



Planning Proof of Evidence

Colwell Farm, Haywards Heath

**Town and Country Planning Act 1990 Planning and
Compulsory Purchase Act 2004 Section 78 Appeal by**
Appellant: Miller Homes

Prepared by:
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Appeal reference: 6005786

LPA application reference: DM/25/0445

30 June 2026

Revision: 4.0

Revision Record

Revision	Date	Prepared By	Checked By	Authorised By
01	24 June 2026	NB	CL	CL
02	26 June 2026	NB		
3	28 June 2026	NB		
4	30 June 2026	NB	AG	
	Click to enter a date.			



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Appendix A Response to Third-Party Submissions



1.0 Qualifications and Experience

- 1.1 My name is Nicholas Billington. I hold a Bachelor of Arts Degree (First Class with Honours) in History from the University of Winchester (2013) and a Master of Science Degree in Development Planning (2015) from the University of Reading. I have maintained Chartered Membership of the Royal Town Planning Institute (RTPI) since 2017.
- 1.2 I am a Technical Director of Planning at the Southampton Office of SLR Consulting and have led the planning team based in Southampton since November 2025. I joined SLR Consulting in April 2023. Before that, I held the role of Associate Director in Planning at the Southampton offices of another consultancy, Tetra Tech. I was employed by Tetra Tech (and WYG as was) from 2016 until I joined SLR. My planning consultancy role involves a wide range of professional town planning consultancy work, principally advising developers and landowners. I have particular experience in relation to major residential greenfield developments in the central south coast of England.
- 1.3 Prior to joining Tetra Tech, I worked at Winchester City Council and held positions in both their planning policy and development management teams.
- 1.4 I have been involved in this project for over 2 years. I have actively led the promotion of the site via the Local Plan, including at the Local Plan examination, and led the project team in preparing the planning application for submission to Mid Sussex District Council (MSDC). I subsequently led the management of the application following its submission. I have visited the site numerous times, including several times since the refusal of the application, and am familiar with the site, its surrounding context and the details of the appeal scheme.
- 1.5 I confirm that Artificial Intelligence tools have not been used in the preparation of my evidence other than as a proofing tool to assist with spellchecking and grammar suggestions.
- 1.6 The evidence I have prepared and provided for this appeal in this proof of evidence is true and has been prepared in accordance with the guidance of my professional institution (RTPI). I confirm that the opinions expressed are my true professional opinions.



2.0 Introduction

- 2.1 This Proof of Evidence supports an appeal against the refusal of Outline Permission by Mid Sussex District Council (MSDC). The 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.*
- 2.2 The majority of the site background matters are set out in the Master Statement of Common Ground (MSoCG – CD8.1) and Master Statement of Common Ground Addendum (MSoCGA – CD8.2) agreed between the appellant and MSDC. The MSoCGA confirms that MSDC no longer defends any of the reasons for refusal 1-5 (paragraph 3.1) and that they consider permission should be granted (paragraph 3.4).
- 2.3 The MSoCG also confirms an agreed description of the Site Location and Description (MSoCG Section 2) and Planning History and Application Background (MSoCG Section 3). Where these matters are agreed, they are not repeated here.
- 2.4 Topic Specific SoCG have also been provided and agreed with the Council covering:
- Housing Land Supply (HLSSoCG – CD8.3)
 - Affordable Housing (AHSoCG – CD8.4)
- 2.5 A separate SoCG has been agreed with the Highways Authority on Transport Matters (TSoCG – CD8.5).
- 2.6 The scope of my Evidence is to consider, as per Section 38(6) of the Planning and Compulsory Purchase Act 2004, whether the appeal proposal complies with the development plan and then, having regard to material considerations, and whether the planning balance indicates that outline planning permission should be granted for the appeal scheme.
- 2.7 The Inspector held a Case Management Conference (CMC) on the 28th April 2026. Following the CMC he issued a CMC Summary note dated 1st May 2026 (CD23.2). This confirmed the main matters, at that point, as being (with my additional numbering):
- [1] *Whether the proposal would comply with the development strategy for housing with regard to access to services and facilities.*
 - [2] *The effect of the proposal on the countryside/general character and appearance.*
 - [3] *The effect of the proposal in terms of the proposed loss of trees.*
 - [4] *The effect of the proposal on the character and appearance of the Conservation Area and on the setting of the Conservation Area.*
 - [5] *The effect of the proposal on the setting of the Grade II listed Colwell House and the undesignated North Colwell Barn.*
 - [6] *Ecology? (possible/unknown at present).*
- 2.8 This Proof of Evidence focuses on the planning reasons why, having considered all the relevant planning issues and applied the planning balance, the appeal should be allowed.



- 2.9 It is drafted in the important new context that the Council accept expressly that permission should be granted and the appeal allowed, as confirmed by the MSoCGA (CD8.2) [Paragraph 3.4]. The Council's acceptance that the appeal should be allowed occurred after the Inspector's CMC Summary Note was issued. The Council's change in position essentially narrows the main issues down to those raised by the Rule 6 Party. These can be summarised, based on the Rule 6 Party's SoC (CD11.2) as being:
- 1) Sustainability of Location in Transport terms
 - 2) Ecology matters,¹ specifically:
 - a) Ancient Woodland
 - b) Reptiles
 - c) Biodiversity Net Gain
 - 3) Conflict with the Development Plan, and
 - 4) The Planning Balance
- 2.10 My Proof of Evidence responds to the case put forward by the Rule 6 party (known as the 'Protect Colwell Farm Action Group' but hereafter referred to as the 'R6 Party') in its Updated Statement of Case (dated 19 May 2026 – CD11.2). The R6 Party's case as set out in the Statement of Case and supplemented by later correspondence is narrow and unfounded. It fails to correctly apply relevant national policy tests, and/or to have regard to relevant evidence. I shall explain this below, including by reference to the Proofs of Evidence submitted by the Appellant's wider team.
- 2.11 My response to other 3rd party representations to the application and appeal can be found at Appendix A.
- 2.12 This Proof of Evidence draws on and should be read alongside the Proofs of Evidence of other Expert Witnesses, namely:
- Transport and Accessibility Proof of Evidence prepared by Neil Marshall (i-Transport)
 - Arboricultural Proof of Evidence prepared by Julian Forbes-Laird (FLAC)
 - Landscape Proof of Evidence prepared by Andrew Cook (Pegasus)
 - Heritage Proof of Evidence prepared by Jonathan Smith (Blake Turnbull Heritage Consultancy Ltd)
 - Housing Land Supply Proof of Evidence prepared by Ben Pycroft (Emery Planning)
 - Affordable Housing Proof of Evidence prepared by James Stacey (Tetlow King)
 - Ecology Proof of Evidence prepared by Lyndsey Barrett (EcoSupport)
- 2.13 My Planning Proof first sets the appeal within the wider planning context (Section 3).
- 2.14 Whilst MSDC no longer defend the Reasons for Refusal (RfR) as set out in the Decision Notice (CD3.2), for completeness, I will nonetheless address each RfR as far as they relate to the main matters (Section 4). This includes RfR1's reference to transport sustainability

¹ The Rule 6 Party's e-mail to the Inspectorate of 15 June 2026 only cited these three issues as forming its ecology case. It did not refer to any continuing intention to call evidence in respect of bats and dark corridors.



matters, which the Council no longer maintains. The R6 Party has stated that it wishes to call a witness on this issue and provided a brief summary of its case in the Updated SoC.

- 2.15 I will go on to the matters raised by the R6 Party which are not contained in the RfR, limited to ecology matters (Section 5).
- 2.16 It will then consider appropriate planning conditions and obligations, which have been agreed with the Council already (Section 6).
- 2.17 It will then move on to consider the appeal scheme against other policies of the plan, including consideration of countryside policies and RfR (1) (Section 7).
- 2.18 Finally, the Proof will include an overall assessment of the planning balance (Section 8) before providing a summary of my evidence (Section 9).
- 2.19 Section 9 of this proof also provides the overall Summary of Evidence as required by section F10.5 of the Appeal Procedural Guide.



3.0 Mid Sussex and the Appeal Site

- 3.1 This section will outline the policy background and its relationship to the appeal scheme.

Housing Need

- 3.2 The scale of the need that must be met in Mid Sussex District and England under the current national policy is very significant.
- 3.3 The Government's statement 'Building the Homes we need' (CD16.2) confirms:

This Government has inherited an acute and entrenched housing crisis. The average new home is out of reach for the average worker, housing costs consume a third of private renters' income, and the number of children in temporary accommodation now stands at a historic high of nearly 160,000. Yet just 220,000 new homes were built last year and the number of homes granted planning permission has fallen to its lowest in a decade (December 2024).

- 3.4 More recently, the Government have published a new draft NPPF (CD5.2) for consultation. At front and centre of the Government's proposed changes is the delivery of new homes. In the introduction to the draft NPPF consultation (CD5.2) the Government states:

(Consultation Introduction – Pg 9) The government is committed to tackling this country's housing crisis. Decades of failure to build enough homes has constrained growth, pushed ownership out of reach for too many, driven rents to unaffordable levels, and seen more and more people fall into temporary accommodation – including 170,000 children.

- 3.5 These descriptions are clearly applicable to the Mid Sussex District, where house prices remain at nearly ten times the average income², and affordable housing remains below what is required, meaning many will be simply unable to own or rent their own home (Mr Stacey's Proof – CD9.7).
- 3.6 Whilst only limited weight can be attached to the draft NPPF at this time, the approach adopted within it demonstrates a clear direction of travel aligned with the Government's statements. This includes draft paragraph S5 which allows development outside of settlements where:

j. 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 sites²⁷ or scores below 75% in the most recent Housing Delivery Test²⁸), and where the development would:

i. be well related to an existing settlement²⁹ (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; or

...

- 3.7 As demonstrated in the evidence of Mr Pycroft relating to Housing Land Supply (CD9.6), and accepted by the Council in the HLSSoCG (CD8.3), MSDC is not delivering the number of homes required in the district to meet acute housing needs.

² House price to residence-based earnings ratio March 2026 release:
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoresidencebasedearningslowerquartileandmedian>



- 3.8 The current housing need of the district alone is 1,410dpa (including 5% buffer), equating to a requirement over the next 5 years of currently 7,051. Their supply is no more than 5,293. This results in a housing land supply of no more than **3.75 years**. This figure excludes the significant additional unmet housing needs arising from neighbouring authorities.
- 3.9 As demonstrated in the evidence of Mr Stacey relating to Affordable Housing, and in the Affordable Housing SoCG (CD9.7):
- It is agreed that there is an acute national housing crisis and that the Council is also dealing with a housing crisis day to day, with a desperate need for more affordable housing to be provided in Mid Sussex District and Haywards Heath Civil Parish (para 7.1).*
- 3.10 This all underlines that the adopted development plan is no longer effective in providing the homes the district and wider region needs and is manifestly out of date. I will expand on this further in future sections.
- 3.11 This also needs to be viewed within the national context of an acute housing crisis. This is further underlined by the findings of Mr Pycroft in his Proof, and as largely agreed by MSDC in the HLSSoCG (CD8.3 – paragraph 2.13), which confirms there is a significant deficiency in MSDC's HLS.
- 3.12 Overall, there is both a national and local housing crisis where there is a widely recognised need to deliver homes. It is within this context that this appeal is considered.

