell House
Awbrook
Parly. Div. & R.D. By.
B.M. 235·20
Colwell Farm
200
Gibb's Wood
232
Lodge
LEWES ROAD
B.M. 233·80
East Franklands
Birch Green
The Cottage
he Ridge
F.B.
Standing Wood
Spring
F.P.
Fish Pond
F.B
Boat Ho.
Cains Wood
Lodge
15


SLIDE 4
GX 1940
16


SLIDE 5
USAAF 1944
17


SLIDE 6
OSA1-10.56K 1947

SLIDE 7

OS1-2.5K 1954

Lyoth Common

Nursery

Colwell House

Tennis Court

Lyoth House

Colwell Farm

Merrifields

Home Wood

Standing Wood

Cains Wood

Hundred Pound Wood

Foot Bridges

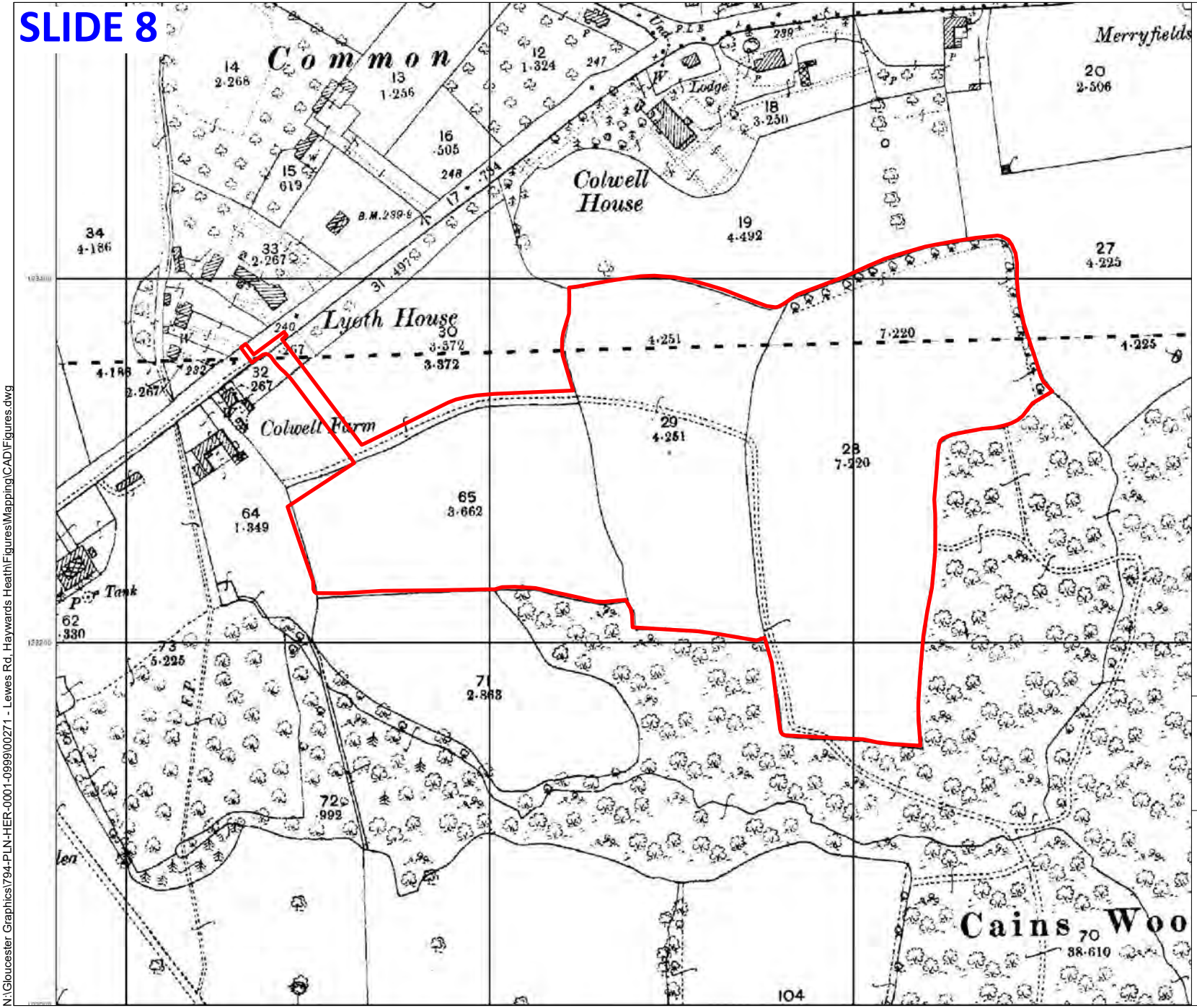
Pump House

Fish Pond

Boat House

Ambrook

SLIDE 8



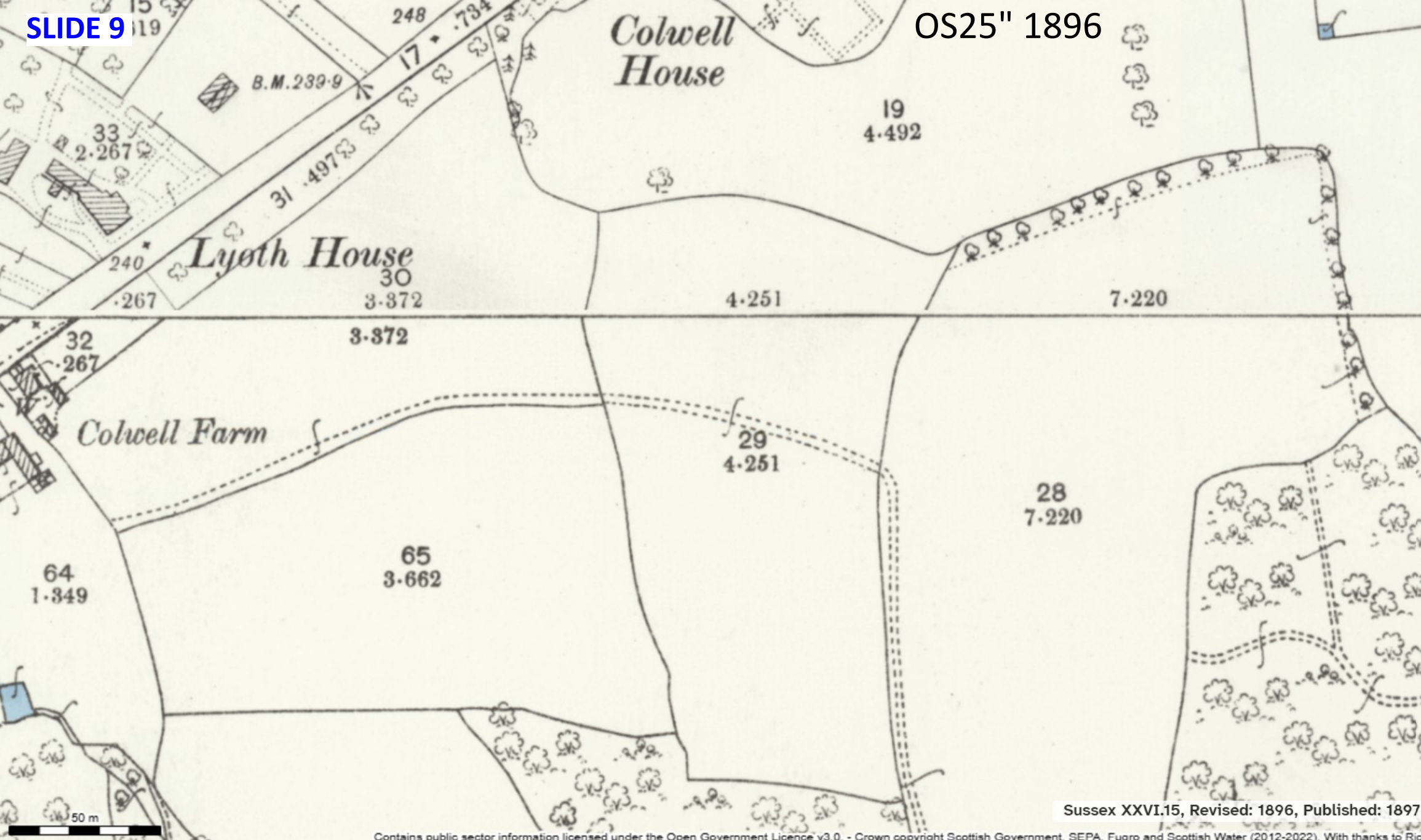
A TETRA TECH COMPANY

Figure 4

1897 Ordnance Survey Map

N:\Gloucester Graphics\794-PLN-HER-0001-0999\00271 - Lewes Rd, Haywards Heath\Figures\Mapping\CAD\Figures.dwg