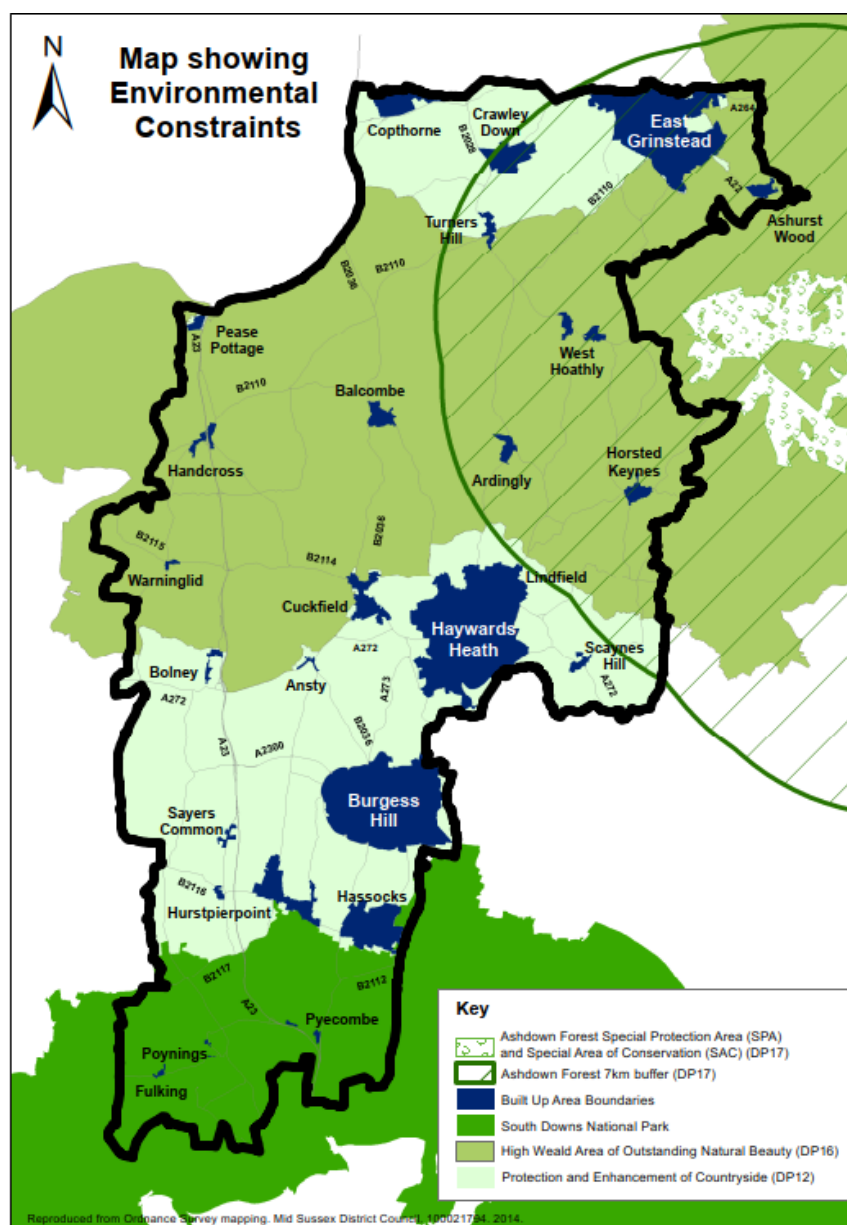
The District Context

- 3.13 Mid Sussex District Council's current development plan is the adopted MSDC Local Plan (CD5.3) which was adopted in March 2018 and covers the period 2014 to 2031. It provides for 16,390 homes over the plan period, equating to 964dpa.
- 3.14 The Mid Sussex Site Allocations DPD (CD5.4) also forms part of the development plan but only concerns itself with the allocation of sites. It is not referenced in the RfR.
- 3.15 The adopted Local Plan (CD5.3) confirms a settlement hierarchy as follows:
- 1) Category 1 – Towns: Burgess Hill, East Grinstead and Haywards Heath
 - 2) Category 2 – Larger Villages
 - 3) Category 3 – Medium Villages
 - 4) Category 4 – Small Villages
 - 5) Category 5 – Hamlets
- 3.16 Haywards Heath is in top category 1 as one of the most sustainable settlements The Plan confirms that category 1 settlements benefit from:
- '...a comprehensive range of employment, retail, health, education leisure services and facilities. These settlements will also benefit from good public transport provision and will act as a main service centre for the smaller settlements.'*
- 3.17 The appeal site is located at Haywards Heath and adjoins its boundary.
- 3.18 The same hierarchy is brought forward within the Regulation 19 MSDC Local Plan (CD7.1), with an identical description associated with tier 1 settlements.
- 3.19 Paragraph 34 of the NPPF requires that local plans be reviewed 'at least once every five years'. This has not happened.
- 3.20 Mid Sussex is also a heavily constrained district, such that outside Category 1 (and other settlements) there are significant limits on where new housing can be delivered. The Regulation 19 MSDC Local Plan (CD7.1) confirms that:



'Nearly 50% of the district is within the High Weald Area of Outstanding Beauty [AONB – now National Landscape], and over 10% is within the South Downs National Park' (page 9).

3.21 Figure 4 of the adopted Local Plan (CD5.3) illustrates these constraints:



3.22 The appeal site is not located within either the National Landscape (AONB as was) or the National Park, being located to the immediate east of Haywards Heath.

The Emerging Plan

3.23 The Council are progressing a new Local Plan. I actively participated in the local plan examination on behalf of the Appellant both in written submission and appearing at the hearings. I am therefore very familiar with the emerging plan and the discussions at the hearing sessions.

3.24 The submission version of the Regulation 19 MSDC Local Plan (CD7.1) seeks to deliver 19,620 homes over the plan period to 2039.



- 3.25 Two rounds of local plan hearings were undertaken, the first in 2024 (by Inspector Nurser) and the second in 2026 (by Inspector Bore). The appointment of Inspector Bore to examine the plan in December 2025 was effectively a 'restart' of the plan's examination.
- 3.26 Following the conclusion of the hearing sessions in March 2026, Inspector Bore issued a Post-Hearing Letter (CD7.5) which confirmed his initial findings following the hearings and examination of the submitted evidence. In summary, this confirmed:
- The plan period would be 2021-2040 (Plan Period paragraph).
 - For Plan purposes, the appropriate starting point for the Local Housing Need (LHN) of the district is 999dpa (Local housing need paragraph).
 - A specific number of homes will be added to the LHN to meet a proportion of the unmet housing needs of neighbouring authorities (Local housing need paragraph).
- 3.27 As a consequence of the above, Inspector Bore confirmed:
- (Local Housing Need paragraph) Therefore, an overall housing **target in the range of 1,200 to 1,300 dpa**, which will include a substantial component for the unmet housing needs of adjacent authorities, will be tested for delivery. The Council will seek, as far as possible, to **identify sufficient additional housing sites to meet a requirement towards the upper end of that range**. [emphasis my own].*
- 3.28 The MSDC MS-TP4: Housing Post Hearings Update (CD7.3) confirms that, based on the above request by the Inspector, that the new housing requirement for the plan period will be 24,071 dwellings which equates to 1,267 dwellings per annum on average across the plan period (paragraphs 1.26-1.28, and paragraphs 1.64-1.65, and associated tables).
- 3.29 Paragraph 1.61 of the MS-TP4 (CD7.3) confirms that to meet the requirement defined above, sites to accommodate an additional 3,928 dwellings will be required. Mr Pycroft's evidence (CD9.6) confirms that further sites are required to be allocated, including sites than can be delivered within the next five years, in order to meet this requirement.
- 3.30 The Regulation 19 plan (CD7.1) confirms the updated district plan strategy is based on four key principles, which includes:
- 'Growth at existing sustainable settlements where it continues to be sustainable to do so'*
- 3.31 Inspector Bore's post hearing letter (CD7.5) confirms:
- 'The Spatial strategy set out in the plan is sound.'*
- 3.32 The Council have, as a consequence, reviewed sites previously submitted to the Council for potential allocation and published a 'Long List' of sites which includes the appeal site (ref 844) (SSP7 and appendices – CD7.4). The Council will undertake further detailed assessment and have confirmed a 'short list' of sites for proposed allocation, which will be published in the week of 13th July 2026, with subsequent Main Modification consultation taking place between the 27th July and 7th September.³
- 3.33 The Council intend to adopt their plan by the end of 2026 or very early 2027.
- 3.34 The SoCGA (CD8.2) confirms that:

³ Timings set out at <https://www.midsussex.gov.uk/planning-building/mid-sussex-district-plan/district-plan-review-examination/> [accessed 10-06-2026]



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. [My addition for clarity]

- 3.35 There is plainly a need for more housing within the district now, and it is acknowledged that the Regulation 19 submission plan (CD7.1) does not provide sufficient homes to meet the housing needs of the area and unmet needs of neighbouring areas. It is therefore essential that the Council allocate further sites, such as the appeal site, to adopt a sound plan.

The Appeal Site and Emerging Plan

- 3.36 The appeal site has reference 844 and is included on the Long List of sites for further testing. Appendix 2 of SSP7 (CD7.4b) confirms:

'The site seeks to provide 80 homes. 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'

- 3.37 The Council have now decided not to contest the appeal as confirmed in their letter of 2nd June (CD10.2) and in the subsequent SoCGA (CD8.2). The letter confirms:

'...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.'

- 3.38 The combination of the site's inclusion in the long list and confirmation as above is an acknowledgement that the site is one of a number of sites needed in order for the plan to be found sound and is unlikely to be screened out by the 'in combination' testing. It should be noted that only four sites were included in Haywards Heath and the appeal site is the largest. It is therefore essential that it is allocated. Allocation of the site would accord with the proposed spatial strategy, which Inspector Bore has found sound.
- 3.39 The R6 Party's case (as originally set out in the Updated SoC) included the submission that the current deficit in the Council's housing land supply will be resolved by the imminent adoption of the emerging plan (R6 SoC – CD11.1 – paragraph 3.32). That position is mistaken. The Plan can only be found sound and adopted, if more sites, including the appeal site, are allocated in the emerging plan, as has been made clear by Inspector Bore.
- 3.40 Mr Pycroft's evidence shows that without further sites included on the Long List, MSDC will not be able to demonstrate a 5YHLS on adoption of the plan (CD9.6 Paragraph 3.21).
- 3.41 The weight that can be afforded to the emerging plan considered as a whole remains minimal. However, the following factors are material to the appeal:
- The Spatial Strategy has been found Sound (CD9.5);
 - Inspector Bore has found that the Council must identify more sites for housing in order for the plan to be made Sound (CD9.5);
 - The Council have confirmed their long list of sites for further consideration, which includes the appeal site (reference 844) (CD7.4); and
 - The appeal site is one of only four 'long list' sites adjoining the Tier 1 settlement of Haywards Heath and it is the largest of those sites, having a greater capacity than the three other sites combined.
- 3.42 In summary, there are a number of relevant considerations which demonstrate the need for the site to come forward: (1) the acute need for housing in the district, as evidenced by the lack of HLS, (2) the direction of the examining inspector that the Council must allocate more sites for the emerging plan to be found sound, and (3) the Council's decision to include the



appeal site on its 'Long List' of sites for potential allocation. The Council have recognised in their letter of the 2nd June 2026, confirming they will not be contesting the appeal and that the appeal should be allowed.



4.0 The MSDC Reasons for Refusal

- 4.1 This section addresses each of the original reasons for refusal. The decision of MSDC to refuse the application was made in the context of an officer's recommendation to approve the application (Officer Report – CD3.3).
- 4.2 On 2nd June 2026, MSDC wrote to the Inspector to confirm that it had decided not to contest the appeal (CD10.2). The Appellant and MSDC then agreed an MSoCGA (CD8.2) which confirms each RfR would not now be a basis for refusal of the appeal and that the Council will not be producing any evidence.
- 4.3 Even before the Council confirmed they would not be contesting the appeal, their case, with respect to the Council, was very narrow, and with no professional evidence intended to be presented by landscape, transport or arboricultural experts (CD10.1). The Council had also agreed, prior to their letter of the 2nd June 2026, that the Council had a shortfall in both their 5YHLS and affordable housing delivery (CD8.1 – Section 6).
- 4.4 Nonetheless, in recognising the decision on the appeal now rests with the Inspector (on behalf of the Secretary of State), each MSDC RfR is addressed in this section.
- 4.5 The Development Plan documents referenced in the Decision notice are limited to (1) the Mid Sussex District Plan 2014-2031 (hereafter the MSDP) and (2) the Haywards Heath Neighbourhood Plan (hereafter HHNP). This section also references, in general terms, the National Planning Policy Framework (NPPF).
- 4.6 I consider the MSDP and the HHNP to be the most relevant development plan documents to this appeal.
- 4.7 The main issues raised in the RfR, are considered to be, with the corresponding development plan policies:
 - 1) Unsustainable location – poor pedestrian access to town centre, reliance on car – contrary to MSDP DP21.
 - 2) Loss of trees – resulting in harm to character of the area with inadequate compensation contrary to MSDP DP37, HHNP E9.
 - 3) Development in countryside location, out of keeping with rural character – contrary to MSDP DP12, HHNP E5, E9.
 - 4) Heritage harm – setting of Colwell House (Grade II Listed), North Colwell Barn (Non-designated asset) and Conservation Area – contrary to MSDP DP34, DP35, HHNP E9.
- 4.8 It is these matters that this proof, informed by the evidence of others where relevant, will now be the focus:

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

- 4.9 This matter principally relates to RfR 2 of the MSDC Decision notice.
- 4.10 RfR2 was issued contrary to Officer's advice as set out in the Officer's Report at paragraphs 12.63-12.64 (CD3.3).
- 4.11 Mr Neil Marshall's evidence relating to Transport and Highways Matters confirms that the site is in a demonstrably accessible and sustainable location. I agree with Mr Marshall's evidence and conclusion. The site's sustainability has been demonstrated through detailed assessment by i-Transport and also by the application of a range of tools, including the DfT



Connectivity Tool, which places the site in the top 20% of connected locations in Mid Sussex by all sustainable Modes. Mr Marshall's proof explains why his approach to its application is the correct approach (CD9.2 Paragraph 5.5).

- 4.12 His evidence shows that a range of routes exist to travel to local facilities including schools, local leisure facilities, convenience retail, pharmacy, and GP Surgery by sustainable means.
- 4.13 Furthermore, Haywards Heath Town Centre is also within a reasonable walking and cycling distance.
- 4.14 NPPF Paragraph 110 states that:

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.

- 4.15 Haywards Heath is a Category 1 settlement with the highest level of facility provision and job opportunities within the district, where the likelihood of and opportunities for sustainable travel are highest and where the vast majority of travel needs can be realistically met within the settlement. The same cannot be said of lower tier settlements.
- 4.16 The benefits of being located near a range of local employers in Haywards Heath, including Princess Royal Hospital – a key employer in the district, is also an important consideration. Given the range of employment opportunities in Haywards Heath, locating new developments, where it is possible to walk and cycle to work safely, provides a key opportunity to improve sustainable travel choices.
- 4.17 The appeal scheme also provides for a suite of local transport improvements focused on sustainable modes of travel which will improve travel choice not only for new residents of the appeal scheme, but also for existing residents in the locality. These are set out in Section 6 of the Transport Proof by Mr Marshall.
- 4.18 It is also important to recognise, as acknowledged by Mr Marshall at 5.5.2 of his evidence, that accessibility and an assessment of sustainable travel modes involves an overall judgement. It should not be based purely on the application of rigid walk and cycle distances. This is an approach endorsed in a recent appeal relating to a site known as Horsham Golf Club, Denne Park, Horsham (Appeal ref 3355546 – CD12.20) where Inspector Young confirms at DL39-40:

39. When sustainable travel is properly considered in the round, I conclude that future residents of the development would be able to conveniently access local facilities through non-car modes of transport particularly cycling and public transport. This is not therefore a location where future residents would be overly reliant on car journeys. Accordingly, I conclude there would be no conflict with NPPF paragraphs 108, 109, 114, 115 and 119 and HDPF Policy 40.

*40. In coming to that view, I consider the Council has placed far too much emphasis on the 800m walk distance recommended in Manual for Streets and other related guidance. As the Appellant argued, such distances should not be construed as hard and fast rules and should be applied with a degree of flexibility which recognises that the opportunities to promote sustainable transport rather than just active travel modes will be determined by the type of development and its location. **In that vein, outside of central London and other major cities, there will be very few residential sites that are able to meet the 800m recommended walk distance in all cases. [my emphasis]***

- 4.19 Inspector Young, in my view, rightly goes on to acknowledge that greenfield sites on the edge of Top Tier settlements (which would include Haywards Heath) will need to come forward if housing needs are going to be met. He confirms:



*41. Those principles apply with equal or greater force here because greenfield sites on the edge of Horsham and other top tier settlements will need to come forward if housing needs are going to be met. By virtue of their peripheral location, very few, if any, of these sites will score highly across all aspects of sustainable travel. Some, may be better located for walking and others, as is the case here, for public transport and cycling. **If one were to take the Council's approach in this case, which was to rigidly apply 'recommended' walk distances to some destinations and failing to balance that against the availability of other sustainable travel modes, there is very little prospect of the country meeting its ambitious housing targets.** [my emphasis]*

- 4.20 The approach adopted by Inspector Young recognises the nuanced approach that must be adopted to assessing accessibility and balancing that against needs such as housing, remains highly relevant to this case.
- 4.21 Mr Marshall's approach is similar in relation to the application of the Connectivity Tool at the District level as opposed to the County-wide level as advocated by the R6 Party.
- 4.22 The appeal site, whilst located at the edge of Haywards Heath, is, based on Mr Marshall's evidence, and in my own professional view, located in a sustainable location.
- 4.23 This is also a view shared by the Highways Authority, as confirmed by their no objection to the application (CD4.21 – CD4.26), and their subsequent agreement to a SoCG (CD8.5).
- 4.24 Finally, this view is also now shared by MSDC, which confirms in the MSoCGA (CD8.2)

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

- 4.25 MSDC goes on to confirm that the appeal scheme is in compliance with MSDP policy DP21 (CD8.2 paragraph 3.14). I agree with this conclusion and will return to this in Section 7 below.
- 4.26 As a consequence of Mr Marshall's evidence, supported by the Highways Authority and now the Council, I find no conflict with Policy DP21 of the MSDP.
- 4.27 In respect of National Policy, specifically that set out in the NPPF, the proposals are located in a sustainable location, adjoining a Tier 1 settlement and is within an evidenced walking and cycling distance of facilities, services and employment opportunities. In devising a scheme of improvements, priority has been given to walking and cycling which will facilitate improved travel. The proposals are demonstrably in accordance with paragraphs 110 and 115 of the NPPF.

Main Issue 2 – The effect of the proposal on Trees

- 4.28 This matter is related to RfR 4 of the MSDC Decision Notice. The Decision Notice references policies DP37 of the MSDP and E9 of the HHNP. Matters relating to alleged Ancient Woodland on site, which was not a matter raised during the course of the application by any party, is dealt with in Section 5 of this Proof below.
- 4.29 RfR4 was issued contrary to Officer's advice as set out in the Officer Report at paragraphs 12.177-12.179 (CD3.3).
- 4.30 **Policy DP37 of the MSDP**, relates to the consideration of Trees, Woodland and hedgerows. It does not prohibit all tree loss, which in any case would be impractical. This interpretation is confirmed by the professional officer's report (CD3.3 – paragraph 12.174).
- 4.31 Policy DP37 goes on to state:



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

- 4.32 **Policy E9 of the HHNP**, is a general design and character policy covering various matters, one of which states that development should:

respects the natural contours of a site and protects and sensitively incorporates natural features such as trees, hedges and ponds within the site,

- 4.33 RfR1, which is no longer contested, suggests a 'significant number of trees' will be lost, which make an important contribution to the character and appearance of the area. It also suggests that this loss will not be adequately compensated.
- 4.34 As set out in Mr Julian Forbes-Laird's evidence, there is tree loss to accommodate the development, as is common to the majority of new developments, but this loss is not significant both in terms of the quantum of loss and the quality of the loss.
- 4.35 The proposals retain:
- 100% of high quality category A trees
 - 87% of medium quality category B trees
 - 76% of low quality category C trees (which should not normally be a constraint to development)
- 4.36 No trees within the Ancient Woodland outside the site are proposed to be lost, and a buffer of at least 15 metres, and often exceeding this, is provided from the Ancient Woodland in accordance with national guidance.
- 4.37 Where tree loss will be evident from the existing public realm, which exclusively relates to the tree loss required to form the site access, Mr Forbes-Laird has shown that the loss of these trees is not likely to have such an adverse impact on the proposals as to warrant a reason for refusing the application.
- 4.38 This is reinforced by Mr Cook's Landscape Proof of Evidence on Visual Amenity and Character matters (Chapters 5 and 7) and Mr Smith's Proof of Evidence on Heritage matters.
- 4.39 Furthermore, the proposals will evidently allow for a significant net increase in tree planting. Clearly, landscaping is a reserved matter and so the precise number of new trees is not known. Nonetheless, the parameter plan (CD1.9), indicative masterplan (CD1.6) and the Landscape & Ecological Design Plan (Appendix 2 of the Landscape Evidence - CD9.34b) all provide for significant green buffers in and around the site, providing significant opportunities for tree planting, with the latter plan indicating a number of new trees approaching 150. This exceeds the level of proposed loss.
- 4.40 I therefore find no conflict with Policy DP37. This was a view shared by the planning officer in their professional officer report (CD3.3) which confirms:
- 12.179 In light of the above, whilst the removal of some trees is regrettable, replacement planting could come forward to mitigate such loss. As such the proposal is thereby considered to comply with Policy DP37 of the MSDP.*
- 4.41 I similarly find no conflict with Policy E9 where it relates to tree and hedgerow loss, or the NPPF paragraph 136.



Main Issue 3 – The effect of the proposal on the countryside and general character and appearance of the area

4.42 This matter is principally related to RfR 1 of the MSDC Decision Notice. The Decision Notice references Policy DP12 of the MSDP and policies E5 and E9 of the HHNP, stating the development would be contrary to these policies.

4.43 RfR1 was issued contrary to Officer's advice as set out in the Committee Report at paragraphs 12.84 and 12.124. (CD3.3)

4.44 **Policy DP12 of the MSDP**, whilst positively worded, is essentially a restrictive policy that prevents development outside of the BUAB of settlements except in specific defined circumstances, which usually excludes new market housing. It only applies to development outside of BUAB.

4.45 For proposed developments, it also requires that:

...it maintains or where possible enhances the quality of the rural and landscape character of the District

4.46 As a result of the application of paragraph 11(d) of the NPPF, I consider Policy DP12 to be out of date and as such attracts much reduced weight, and the Council agree that it must attract less weight in this case (MSoCG – CD8.1 – para 5.2-5.3).

4.47 As I set out in more detail in Section 7 below, I also find the policy is not entirely consistent with the NPPF due to its overly restrictive approach to development in the countryside, which is not replicated in national policy.

4.48 I do find a degree of technical conflict between the appeal scheme and Policy DP12 due to the site's location outside of the BUAB and the restrictive nature of Policy DP12, which limits development to those requiring a countryside location. However, in accordance with NPPF paragraph 232, DP12 is not consistent with the Framework and in accordance with very well-established principles for settlement boundary policies, it must be given much reduced weight, specifically limited weight.

4.49 An inevitable consequence of meeting housing needs is the need to develop green field sites. The number of homes required to meet acute housing needs will not be delivered without developing such sites. There simply are not sufficient developable and viable brownfield sites to deliver the homes the country and district needs. This has been recognised by the Council through the inclusion of numerous green field sites as draft allocations in the emerging plan and more recently on their 'Long List' of potential further allocations to meet housing needs, which includes the appeal site.

4.50 I will nonetheless turn to the technical conflict with and the weight to be afforded to Policy DP12 in Section 7.

4.51 **Policy E5 of the HHNP** (CD5.5) is a positively worded policy which permits development outside of BUAB where the following policy criteria are adhered to:

- *would not unduly erode the landscape character of the area or its ecology*
- *would not harm the setting of the town and*
- *would retain and enhance the separate identity of communities.*

4.52 Finally, **Policy E9 of the HHNP** (CD5.5) states:

Developers must demonstrate how their proposal will protect and reinforce the local character within the locality of the site.

4.53 It goes on to list seven varying design matters to which development must 'have regard'.



4.54 It also separately requires that:

Proposals affecting a listed building, conservation area, building of local interest or public park of historic interest or their setting should preserve or enhance their special interest and/or distinctive character.

4.55 None of the requirements of Policy E9 prohibit development where it has been demonstrated that consideration has been given to each element, as has been the case with the appeal scheme.

4.56 Mr Andrew Cook's evidence relating to Landscape matters demonstrates the appeal scheme is acceptable in respect to the landscape elements of the above policies and in terms of its effect on the character and appearance of the area. It demonstrates that when considered in the round, the development accords with each policy in landscape terms.

4.57 It does conclude, as is common with all greenfield developments, that the development will cause harm to the landscape character at a site level. However, this would be highly localised due to the extensive pre-existing boundary treatment around the site, which includes mature vegetation (to the north and west) and Ancient Woodland (to the south and east).

4.58 I recognise that this is a harm to be weighed in the balance, which I will assess in the balance in Section 8.

4.59 However, in the circumstances of this case, this harm does not result in automatic conflict with landscape, character and appearance policies as above. To conclude otherwise would mean all green field development (and in many cases brownfield developments) would result in unavoidable conflict with landscape policies irrespective of the real-world effect of the development.

4.60 Based on Mr Cook's evidence, with which I agree, I conclude that there will be no conflict with policies E5 and E9. Where I find conflict with Policy DP12, I reserve this to conflict only in a technical sense, given the site's location outside of a BUAB, and not in respect of those parts of the policy relating to landscape, character and appearance.

4.61 Even if a degree of conflict were to be found with these policies in landscape terms, this conflict, given the highly localised visual effects of the development, would be minor and not sufficient to outweigh the benefits of the proposals, individually or cumulatively with other harms that have been identified. This is a view shared by the Council as confirmed in the MSoCGA (CD8.2), which confirms:

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. (CD8.2 – Paragraph 3.7)

Policy E5 and Gap Considerations

4.62 In respect of Policy E5 of the HHNP, I agree with Mr Cook that the appeal scheme does not conflict with this policy.

4.63 It is important to recognise that the HHNP designated all areas outside of the Haywards Heath BUAB not within the Neighbourhood Plan area as 'gap'. In reality, therefore, Policy E5 is not a 'true' gap policy.

4.64 The only criterion which could be construed to exhibit similarities to a true gap policy is the third which states development will only be permitted if it:

- *would retain and enhance the separate identity of communities.*



- 4.65 It is common ground with the Council that there is no conflict between the appeal scheme and the above criterion 3 of Policy E5.
- 4.66 This is a view also confirmed in Mr Cook's evidence (paragraphs 9.13 – 9.17) and I agree with him.