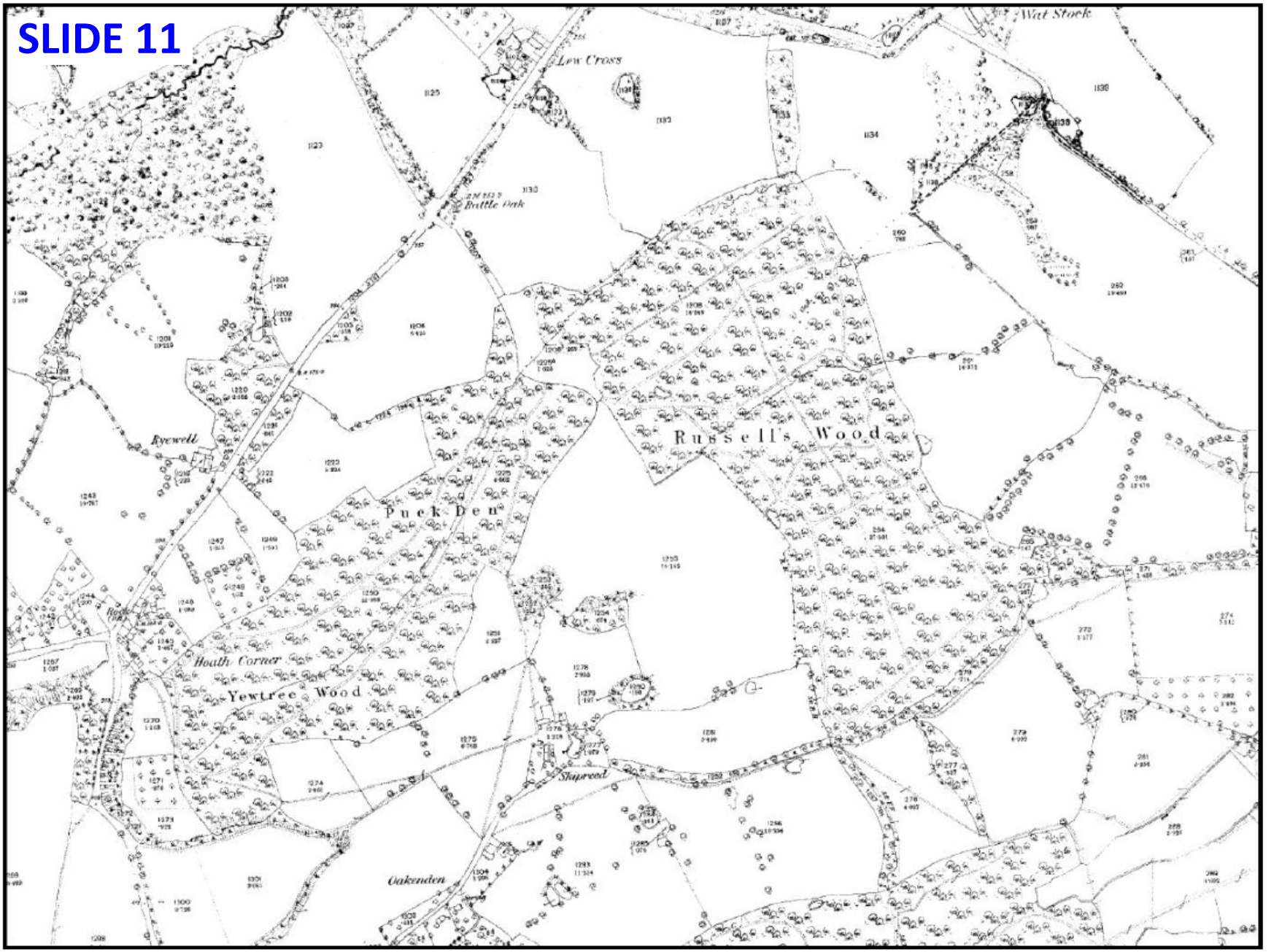
© Crown Copyright and database right 2024. All rights reserved. Licence number 100035207