Main Issue 4 – The effect of the proposal on designated and undesignated heritage assets

- 4.67 RfR 3 alleged that the proposal would cause unacceptable harm to the Grade II Listed Colwell House, the undesignated North Colwell Barn and the Lewes Road Conservation Area. Furthermore, RfR3 contended that the public benefits arising from the development do not outweigh the harm.
- 4.68 As a result RfR3 alleged that the proposals would be contrary to policies DP34 and DP35 of the MSDLP and Policy E9 of the HHNP and the 'aims of the NPPF'.
- 4.69 RfR3 was issued contrary to Officer's advice as set out in the Officer Report at paragraph 13.18 (CD3.3).
- 4.70 Jonathan Smith has set out in his heritage evidence the harm he considered is attributable to each asset. In summary, his assessments confirm:
- Grade II Listed Colwell House - No Harm
 - Undesignated North Colwell Barn – Less than substantial Harm
 - Lewes Road Conservation area – Less than substantial harm
- 4.71 It is common ground with MSDC that individually and collectively the proposals do not result in any 'substantial harm' under the terms of paragraphs 213 and 214 of the NPPF. The R6 Party have also not suggested 'substantial harm' arises as a result of the developments effects on heritage assets.
- 4.72 This is consistent with the conclusions Mr Smith reached during the course of the application.

National Policy and Legislation on Heritage

- 4.73 It therefore falls for the application to be considered against paragraphs 215 and 216 of the NPPF.
- 4.74 Paragraph 215 requires that where less than substantial harm to a designated asset is identified, this harm should be weighed against the public benefits.
- 4.75 Paragraph 216 relating to undesignated assets requires a balanced judgement having regard to the degree of harm to the assets significance.
- 4.76 It is recognised that in accordance with paragraph 212, 'great weight' should be given to the harm to heritage assets arising from the proposals, but this does not render the degree of harm to an asset irrelevant. Where a level of harm identified is small (as is contended here), the great weight would be applied to a small level of harm, and so still be capable of attracting a relatively low level of overall weight in the balance.
- 4.77 Any identified harms to non-designated heritage assets are subject to the separate test in NPPF paragraph 216.
- 4.78 In addition, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be given to the desirability of preserving a conservation area or its setting.



- 4.79 Section 66(1) of the same Act similarly requires special regard to be given to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
- 4.80 Relevant case law is summarised in the original MSoCG and in the Heritage Assessment. In the Barnwell Manor case (*East Northamptonshire v SSCLG* [2015] EWCA Civ 137; [2015] 1 WLR 45, [29]) (CD13.1), the Court of Appeal confirmed that a decision-maker “should give considerable importance and weight to the desirability of preserving the setting of listed buildings when carrying out the balancing exercise”. I have had regard to the statutory duty in s66(1), as far as applicable in this case (given Mr Smith’s findings that there will be no harm to the significance of the Listed Building), and the parallel duty in 72(1) (Mr Smith having identified limited harm to the significance of the Conservation Area).
- 4.81 In *Jones v Mordue* [2015] EWCA Civ 1243, [28] (CD13.2), the Court of Appeal further confirmed that decision-maker who works through the applicable paragraphs of the NPPF in accordance with their terms will have complied with the section 66(1) duty.
- 4.82 In this section, I shall consider the relevant national policy and development plan policy in respect of the Conservation Area (under s72(1)) and the Grade II Listed Building (noting Mr Smith’s professional view that there will be no harm to the significance). My overall conclusions in respect of the heritage balance are set out in Section 8, specifically paragraph 8.44 – 8.46.
- 4.83 **Policy DP34 of the MSDP** requires that development protects listed buildings and their setting. The policy goes on to require the consideration of the significance of the listed building, which is similar to the requirements of NPPF paragraphs 207 and 208. It also requires special regard to be given to protecting the setting of a listed building. The majority of criteria are not relevant, relating instead to specific works to listed buildings.
- 4.84 Policy DP34 goes on to confirm that proposals affecting heritage assets will be considered in accordance with the policies of the NPPF and current Government guidance.
- 4.85 **Policy DP35 of the MSDP** relates specifically to Conservation Areas. It requires proposals to conserve and enhance a conservation area’s special character and appearance.
- 4.86 The site access and a small part of the main site are within the conservation area, whilst the majority of the site sits outside the conservation area, but within its setting.
- 4.87 Criteria 3, 4 and 5 of DP35 are not relevant to the proposed development.
- 4.88 Jonathan Smith’s evidence has shown that the proposals continue to conserve its overall special character and appearance. This conclusion is further informed and reinforced by the Evidence of Mr Cook on Character and Appearance.
- 4.89 I find that Policy DP35 is not fully consistent with the NPPF in that it does not align with the approach for considering development affecting heritage assets, specifically the approach set out in paragraph 215 as previously set out, which provides for situations where a less than substantial level of harm arises. In accordance with paragraph 232 of the NPPF, the weight afforded to policies should be consistent with their level of consistency with the Framework. Given the level of inconsistency between policy DP35 and the NPPF, specifically paragraph 215, I give policy DP35 less weight.
- 4.90 **Policy E9 of the HHNP** has been discussed under Main Issue 3 and much of the discussion remains relevant to this section. In respect of specific reference to listed buildings, conservation areas and buildings of local interest, Policy E9 largely replicates the requirements of DP34 and DP35, stating proposals should preserve or enhance their special interest and/or distinctive character. In this respect, I identify a similar level of inconsistency between the approach of Policy E9 to heritage matters and the NPPF, specifically paragraph 215, and hence in respect of heritage, it attracts reduced weight.



- 4.91 It is recognised that there is a degree of less than substantial harm to the designated Lewes Road Conservation Area, principally resulting from the implementation of a new access. In accordance with the NPPF and sections 72 of the Act, this harm is given negative weight in the planning balance.
- 4.92 Applying paragraph 215 of the NPPF, which requires this harm to be weighed by the public benefits, I find that the public benefits substantially outweigh the level of less than substantial harm that arises to the Conservation area, even when applying 'great weight' (as per Barnwell Manor [29] "considerable importance and weight") to that low level of harm. The benefits are set out in detail in Section 8 of this proof.
- 4.93 In applying paragraph 216, in relation to the undesignated heritage asset, it is only necessary to undertake a balanced judgement, having regard to the scale of any harm or loss and the significance of the heritage asset. Given my findings above in respect of the application of paragraph 215, I continue to find the benefits outweigh the low level of harm caused to the significance of the undesignated heritage asset.
- 4.94 In the event that less than substantial harm were also found to the significance of Grade II Listed Colwell House (a view which, based on Mr Smith's evidence, I would dispute), I would continue to consider that such harm, both individually and cumulatively with the other identified heritage harms, would be outweighed by the very substantial weighting of public benefits arising from the proposals.
- 4.95 It is relevant that a similar view was reached by the MSDC Planning Officer in recommending approval of the application. The officer report to planning committee (CD3.3) states:
- 13.19 It is considered that the significant public benefits of the scheme (provision of new housing, including affordable housing, the economic benefits including construction jobs, additional spending in the locality), outweigh the less than substantial harm to the setting of the heritage assets in this instance.*
- 4.96 This conclusion was reached by the planning officer even where they identified a higher level of less than substantial harm to all three heritage assets than Mr Smith contends is the case.
- 4.97 The R6 Party in their SoC seem to imply (paragraph 4.4) that paragraph 11(d(ii)) is engaged as a result of the less than substantial level of harm identified, and the lack of counterbalancing public benefits. I disagree with both that interpretation of the policy and its application in this case.
- 4.98 As set out above, I consider that the public benefits do clearly outweigh that harm, and as a consequence, paragraph 11(d(i)) is not engaged. This is the same approach adopted within the Officer report to the planning committee (CD3.3) and in numerous appeals. In respect of Heritage Assets relevant to this case, the NPPF (paragraph 214) only directs that applications be refused where 'substantial harm' to such assets is recorded. No party contends this is the case here.
- 4.99 In *Monkhill Limited v SSHCLG* [2019] EWHC 1993 (Admin); [2020] PTSR 1283 (CD13.5) (upheld by the Court of Appeal in [2021] EWCA Civ 74; [2021] PTSR 1432) (CD13.6), the High Court observed at [37(13) and (14)] and [59] that where heritage harm is found to be outweighed by the public benefits (applying the statutory tests and NPPF), one should proceed to NPPF 11(d)(ii).
- 4.100 Paragraph 215 of the NPPF simply requires the less than substantial harm (LTSH) to be weighed against the public benefits, within the context of the statutory test. Therefore, there is no automatic disengagement of the 'tilted balance' under NPPF 11(d(ii)), even were it to be concluded that the public benefits did not outweigh the harm (a conclusion that I would dispute).



- 4.101 Consequently, the proposals do not give rise to a conflict with (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.
- 4.102 In summary, I consider that the proposals accord with policies DP34, DP35 and E9 of the Development Plan.



5.0 The Rule 6 Party Submissions

- 5.1 I have carefully reviewed and considered the R6 Party's case as set out in their Updated Statement of Case (hereafter the R6 SoC – CD11.2).
- 5.2 The R6 Party have confirmed they are only calling evidence and producing proofs of evidence in relation to (1) transport, (2) ecology and (3) planning matters.
- 5.3 The R6 Party case should be considered in the context that the Local Planning Authority is not contesting the appeal and has confirmed that planning permission should be granted (CD8.2 – paragraph 3.4).
- 5.4 No evidence is being produced by the R6 Party in relation to (4) landscape, (5) heritage, (6) arboriculture or any other matters, and hence these matters are uncontested.
- 5.5 The R6 does not therefore put forward any evidence itself on the original Main Issues 2, 3, 4 and 5.
- [2] *The effect of the proposal on the countryside/general character and appearance.*
 - [3] *The effect of the proposal in terms of the proposed loss of trees.*
 - [4] *The effect of the proposal on the character and appearance of the Conservation Area and on the setting of the Conservation Area.*
 - [5] *The effect of the proposal on the setting of the Grade II listed Colwell House and the undesignated North Colwell Barn.*
- 5.6 The R6 SoC (CD11.2) only specifies the following matters as those on which they will be producing evidence, I summarise their Matters as I see them as follows:
- 1) Sustainable Location in Transport terms
 - 2) Ecology matters, specifically:
 - a) Ancient Woodland
 - b) Reptiles
 - c) Biodiversity Net Gain
 - 3) Conflict with the Development Plan, and;
 - 4) The Planning Balance
- 5.7 Matter 1 of the R6 case (Location) has been considered above in Section 4 and within Mr Marshall's Evidence and will not be addressed again in detail here. As Mr Marshall has set out, the R6's Party's position on transport is opaque and does not appear to correctly identify the relevant distances, services or apply the national policy tests correctly. As Mr Marshall has set out, the appeal site is a sustainable location in transport terms and accords with both NPPF 110 and 115 and DP20 and 21.
- 5.8 Matter 3 (Development Plan) and 4 (Planning Balance) will be addressed in Sections 7 and 8 of this proof and will not be addressed here.
- 5.9 Matter 2, relating to ecology matters, covers matters not contested by the Council at any stage. The R6 Party's position on ecology is contrary to the findings of the Council, the Council's professional ecology consultant and the Appellant's own appointed ecologist (Ms Barratt). The R6 SoC, in this regard, raises concerns about conflicts with policies DP37 and DP38 of the MSDP.



- 5.10 Mr Julian Forbes-Laird's evidence responds to Matter 2a (Ancient Woodland) and Ms Lyndsey Barratt's evidence addresses the separate matters 2b and 2c (numbered Matters 2-3 in her Proof of Evidence). She also addresses bat dark corridors (Matter 4). This fourth issue appears to have been withdrawn by the Rule 6 Party, following its e-mail to the Inspectorate on 15 June 2026 only citing three aspects to its ecology case..
- 5.11 I agree with the evidence of Mr Forbes-Laird and Ms Barratt on those matters. The Appeal proposal confirms with both the development plan and national policy in respect of ecology. There is no reason why planning permission should be refused on ecology grounds. The Council and their Ecology Consultant, who commented on the application, reached the same conclusion and raised no concerns with the robustness of the Survey's undertaken by the Appellant's Ecologists (4.33). This is reaffirmed in the MSoCG with the Council (CD8.1 – paragraph 5.63 to 5.67)).
- 5.12 **Policy DP37 of the MSDP** is principally concerned with the protection of Trees, Woodland and hedgerows in their own right. It recognises that such features provide ecological benefit but the purpose of the policy mainly relates to the amenity value of trees. Arboricultural matters are dealt with within Mr Forbes-Laird's proof and in Section 4 of this proof.
- 5.13 **Policy DP38 of the MSDP** relates to Biodiversity. It permits development where biodiversity is protected and enhanced and then provides a series of five criteria on which this will be tested.
- 5.14 Paragraph 193(c) of the NPPF states that development resulting in the loss of irreplaceable habitats such as ancient woodland should be refused.
- 5.15 However, there is no irreplaceable habitat affected by the proposed development. The R6 Party's assertion that the existing hedgerows on site are Ancient Woodland (i.e. irreplaceable habitat) is wrong. This is unequivocally demonstrated in Mr Forbes-Laird Proof, on which I rely.
- 5.16 Matter 2a of the R6 Party's case is therefore unfounded.
- 5.17 In respect of reptiles, and the suitability of the receptor site, this has been addressed in Ms Barratt's proof which demonstrates that the receptor site is suitable and that the development taken as a whole does protect existing biodiversity and protected species, in accordance with Policy DP38.
- 5.18 Furthermore, the proposals will deliver a Biodiversity Net Gain (BNG) of at least 10%. There is no requirement to provide a post-development BNG calculation at this stage; nonetheless, this has been provided, which shows no net loss on site of BNG, with the remaining credits provided off-site as permitted by the regulations. The Appellant is already in discussions with a BNG provider (Biofarm) to deliver these credits.
- 5.19 It is also material that the Government have confirmed that they will be bringing forward legislation to provide equivalence between on-site and off site provision⁴.
- 5.20 Notwithstanding the robustness of the BNG assessments undertaken to date, the R6 Party's updated SoC (CD11.2) expressly acknowledges that

'3.27...the appellant will likely be able to achieve the biodiversity gain objective...'

⁴ 5.1 <https://www.gov.uk/government/consultations/improving-the-implementation-of-biodiversity-net-gain-for-minor-medium-and-brownfield-development/outcome/government-response-and-summary-of-responses#government-response-part-3-increasing-flexibility-to-go-off-site-for-minor-development> [accessed 23-06-2026]



- 5.21 Overall, the proposed development complies with the requirements of DP38, as has been demonstrated in evidence. As a result, I find no conflict with Policies DP37 and DP38 and hence no ecology reason on which the appeal should be rejected.



6.0 Planning Conditions and Obligations

- 6.1 A schedule of planning conditions agreed with MSDC is provided at CD15.2.
- 6.2 Heads of Terms for the legal agreement have been agreed with MSDC and a final copy of the legal agreement will be signed and passed to the inspector prior to the close of the Inquiry. A summary of the agreed Heads of Terms is included at paragraph 9.3 of the MsoCG. The latest advanced draft of the S106 is included at CD15.1b
- 6.3 The Council will be preparing a CIL Compliance Statement for inclusion with the final legal agreement.



7.0 Planning Assessment and the Development Plan

- 7.1 This Section will firstly consider the status of the Local Development Plan and the weight that I consider can be afforded to the most important policies in the development plan as well as other material considerations. This will include an assessment of the proposals against each of the relevant policies of the development plan and the development plan as a whole.
- 7.2 The consideration of policies should be considered in the context that:
- The professional officers of the Council recommended approval of the application (CD3.3)
 - The Council do not now contest the approval of the appeal and are of the view the appeal should be allowed (CD8.2 paragraphs 3.4 and 3.31).

Mid Sussex Local Plan and its Policies

- 7.3 The most important Development Plan Documents and policies are confirmed at paragraphs 4.9-4.11 of the MSoCG.
- 7.4 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, planning decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning Decisions.
- 7.5 Paragraph 11 of the NPPF reinforces this, stating that for decision making this means:
- c) approving development proposals that accord with an **up-to-date development plan** without delay; or*
- d) where there are no relevant development plan policies, or **the policies which are most important for determining the application are out-of-date**, granting permission unless:*
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would **significantly and demonstrably outweigh the benefits**, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.*

[emphasis my own]

- 7.6 Footnote 8 of the NPPF confirms that in situations where the authority cannot demonstrate a deliverable 5YHLS (as defined by the NPPF annex 2), the most important policies for determining the application/appeal should be considered out of date. As set out in the evidence of Mr Pycroft, this applies to MSDC as they can currently demonstrate no more than 3.75 years of supply – which is agreed with MSDC (HLS SoCG CD8.3). This is also agreed as a ‘substantial’ shortfall (Paragraph 1.16). The most important policies are therefore out of date.
- 7.7 I also consider there are other reasons to treat policies of the CLP to be out of date. The Court of Appeal has confirmed that policies can be found out date for reasons beyond those that relate to footnote 8 of the NPPF. (*Oxton Farm v Harrogate Borough Council* [2020] EWCA Civ 805, [33] (CD13.4) :



“But the lack of a 5 year supply of housing land is not exhaustive of policies that may be out of date. Other policies which bear on the decision may also be out of date, with the consequence that the tilted balance is triggered on a different basis: Hopkins Homes Ltd v Secretary of State for Communities and Local Government [2017] UKSC 37, [2017] 1 WLR 1865 at [58]. A policy may be out of date because of a change in national policy or because of things that have happened on the ground, or for some other reason: Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government [2014] EWHC 754 (Admin), [2017] PTSR 1283 at [45]. Whether a policy is out of date is a matter of planning judgment: Hopkins Homes at [55].”

- 7.8 The R6 Party contend that the progression of the emerging plan should weigh against the granting of the appeal as the emerging plan, they contend, will resolve the current failure to demonstrate a 5YHLS.
- 7.9 It is common ground with MSDC that the emerging plan only attracts ‘minimal weight’ and will continue to do so until the inspector has published their report (MSoCG paragraph 4.7). It follows therefore that it cannot at this stage be relied upon as a resolution to the Council’s current inability to demotivate a 5YHLS.
- 7.10 It is also relevant that the Examining Inspector has tasked MSDC with identifying more sites for potential allocation in the plan in order to deliver more homes throughout the plan area and within the plan period. The Inspector’s Post Hearing Letter (CD7.5) states:
- (Local Housing Need Paragraph) Therefore an overall housing target in the range of 1,200 to 1,300 dpa, which will include a substantial component for the unmet housing needs of adjacent authorities, will be tested for delivery. The Council will seek, as far as possible, to identify sufficient additional housing sites to meet a requirement towards the upper end of that range. [emphasis my own]*
- 7.11 The plan (as originally submitted) plainly therefore does not meet the needs of the district.
- 7.12 In response, MSDC have confirmed a new housing requirement of 24,071 for the plan period and started the process of reviewing further sites for inclusion to meet that requirement, having, at the time of writing, published a ‘Long List’ of sites for further testing (CD7.4, including appendices). The long list includes the appeal site which MSDC confirm will be taken forward for further consideration. It is one of only four additional sites identified for potential allocation which relate to the Category 1 settlement of Haywards Heath and it is the largest single site.
- 7.13 This highlights the contradictory nature of the case being made by the R6 Party. The site which is the subject of this appeal is itself been considered for allocation to help meet the housing needs that they claim the new plan will address.
- 7.14 The remainder of this section will first consider how the proposals comply with the MSDP policies referenced in the Council’s RfR and SoC and those referenced in the R6 Party’s SoC.

Policy DP6 – Settlement Hierarchy

- 7.15 Policy DP6 confirms that developments will be permitted within the defined BUAB of the District’s settlements. It goes on to confirm:

The growth of settlements will be supported where this meets identified local housing, employment and community needs. Outside defined built-up area boundaries, the expansion of settlements will be supported where:



1. The site is allocated in the District Plan, a Neighbourhood Plan or subsequent Development Plan Document or where the proposed development is for fewer than 10 dwellings; and

2. The site is contiguous with an existing built up area of the settlement; and

3. The development is demonstrated to be sustainable, including by reference to the settlement hierarchy

- 7.16 I consider Policy DP6 to be out of date in so much as it is an important policy for directing the location of development, including residential development, and as a consequence of the current lack of 5YHLS, in accordance with NPPF 11(d) and 232, is therefore out of date, and attracts limited weight. MSDC confirm this in their Position Statement 1 (CD6.5 – Appendix A).
- 7.17 I also accept that there is a degree of conflict with this policy given that, like in respect of Policy DP12, the development is outside of the BUAB and does not strictly meet the criteria of the policy, being more than 10 dwellings and not yet allocated in an adopted plan.
- 7.18 However, in all other respects I consider the proposal complies with this policy in that:
- The site demonstrably is contiguous with the existing built-up area boundary
 - The site is located adjacent to a tier 1 settlement of Haywards Heath and is sustainably located with good access to local facilities and services, as evidenced in Mr Marshall's evidence and in Section 4 above.
- 7.19 Criteria 1 of the policy also permits development where it is allocated in a development plan. The site is not currently allocated, but it is on the Council's Long List of sites being considered for allocation in the plan to meet identified housing needs. For the reasons set out at 3.28-3.33 of this proof, this is a material consideration in relation to the appeal schemes' adherence to Policy DP6.
- 7.20 There is also no specific reason why a larger scheme of more than 10 dwellings, in the context of the need for housing, should not be permissible outside of a settlement boundary where all other harms have been found to be acceptable and there is a clear need for housing which the current plan (including the existing BUAB) is demonstrably not meeting. Given that Haywards Heath is a Tier 1 settlement, the appeal scheme for 80 dwellings is entirely proportionate to the overall scale of the settlement in the context of the acute need for housing. This is tacitly acknowledged by MSDC given their inclusion of the site in the Long List of sites for potential allocation.
- 7.21 The draft NPPF (CD5.5) proposes National Development Management Policy (NDMP) policy S5 which sets out a number of circumstances where development outside of the settlement would be acceptable. Paragraph 3.6 of this proof confirms that the criteria (j) of S5 permits development to meet unmet housing needs, as is the case here. The appeal site would clearly adhere to this draft NPPF provision. Whilst the draft NPPF only attracts limited weight at this time, this lends further (albeit limited) weight to the suitability of the site, especially in the context of the provisions of DP6, which also allow development out of BUABs in particular circumstances.
- 7.22 Consequently, where I find conflict with Policy DP6, I attach significantly reduced weight to this conflict.

Policy DP12 - Protection and Enhancement of the Countryside

- 7.23 As previously set out, DP12 is an important policy as it also directs the location of development, including residential development, and I hence find the policy out of date as per paragraph 11(d) of the NPPF. This is a matter agreed with the Council (CD8.1 and 8.2).



- 7.24 I find a degree of conflict with this policy due solely to the site's location outside of the BUAB, but otherwise find the appeal scheme is in general conformity with the policy. The conflict with the policy is also tempered by the position I have found in respect of Policy DP6 above, whereby Policy DP12 permits development outside of BUAB where other policies in the plan (including Policy DP6) support development.
- 7.25 As with Policy DP6, there is also a conflict between the policy's more restrictive approach to development outside of settlement boundaries, and the more permissive approach of the NPPF. In accordance with paragraph 232 of the NPPF, this also reduces weight that can be afforded the policy.
- 7.26 Paragraph 187(b) of the NPPF requires that decisions recognise 'the intrinsic character and beauty of the countryside', and in this respect, Policy DP12 does broadly align with paragraph 187(b). However, the NPPF does not place a bar on development within the countryside. The approach to the consideration of the site's location and its embedded design has recognised the intrinsic beauty of the country and, in this respect, has found a degree of localised landscape harm arising from the site's development. This, however, is outweighed by the other material and significant benefits arising from the proposals.
- 7.27 As above, I find conflict with DP6, and so conflict with DP12 still must follow; however, DP6 does allow residential development outside of BUAB where it is allocated or for less than 10 dwellings. The general conformity with Policy DP6 therefore also reduces the level of conflict with DP12.
- 7.28 Consequently, where I find conflict with Policy DP12, I have accorded significantly reduced weight to this conflict in the planning balance.

MSDP Policy DP21 – Transport

- 7.29 I have discussed the application of DP21 to the proposals already within Section 4 of this proof, as has Mr Marshall in his evidence.
- 7.30 Mr Marshall has found that the site, for the purposes of both DP21 and NPPF 115(a), (b) and (d):
- Is in a sustainable location with good access to facilities and services
 - The proposals include a package of transport improvements and contributions to encourage further walking and cycling which can be secured by planning obligations.
 - Does not cause a 'severe' impact on highway safety or the road network.
- 7.31 I therefore find that the proposals are in accordance with Policy DP21 (and the parallel provisions in NPPF 110 and 115).
- 7.32 Based on the evidence of Mr Marshall, the proposals also do not result in an unacceptable or severe impact on highways safety or the effective operation of the road network, in accordance with paragraph 116.
- 7.33 The Highways Authority and Council have also found no conflict with Policy DP21 (CD8.2 & CD8.5) or raise concerns about the appeals schemes adherence to relevant sections of the NPPF, and specifically paragraph 110, 115 and 116.

MSDP Policy DP34 – Listed Buildings & Other Heritage Assets

- 7.34 I have discussed the application of DP34 to the proposals already within Section 4 of this Proof, as has Mr Smith in his evidence.
- 7.35 This demonstrated no harm arose to any designated heritage assets (namely the Grade II Listed Colwell House).



- 7.36 It demonstrated that a 'less than substantial' level of harm is caused to the non-designated Colwell Barn. Applying a balanced judgement, as per NPPF Paragraph 216, the benefits plainly outweigh the harm. The balance is undertaken in the next section of this proof.
- 7.37 I consequently find no conflict with this policy given the finding above.