SLIDE 9
OS25" 1896
Colwell House
19
4·492
B.M.239·9
33
2·267
31
·497
17
·734
248
240
Lyoth House
30
3·372
·267
4·251
7·220
3·372
32
·267
Colwell Farm
29
4·251
28
7·220
65
3·662
64
1·349
50 m
Sussex XXVI.15, Revised: 1896, Published: 1897
Contains public sector information licensed under the Open Government Licence v3.0. - Crown copyright Scottish Government, SEPA, Fugro and Scottish Water (2012-2022). With thanks to Ric

SLIDE 10

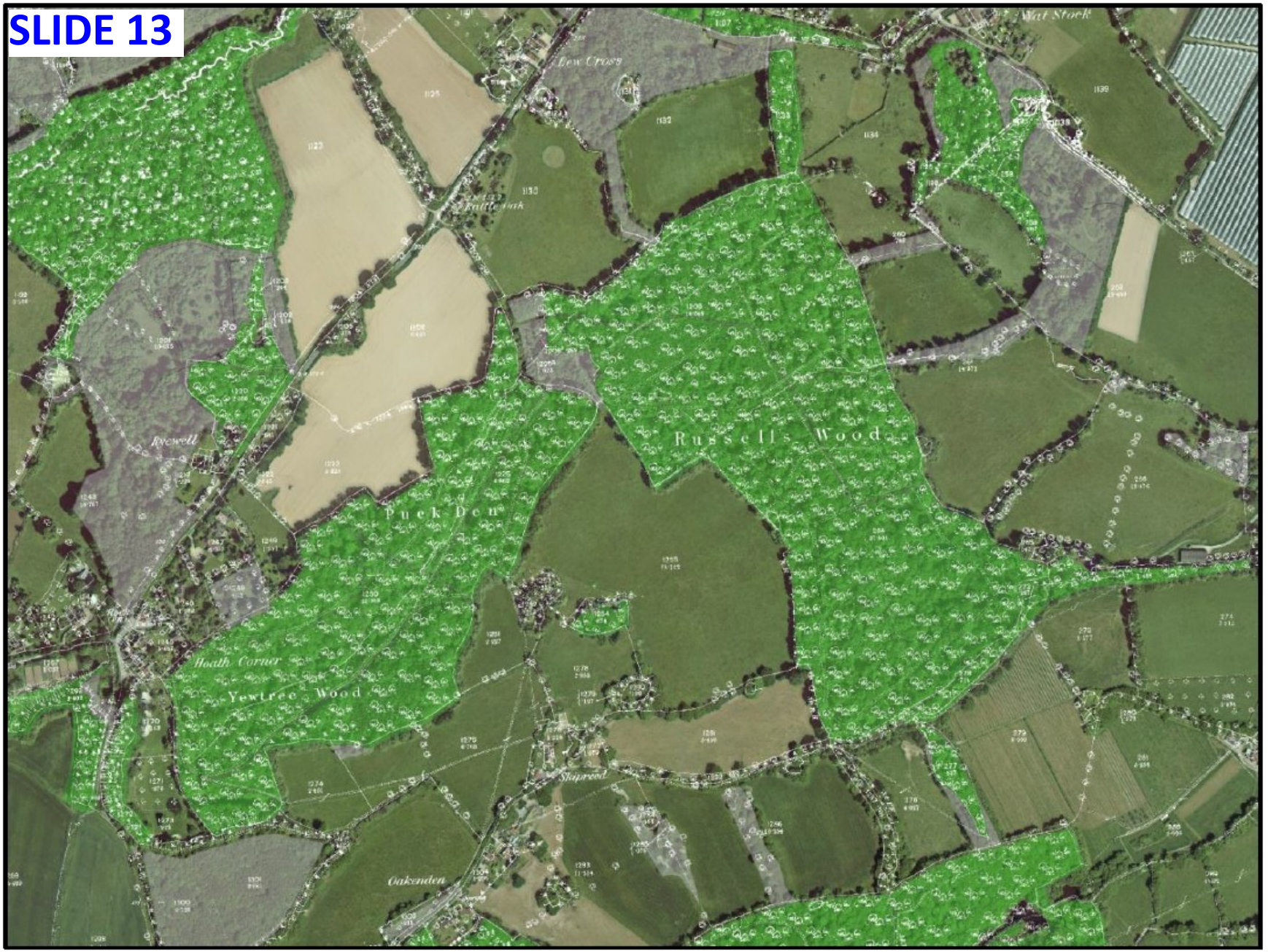


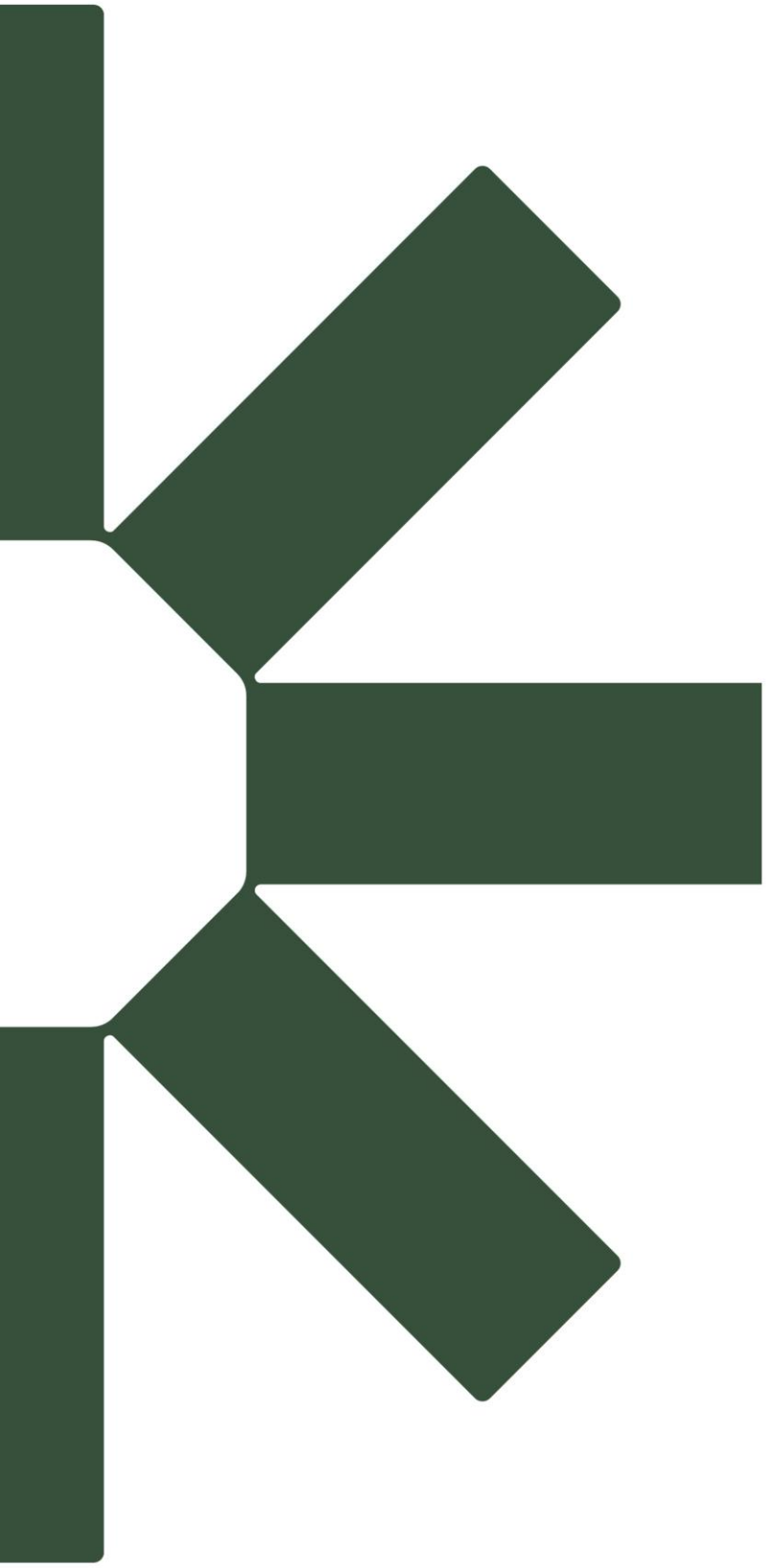
SLIDE 11


Wat Stock
Low Cross
Battle Oak
Russell's Wood
Puck Den
Ryewell
Heath Corner
Yewtree Wood
Shipreed
Oakenden

SLIDE 12




SLIDE 13
Wat Stock
Lew Cross
Russells Wood
Puck Den
Rosewell
Heath Corner
Yewtree Wood
Sharpend
Oakenden



Making Sustainability Happen