MSDP Policy DP35 – Conservation Areas

- 7.38 I have discussed the application of Policy DP35 to the proposals already within Section 4 of this Proof, as has Mr Smith in his evidence.
- 7.39 This demonstrated that a 'less than substantial' level of harm will result from the proposals to the Lewes Road Conservation Area, at the lower end of the scale. The balancing act required at paragraph 215 of the NPPF is therefore to be applied, as is the need to attach 'great weight' to the low level of less than substantial harm that arises from this harm (NPPF paragraph 212) and the need to give special regard to the preservation of the Conservation area and its setting in line with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 7.40 I have found a degree of conflict between Policy DP35 and the NPPF, as set out at paragraph 4.79 of this Proof. I therefore attach only moderate weight to Policy DP35.
- 7.41 All the same, I find the proposals in general compliance with Policy DP35, having applied great weight to the low level of harm that arises and having conducted the NPPF paragraph 215 balancing act and found the public benefits outweigh the harm.

MSDP Policy DP37 – Trees, Woodland and Hedgerows

- 7.42 I have discussed the application of Policy DP37 to the proposals already within Section 4 of this proof, as has Mr Forbes-Laird in his evidence.
- 7.43 I find the appeal scheme does comply with Policy DP37, and there is no conflict with this policy. This was a view shared by the professional officer's report (CD3.3) and reaffirmed in the SoCG with the Council (paragraph 3.18 CD8.2).
- 7.44 I have also found that the proposals adhere to the provisions of NPPF paragraph 136 in that the proposals retain existing trees wherever possible and provide a framework for the delivery of a net gain in trees, including space for tree-lined streets. This lends support to the schemes compliance with Policy DP37.

MSDP Policy DP38 – Biodiversity

- 7.45 I have discussed the application of DP38 to the proposals already within Section 5 of this proof, as has Mr Forbes-Laird and Ms Barratt in their evidence.
- 7.46 I have also had regard to the provisions of the NPPF, specifically those relating to ecology matters set out in Section 15. In this regard, when mitigation is accounted for, the proposals will not result in any significant harm to biodiversity, and will result in an overall net gain in biodiversity, in accordance with paragraph 193 of the NPPF. It also results in no loss of 'irreplaceable habitats (including Ancient Woodland), or cause any other adverse effects on habitat sites that would warrant the disengagement of the 11d(ii) 'tilled balance'.
- 7.47 I therefore find the proposals do comply with Policy DP38 and there is no conflict with this policy.

HHNP Policy E5 – Local Gaps

- 7.48 I have discussed the application of Policy E5 to the proposals already within Section 4 of this Proof, as has Mr Cook in his evidence.



- 7.49 I find the appeal scheme does comply with Policy E5 and there is no conflict with this policy. This was a view shared by the professional officer's report (CD3.3).

HHNP Policy E9 – Local Character

- 7.50 I have discussed the application of Policy E9 to the proposals already within Section 4 of this Proof, as has Mr Cook in his evidence.
- 7.51 As set out in the discussion above in relation to DP12, whilst harm arises at a localised level to the landscape character, as inevitable with the loss of a green field site, the proposals remain in alignment with 187(b) of the NPPF. In other regards, noting this is an outline application, the proposals have shown that the appeal scheme facilitates the delivery of a high-quality development in line with the provisions of Section 12 of the NPPF.
- 7.52 I find the appeal scheme does comply with Policy E9, and there is no conflict with this policy. This was a view shared by the professional officer's report (CD3.3).

Other Policies

- 7.53 It is common ground with the Council (MSoCG paragraphs 4.9 and 4.11 and associated tables) that the development does not result in any conflict with the following policies:

MSDLP

- DP4 – Housing
- DP5 – Planning to Meet Future Housing Need
- DP13 – Preventing Coalescence
- DP15 – New Homes in the Countryside
- DP23 – Communication Infrastructure
- DP26 – Character and Design
- DP27 – Dwelling Space Standards
- DP28 – Accessibility
- DP29 – Noise, Air and Light Pollution
- DP30 – Housing Mix
- DP39 – Sustainable Design and Construction
- DP41 – Flood Risk and Drainage
- DP42 – Water Infrastructure and the Water Environment

HHNP

- E6 – Green Infrastructure
- E7 – Sustainable Drainage Systems
- E8 – Sustainable Development
- E11 – Landscape Visual Assessment
- E13 – Private Outdoor Amenity Space
- T1 – Pedestrian and Cycle Connectivity
- T2 – Cycle Route Contributions
- T3 – Car Parking



- H8 – Housing within the Built-Up Area Boundary.

- 7.54 None of the above policies are referenced in the R6 Party's SoC and hence it is understood that no conflict is alleged with these policies by the R6. I have also sought to agree common ground on this with the R6 Party in a further Master SoCG.
- 7.55 In any case, I consider the proposals do not conflict with the relevant elements of the above policies as far as it is possible to discern at this outline application stage.
- 7.56 It has also been agreed with the Council that any conflict with policies DP20, DP21, DP31 and DP38 can be resolved via a suitably worded Planning Obligation with Heads of Terms as per those agreed in the MSoCG paragraph 9.3.
- 7.57 The table below provides a summary in respect of my position on each relevant policy:

Policy Reference	Policy	Out of Date?	Appeal Scheme Complies?
MSDP Policies			
DP4	Housing	Yes – limited weight	Yes
DP6	Settlement Hierarchy	Yes – limited weight	Minor conflict
DP12	Protection and Enhancement of the Countryside	Yes – limited weight	Minor conflict
DP13	Preventing Coalescence	No	Yes
DP20	Securing Infrastructure	No	Yes
DP21	Transport	No	Yes
DP23	Communication Infrastructure	No	Yes (noting that the application is at outline stage)
DP26	Character and Design	No	Yes (noting that the application is at outline stage)
DP27	Dwelling Space Standards	No	Yes (noting that the application is at outline stage)
DP28	Accessibility	No	Yes (noting that the application is at outline stage)
DP29	Noise, Air and Light Pollution	No	Yes
DP30	Housing Mix	No	Yes (noting that the application is at outline stage)
DP31	Affordable Housing	No	Yes
DP34	Listed Buildings and Other Heritage Assets	No	Yes
DP35	Conservation Areas	Yes – moderate weight	Yes
DP37	Trees, Woodland and Hedgerows	No	Yes
DP38	Biodiversity	No	Yes



Policy Reference	Policy	Out of Date?	Appeal Scheme Complies?
DP39	Sustainable Design and Construction	No	Yes
DP41	Flood Risk and Drainage	No	Yes
DP42	Water Infrastructure and the Water Environment	No	Yes
HHNP Policies			
E5	Local Gaps	No	Yes
E6	Green Infrastructure	No	Yes
E7	Sustainable Drainage Systems	No	Yes
E8	Sustainable Development	No	Yes
E9	Local Character	No	Yes
E11	Landscape Visual Assessment	No	Yes
E13	Private Outdoor Amenity Space	No	Yes
T1	Pedestrian and Cycle Connectivity	No	Yes
T2	Cycle Route Contributions	No	Yes
T3	Car Parking	No	Yes (noting that the application is at outline stage)

- 7.58 Overall, I find conflict only with Policies DP6 and DP12, of the MSDP. This conflict arises in both cases because the site's location outside the BUAB of Haywards Heath.
- 7.59 I consider the appeal scheme complies with all other development plan policies.
- 7.60 Policies DP6 and DP12 are, however, out of date for the reasons set out at 7.14 – 7.24 of this proof. I attach only limited weight to both policies.
- 7.61 The Council themselves have accepted that Policy DP6 and DP12 are out of date, confirming DP6 attracts limited weight and (in the Council's view) DP12 attracts moderate weight. I consider DP12 attracts limited weight.
- 7.62 Nonetheless, given the conflict with policies DP6 and DP12, I find that there is a conflict with the development plan when read as a whole. This approach is largely endorsed by the appeal decision concerning Land off Mill Lane, Sayers Common (ref 3361729 – CD12.21) in October 2025 relating to five dwellings within the district. District. The Inspector states:

24. Paragraph 232 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The Framework aims to achieve sustainable travel and to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The Framework does not contain any policies which specifically prohibit development outside towns and villages. District Plan Policies DP4, DP6, and DP15, insofar as they relate to the location of development, take a more prohibitive approach than that contained in the Framework. As such, the conflict between the proposal and these policies should be given limited weight



- 7.63 The above conclusion is especially relevant where, as remains the case, the Council cannot demonstrate a 5YHLS.
- 7.64 A similar approach was taken by the Inspector in relation to an appeal within Mid Sussex District at Scamps Hill, (appeal ref 3350075 – CD12.14), where, despite a finding of conflict with the plan, permission was granted due to the material considerations arising from the appeal scheme.
- 7.65 Section 8 will show that this is also the case here - where material considerations outweigh the limited conflict with the development plan and as a consequence, permission should be granted otherwise than in full accordance with the development plan.



8.0 Material Considerations and the Planning Balance

- 8.1 There are a number of material considerations which weigh in favour of the scheme and outweigh any limited conflict with the Development Plan that may be found. I summarise the key material considerations as follows:

Affordable Housing:

- 8.2 Mr James Stacey's evidence in relation to affordable housing has demonstrated the acute and continuing need for affordable housing with the District which is not being met, and I find no reason to disagree with his findings.
- 8.3 The Government, as articulated in the NPPF, states that the delivery of affordable homes is a fundamental part of their national objectives. Paragraph 8(b) in respect of the social objective of the NPPF states:

"support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations."

- 8.4 The importance of affordable housing is underlined by the numerous national and local publications and evidence, as referred to by Mr Stacey, that demonstrate the importance of delivering more affordable homes. The Council and the appellant have agreed:

7.1 ...that there is an acute national housing crisis and that the Council is also dealing with a housing crisis day to day, with a desperate need for more affordable housing to be provided in Mid Sussex District and Haywards Heath Civil Parish.

- 8.5 Mr Stacey's evidence has shown that MSDC are not and have not in any recent year delivered the number of affordable homes required to meet affordable needs.
- 8.6 The appeal scheme will deliver a policy compliant 30% affordable homes to help meet that need.
- 8.7 I attach **very substantial positive weight** to the delivery of Affordable Homes arising from the appeal scheme.

Market Housing

- 8.8 Mr Stacey's Evidence and the evidence of Mr Pycroft have already demonstrated the acute housing need both nationally and specifically within Mid Sussex District.
- 8.9 It is common ground that MSDC can only currently demonstrate a 5YHLS of **3.75 years** and that this is a substantial shortfall.
- 8.10 The NPPF paragraph 61 confirms the Government's objective to 'significantly boost' the supply of housing.
- 8.11 As I have demonstrated in Section 3, the existing local plan is not meeting the acute housing needs of the district. The Council's submission version plan also failed to address identified housing needs as confirmed by the examining inspector in their post-hearing letter (CD7.5).
- 8.12 This underlines the importance of and weight that should be attached to the delivery of housing at this time within Mid Sussex District.
- 8.13 The appeal site is being promoted by a national house builder with a strong track record of housing delivery within the area, including within Mid Sussex and within neighbouring authorities. As a housing developer, there will be no need to first dispose of the site, and it is Miller Home's intention to submit their Reserved matters proposals quickly on the receipt of outline planning permission.



- 8.14 The scheme for 80 homes can be delivered quickly, within the next five years, and will contribute to the 5YHLS of the Council. This is in accordance with the NPPF paragraph 61 national policy imperative to significantly boost the supply of housing.
- 8.15 Mr Pycroft's evidence (CD9.6) shows that without delivery from sites on MSDC's Long List within the early part of the plan period, MSDC is unlikely to be able to demonstrate a 5YHLS on adoption of their emerging plan (paragraph 3.21). Permission for this site will assist in meeting housing needs now.
- 8.16 I consequently attached **very substantial positive weight** to the delivery of Mark Housing arising from the appeal scheme.
- 8.17 Market housing delivery is a distinct benefit separate from the very substantial positive benefit arising specifically from affordable housing delivery.

The Emerging Local Plan

- 8.18 As set out in Section 3, paragraph 3.41 of this proof, I accept that, at this specific point in time, only limited weight can be attached to the draft plan.
- 8.19 However, it is material in the context of the plans current position that:
- The Spatial Strategy has been found Sound (CD7.5)
 - Inspector Bore has found that the Council must identify more sites for housing in order for the plan to be made Sound (CD7.5)
 - The Council have confirmed their long list of sites for further consideration, which includes the appeal site (reference 844)
 - The appeal site is one of only four 'long list' sites adjoining the Tier 1 settlement of Haywards Heath and it is the largest of those sites, having a greater capacity than the three other sites combined.
- 8.20 It is also anticipated that by the time of the inquiry, the Council will have confirmed that it is its intention to allocate the site for development (CD10.2). Whilst the site is subject to further 'in combination' testing; however, the Council's decision not to contest the appeal is a clear indication that it is their intention to propose its allocation. Any other conclusion would be illogical, especially in the face of the evidence which demonstrates the site is acceptable and that permission should be granted (MSoCGA, [3.4]).
- 8.21 The Council, in December 2025, published Position Statement 1: Delivering Sustainable Development in Mid Sussex (hereafter PP1–CD6.5). The PP1's purpose is
- 1.6 In a situation where the Council is unable to demonstrate a five-year housing land supply and in accordance with the National Planning Policy Framework (NPPF) paragraph 11, the presumption in favour of sustainable development is engaged. The Council has prepared 3 this Position Statement to provide developers and other stakeholders guidance on how the Council will consider speculative planning applications. The Council is a pro-growth authority with a good track record of housing delivery and wants to do all it can to boost the overall supply of housing and to ensure the district's housing needs are met. However, the Council wants to ensure that future development takes place in the right places, is delivered in a sustainable and high-quality manner and is accompanied by the necessary infrastructure.*
- 8.22 It is recognised that this document does not replace the development plan, nor is it an SPD. It is a material consideration, but its weight is therefore limited. Nonetheless, it confirms that sites proposed for allocation in the emerging plan would be supported if 8 principles are adhered to, which link to adopted policies. I have found the development adheres to all up-



to-date and relevant policies and hence adheres to the purpose of the PP1 to facilitate development coming forward in the context of MSDC's current lack of a 5YHLS.

- 8.23 As a consequence of the above taken together, I attach **substantial positive weight** to the status of the site as a likely allocation in the emerging plan. This weight will increase as the plan progresses.

Support for local facilities and services, and Construction Phase Employment

- 8.24 The development of new homes will support local facilities and services providing economic benefits. Sustainable population growth facilitated by the development will improve the year-round viability of local businesses through additional custom from new local residents.
- 8.25 There will also be economic benefits arising from the construction phase through the employment of persons involved in construction and the purchase of materials and supplies associated with employment.
- 8.26 Paragraph 85 of the NPPF places 'significant weight' on the need to support economic growth and productivity, and new housing, and the opportunities that provide to support local business, whether through increased custom, or a bigger local pool of potential recruits, supports economic growth and productivity, as does the security a home provides to future residents.
- 8.27 This is supported by an appeal at Land south of Clappers Lane, Earnley, West Sussex (ref 3291160 – CD12.22) where the inspector confirmed:

95. There would be economic benefits through construction employment and through expenditure by future occupants in the area. Paragraph 81 of the Framework [as was at the time] indicates that significant weight should be placed on the need to support economic growth and productivity. The appellant has given an indication of the significant input into the local economy that the development would make. Therefore, even though the economic benefits associated with the construction would only be short term and most residential development would result in additional expenditure in the local area, I have given significant weight to the resulting support to economic growth and productivity from the development. [my additions]

- 8.28 The above appeal was determined under an earlier version of the NPPF, but the paragraphs referred to remain the same (save for the paragraph numbering).
- 8.29 As a consequence, I attach **significant positive weight** to the economic benefits arising from the development as directed by paragraph 85.

Net Gain in Biodiversity

- 8.30 The appeal scheme delivers no net loss of BNG on site, with the final 10% net gain proposed to be provided off site.
- 8.31 Whilst provision of a 10% net gain is a requirement, it is still a betterment arising from the development that would otherwise not be realised without the scheme.
- 8.32 As a consequence, I attach **moderate positive weight** to the delivery of 10% BNG which is facilitated by the development.

Public Open Space Provision

- 8.33 The appeal scheme will provide a substantial amount of new open space equating to 2.78Ha, which includes a Locally Equipped Area of Play (LEAP), as tabulated within the Landscape & Ecological Design Plan.
- 8.34 The public open spaces will also be open for the use of both new and existing residents, providing a benefit beyond the immediate needs of the proposal.



8.35 Consequently, I attach **moderate positive weight** to the delivery of the on-site public open space.

Pedestrian and cycle improvements

8.36 The proposals deliver significant improvements to local walking and cycling infrastructure. In summary the improvements include:

- New crossing points over Lewes Road to improve the pedestrian travel experience to Haywards Heath centre (as detailed on Plan ITB19597-GA-011 Rev B – CD2.17b).
- Improvements to Lewes Road and Snowdrop Lane Footway to improve the pedestrian experience (as detailed on ITB19597-GA-021 Rev A- CD2.17c)
- Lay-by reinstatement to footway on Lewes Road (ITB19597-GA-018 – CD2.2a)
- Contribution of £10,800 towards new surfacing of PRow 29CU, improving pedestrian experience to local facilities and the primary school, secured via the s106 legal agreement and agreed with WSCC via the THSoCG (CD8.5 – Paragraph 5.25)
- Contributions towards a TRO to reduce the speed limit on Lewes Road to 30mph

8.37 Whilst they arise as a result of the development, and are in part to mitigate its effect, these improvements will benefit both new and existing residents and so result in wider benefits beyond just the appeal scheme.

8.38 As has been demonstrated elsewhere, the proposals prioritise sustainable modes of travel in accordance with paragraph 117.

8.39 Accordingly, I give **moderate positive weight** to the highways improvements secured by the development which will benefit the wider area and assist all local residents to make sustainable travel choices.

Community Infrastructure Contributions

8.40 The proposals will make significant financial contributions towards local infrastructure improvements, including:

- Education contribution towards primary and secondary education infrastructure in the vicinity of the site
- Healthcare and community infrastructure contributions of over £100,000 towards NHP GP services
- Sport and Leisure contributions of over £55,000 towards formal sport and leisure facilities
- Local police infrastructure contributions of over £18,000 towards
- Community building contributions of over £30,000 towards improvements to community buildings in the locality.

8.41 The delivery of new homes will also result in the release of the new Homes Bonus to the Council and result in increased Council Tax revenue.

8.42 Whilst the contributions secured within the s106 are required to make the development acceptable, the funding provided will nonetheless allow for improvements which will benefit all residents – not just those residing on the site.

8.43 Consequently, I attach **moderate positive weight** to the contributions directly arising from the development.



Application of paragraph 215 – Public Benefits vs Less than Substantial Harm

- 8.44 As discussed in section 4 of this proof, paragraphs 4.67-4.102, the proposals cause less than substantial harm to the Lewes Road CA, a designated heritage asset. This requires the harm (to which great weight and special regard is given) to be weighed against the public benefits.
- 8.45 The preceding paragraphs in this section 8 have set out the public benefits arising from the proposals, including the **very substantial benefits** arising from the delivery of market and, separately, affordable housing. These clearly outweigh the low level of less-than-substantial harm caused to the designated heritage asset.
- 8.46 This is a view also reached by the LPA in their assessment, even where they found that a less than substantial level of harm was applicable to the grade II listed Colwell House, in addition to the CA (CD8.2 – paragraph 3.15-3.17). Notwithstanding my findings (based on Mr Smith's evidence), I agree that even if less than substantial harm were found to have occurred to the significance of Colwell House, this would be outweighed by the public benefits.

Summary of Benefits

- 8.47 In summary, I give weight to the following benefits arising from the development:

Benefit	Weight Given
Affordable Homes	Very Substantial Positive
New Market Homes	Very Substantial Positive
Delivery of Housing within 5 years	Moderate Positive
Status of the site in relation to the development plan	Substantial Positive (increasing as the emerging plan progresses)
Support for local facilities, services and employers and employment during the construction phase	Significant Positive
Overall net gain in biodiversity arising from the development of at least 10%, and a no net loss of BNG on site	Moderate Positive
Public Open Space Provision	Moderate Positive
Provision of a package of pedestrian and cycle improvements via direct delivery and contributions, including:	Moderate Positive
Community Infrastructure Investment	Moderate Positive

- 8.48 As with any scheme, the proposals do result in some harms that materially weigh against the scheme. I have identified these harms as follows:

Harm	Weight Given
Identified conflict with the Development Plan, specifically policies DP12 and DP6 of the MSDP, both of which are out of date	Limited Negative
Less than substantial level of harm to the Lewes Road Conservation area at the lower end of the scale but attracting 'great weight'	As addressed under NPPF paragraph 11d(i), Low level of harm, accorded "great weight" and "considerable weight and importance" in line with the case law, but outweighed by the public benefits.



Harm	Weight Given
Less than substantial level of harm to the non-designated Colwell Barn heritage asset	Very Limited Negative – also outweighed by the public benefits
Loss of open fields resulting in a highly localised harmful impact on the landscape	Limited Negative
Loss of category B and C trees , mitigated by the provision of a significant net gain in overall trees on site.	Very Limited Negative

- 8.49 Weighing the scheme benefits and the schemes contributions to the NPPF objectives against the identified harms, I find that the benefits of the appeal scheme demonstrably outweigh the harms/adverse effects.
- 8.50 In respect of the test at paragraph 215 of the NPPF, in weighing the public benefits against the Low level of less than substantial harm identified to the designated heritage asset (the Lewes Road CA), the public benefits clearly outweigh the harm.
- 8.51 Similarly, balancing the harm afforded to the non-designated asset against the low level of less than substantial harm afforded to the non-designated asset, I find the very significant public benefits outweigh the harm.
- 8.52 As set out in Mr Pycroft's evidence (CD9.6), I contend that MSDC can only demonstrate a 3.75-year supply of housing. This means the Tilted Balance, as used to describe the application of Paragraph 11(d), applies.
- 8.53 Paragraph 11d(i)) is not engaged. Paragraph 11d(ii) is engaged.
- 8.54 With the application of the tilted balance, I have found no adverse impacts that would demonstrably outweigh what I consider the very significant package of benefits of the scheme, when assessed against the NPPF as a whole.
- 8.55 With reference to footnote 9 of paragraph 11d(ii), the proposed development performs well when assessed against paragraphs 66 and 84 of chapter 5; 91 of chapter 7; 110 and 115 of chapter 9; 129 of chapter 11; and 135 and 139 of chapter 12.
- 8.56 **Paragraph 66** – The appeal scheme includes a policy-compliant level of affordable housing, which will be provided in a tenure that meets identified local needs, assisting in meeting the acute need for affordable housing in the district and nationally.
- 8.57 **Paragraphs 110 and 115** – the appeal site is in a demonstrably sustainable location which provides a choice of travel modes to local services and facilities, being located adjoining a tier 1, highly sustainable settlement. Safe access to the site is proposed, and the scheme does not affect the transport network or highway safety. This has been demonstrated by Mr Marshall's evidence.
- 8.58 **Paragraph 129** – the appeal scheme makes efficient use of land in an area with an acute housing need. The evidence of others shows that the appeal scheme is acceptable in terms of the capacity of the local road network and its effect on the character and setting of the area. The appeal scheme will also secure local highways improvements and contributions towards local infrastructure.
- 8.59 **Paragraphs 135-139** – Noting this is an outline application, with detailed design a matter for reserved matters, the evidence of others, and especially Mr Cook, has shown that the proposals will respect the character and appearance of the area, and will incorporate a mix of green open spaces for the enjoyment of future residents and the benefit of ecology. This will be alongside the delivery of high-quality, much-needed homes. This is demonstrated via



the indicative masterplan (CD1.6) and Landscape and Ecology Plan (CD9.4b), with the parameter plan securing the framework for the delivery of a high-quality scheme.

- 8.60 Therefore, drawing all of the above together, in accordance with Section 38(b) of the Planning and Compulsory Purchase Act 2004 and the NPPF, I consider the appeal scheme constitutes sustainable development and should be approved.



9.0 Summary of Evidence and Conclusions

- 9.1 In summary, I consider that on a correct application of s38(6) PCPA 2004, the appeal scheme should clearly be allowed and planning permission granted. The Council agree (see MSoCG, [3.4]). This section stands as my summary Proof of Evidence.

Development Plan

- 9.2 Whilst I have found a degree of conflict with the Development Plan, I have shown that this conflict is minimal, and that the plan is out of date.
- 9.3 This conflict arises from a conflict with Policies DP6 and DP12 only. In both cases, as confirmed in Section 7, I have found the policies to be out of date and hence attract less weight, which is agreed by the Council. I give only limited weight to these policies.
- 9.4 In respect of the matters originally contested by the Council, but now no longer contested by them, I have confirmed in Section 4 that the proposals are acceptable in each regard.

Transport and Sustainable Location

- 9.5 In respect of access to services, I, alongside Mr Marshall's evidence, have shown that the site is in a demonstrably accessible location which complies with the requirements of Policy DP21 and the NPPF.

Trees

- 9.6 In respect of trees, I, alongside Mr Forbes-Laid, have shown that the majority of trees will be retained, including all high-quality, category A, Trees. The most evident tree loss from the public realm will be from Lewes Road to form the site access, however, the loss resulting here would not be of sufficient significance to justify a conflict with Policies DP37 or E9, and this is reaffirmed by Mr Smith and Mr Cook's evidence. I have also found that Policies DP37 and E9 do not place a 'bar' on tree loss. I therefore do not find a conflict with these policies.

Character and Appearance

- 9.7 In respect of the effect of the development on the character and appearance of the area, Mr Cook's evidence, with which I agree, shows that the development complies with Policies E5 and E9 and, in landscape terms, DP12. I also confirm that Policy E5 is not a 'true' gap policy and in any case is a positively worded policy, the criteria of which the appeal scheme complies with.

Heritage

- 9.8 In respect of the effect of development on heritage assets, based on Mr Smith's evidence, which confirms less than substantial harm to the Lewes Road CA designated heritage asset, and less than substantial harm to the non-designated Colwell Barn, I have conducted the NPPF paragraph 215 balance (in respect of the designated asset) and find the low level of harm, even when 'great weight' is attached to that harm, is outweighed by the benefits. I find in respect of the non-designated heritage asset when applying the NPPF paragraph 216 test that the positive benefits outweigh the low level of harm. Overall, I conclude that Policy DP35 is out of date given its divergence from the NPPF, but I nonetheless find the appeal scheme applies with DP35 and DP34.
- 9.9 Planning obligations are also being progressed via a s106 agreement which will secure affordable housing, highways improvements and community infrastructure contributions.

Rule 6 Party Matters: Ancient Woodland and Ecology

- 9.10 In respect of matters raised by the R6 Party, and not raised by the Council, relating to reptiles, BNG and Ancient Woodland, I have confirmed these have no merit in Section 5 of this proof and based on the evidence of Mr Forbes-Laird and Ms Barratt. I find no conflict with Ecology Policy DP38 or relevant sections of the NPPF, and specifically paragraph



193(c) relating to irreplaceable habitats. There are no irreplaceable habitats affected by the proposals.

Third Parties

- 9.11 I have also considered the other concerns of third parties at Appendix A (where not already considered) and found nothing that changes my view that the appeal scheme should be allowed

NPPF 11d

- 9.12 It is common ground that the Council does not have a 5YHLS and that their supply **is no more than 3.75 years**.
- 9.13 As a consequence, paragraph 11(d) is engaged and the 'tilted balance' applies, as a result of the Council's confirmed lack of 5YHLS. I have found no reasons for the 'tilted balance' to be disengaged. Considering Paragraph 11d(i), there is no strong reason to refuse permission. As a consequence, 11d(ii) 'tilted balance' remains to be applied, requiring any adverse impacts to 'significantly and demonstrably' outweigh the benefits.

Emerging Local Plan

- 9.14 It has been demonstrated that the submission version of the Regulation 19 plan (CD7.1) cannot be found sound in its current state, and must allocate a significant number of sites to meet housing needs. MSDC has acknowledged this and is seeking to allocate further sites to meet a revised housing requirement of 24,071.
- 9.15 The Council have confirmed they are not contesting the appeal and would have granted planning permission for the appeal in the current circumstances. This includes the inclusion of the site on the Council's Long List of sites for potential allocation in the emerging plan.
- 9.16 I have confirmed that this is a material consideration of significant weight.

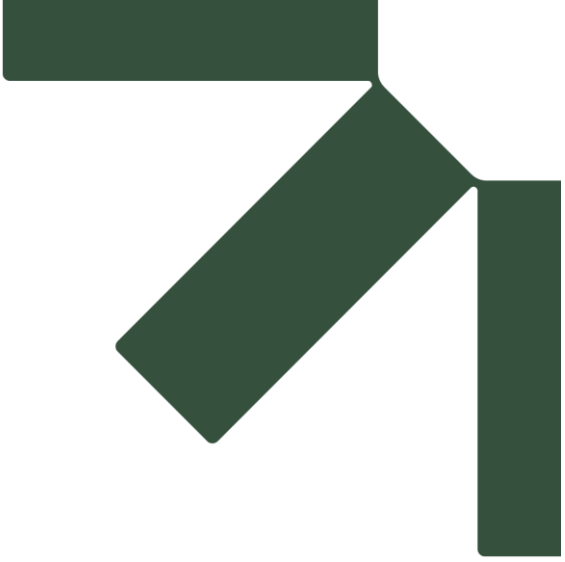
Tilted Balance

- 9.17 I have also attached very substantial weight to the delivery of Market Housing and very substantial weight to Affordable Housing. I set out the full balance of positive and negative weighting in Section 8.
- 9.18 Having conducted the balancing exercise, applying the 'tilted balance', I have found that material consideration clearly indicates planning permission should be granted and there are no significant and demonstrable harms that would outweigh the very significant package of benefits arising from the proposals.

Conclusion

- 9.19 Overall, therefore, I consider the appeal scheme will deliver substantial benefits which weigh significantly in its favour and overall align with the development plan. These benefits I consider clearly outweigh any localised harm that may be found. I therefore consider that the Appeal scheme should be allowed, and permission granted.





Appendix A Response to Third-Party Submissions

- A1.1. I have carefully reviewed and considered the third-party submission made during the determination period of the refused application (CD4.43-4.44). No further third-party comments are understood to have been submitted directly in response to the appeal (beyond those made by the R6 Party).
- A1.2. This appendix does not purport to respond directly to every individual comment but has grouped the comments made based on issues raised into a series of 14 themes as below:
- 1) Accessibility and Site Sustainability
 - 2) Heritage Impacts – setting of designated and non-designated assets and the Lewes Road Conservation Area
 - 3) Landscape and Visual Impacts, including Impacts on the Countryside and Urban Sprawl
 - 4) Trees and Hedgerows
 - 5) Ecology and Biodiversity Net Gain
 - 6) Development on Greenfield sites
 - 7) Principle of Development – Policy Considerations
 - 8) Benefits of the Proposed Development
 - 9) Inadequate local infrastructure (schools, doctors, utilities etc)
 - 10) Pedestrian Safety
 - 11) Speeding, Traffic Conditions and Interpretation of Accident Data
 - 12) Additional Traffic
 - 13) Inadequate Surface and Foul Drainage
 - 14) Impact on Local Residential Amenities from Residential Use of the Site
- A1.3. Many of the issues raised, in particular concerning accessibility, sustainability, heritage, landscape, tree/hedgerows and ecology considerations, as well as matters of the principle of development and benefits arising from it (points 1-5 and 7-8 above) are already addressed elsewhere in this proof and in the evidence of others which accompany the appeal, and will hence not be addressed again here.
- A1.4. It is also important to note that the Council's RfR on the Decision Notice (no longer defended) raised no case in respect of matters 5, and 9–14. The Council are no longer contesting the appeal or producing any evidence in respect of any of the above matters, and have confirmed that they consider that permission should be granted.
- A1.5. As such, this section focuses on those other matters raised by third parties (6, 9-13) which are not already addressed across the appeal and supporting evidence.
- 6) Development on Greenfield Sites**
- A1.6. Some comments raised concerns regarding the principle of developing greenfield land, both in terms of prioritising brownfield development and the perceived landscape harm arising from the loss of undeveloped countryside. It is also suggested that the Officer's reference to the "inevitability" of greenfield development is inappropriate and should be disregarded.
- A1.7. However, this position does not properly reflect the policy context or the evidence forming part of the inquiry. As set out elsewhere in this proof, MSDC cannot demonstrate a 5YHLS, resulting in a clear and significant shortfall. In these circumstances, it is neither realistic nor consistent with national policy objectives to rely solely on brownfield land. This is expressly



recognised within the Committee Report (CD3.3), which confirms that in order to meet the district's housing needs, development on greenfield sites will be necessary, particularly in a predominantly rural authority such as Mid Sussex. To restrict development in this way would also be contrary to National Policy as expressed by the NPPF.

- A1.8. In landscape terms, and as set out in the evidence of Mr Cook, the effects of the scheme are largely contained within the site itself. The site is well enclosed by vegetation, no off-site works extend its influence into the wider countryside, and key features such as hedgerows and trees are retained and enhanced. Whilst there will be an inevitable loss of agricultural land and a localised change in character, the wider landscape remains materially unaffected, with its defining characteristics continuing to prevail. Accordingly, the development of this greenfield site is both justified and necessary, and the resulting landscape effects, whilst acknowledged, are limited and do not outweigh the substantial benefits of the proposal.

9) Inadequate local infrastructure (schools, doctors, utilities etc)

- A1.9. Concerns have been raised regarding the ability of local infrastructure, including schools and healthcare services, to accommodate the development.
- A1.10. However, these matters are appropriately addressed by way of developer contributions secured through a Section 106 agreement.
- A1.11. The proposal includes contributions towards education, healthcare, transport and other infrastructure, calculated in accordance with MSDC's and the statutory consultees adopted methodologies. These contributions are specifically designed to mitigate the impacts of development and ensure that capacity issues are addressed. Consultees have confirmed no objection would be raised where such contributions are made. This is also agreed by the Council (CD8.2).
- A1.12. There is no evidence to suggest that the development would give rise to impacts which cannot be mitigated through these mechanisms as confirmed by the statutory consultees who provided responses to the application.
- A1.13. Accordingly, the development complies with policies DP20 and DP21 and hence infrastructure capacity does not represent a reason to withhold planning permission

10) Pedestrian Safety

- A1.14. Third-party submissions raised regarding pedestrian concerns including:
- The proposed pedestrian crossings
 - Speed limits and safety
 - Usage of inaccessible unlit footpaths and lighting
- A1.15. Regarding pedestrian crossings, the proposals have been developed through ongoing engagement with WSCC and reflect a considered and iterative design process. The Authority confirms that the proposed informal crossing points are located in the most appropriate positions, based on established pedestrian desire lines, and that their siting represents the optimum solution within the constraints of the existing highway (CD4.22).
- A1.16. Alternative options, including a formal signalised crossing and a central refuge island, were explored at the pre-application stage but discounted due to insufficient carriageway width and highway space, and because the scale of development would not ordinarily justify such provision. Importantly, the Stage 1 Road Safety Audit raised no concerns regarding the proposed crossing locations, confirming the arrangement is safe and appropriate (CD4.22).



The scheme has also evolved in response to consultation, resulting in a comprehensive package of crossing improvements, including dropped kerbs, tactile paving and enhanced pedestrian connectivity.

- A1.17. Concern regarding vehicle speeds is directly addressed through the proposed highway works, most notably the promotion and delivery of a Traffic Regulation Order to extend the 30mph speed limit along Lewes Road. This will formalise a lower-speed environment in the vicinity of the site and provide a clear and enforceable framework for reducing vehicle speeds, improving safety for all users, particularly pedestrians and cyclists. Importantly, the Local Highway Authority acknowledges existing speeding concerns and supports the progression of the TRO, noting that it will be accompanied by appropriate supporting measures as part of the wider highway scheme.
- A1.18. WSCC raised no objection to the proposals (CD4.21-4.26) and continues to raise no concerns in respect of the appeal scheme as confirmed by the THSoCG, which agreed with them (CD8.5).
- A1.19. As confirmed in the Transport Proof of Evidence provided by Mr Marshall, when considered as part of the wider pedestrian network, these measures provide safe and convenient routes and represent a clear improvement over the existing situation.
- A1.20. Consequently, the proposals adhere to policy DP21 and also the provisions of NPPF 117 by giving, so far as possible, priority to walking and cycle movements.

11) Speeding, Traffic Conditions and Interpretation of Accident Data

- A1.21. Third party submissions raised concerns regarding vehicle speeds, the reliability of the submitted traffic data, and the interpretation of Road Traffic Collision (RTC) records, suggesting that conditions on Lewes Road may be less safe than presented. These matters were considered in detail by the Local Highway Authority, including a review of alternative speed data submitted by local residents.
- A1.22. In its response of 2 May 2025 (CD4.22), WSCC confirmed that whilst minor variations in recorded speeds were identified, particularly a modest increase in westbound 85th percentile speeds and these were limited in extent and consistent with the expected transition from higher speed limits outside the urban area. Importantly, these differences did not undermine the conclusions of the Transport Assessment.
- A1.23. In response, WSCC requested that visibility splays be updated to reflect these slightly higher speeds, which the Applicant duly undertook. In its subsequent response dated 18 August 2025 (CD4.26), WSCC confirmed that it is satisfied with the revised visibility splays and that they can be fully achieved within the highway boundary. The Authority also confirmed that recorded RTCs in the vicinity are very limited and do not demonstrate any pattern or inherent highway safety issue in its earlier consultation response (CD4.22).
- A1.24. Overall, the evidence shows that concerns raised by third parties have been fully tested and addressed, with the scheme refined where necessary, and that the Local Highway Authority is satisfied that, in accordance with NPPF paragraph 116, the development would not result in any severe or unacceptable highway safety impacts. Consequently, the proposals adhere to Policy DP21 of the MSDP.

12) Additional Traffic

- A1.25. Third-party representations also raise concerns that the proposed development would result in a material increase in vehicular traffic, placing additional pressure on the local highway



network. In particular, it is suggested that surrounding roads are already operating at or near capacity, and that the scheme would exacerbate congestion, particularly at peak times and at key junctions.

- A1.26. However, it is important to note that the Local Highway Authority, did not identify any objection on the basis of traffic impact or network capacity (CD4.21-4.26 and CD8.5). This position is reinforced within the Proof of Evidence of Mr Marshall (CD9.2), who confirms that the development would generate a modest level of traffic which the surrounding highway network can comfortably accommodate. His assessment demonstrates that the residual cumulative impacts would not be severe and that junctions would continue to operate within capacity, with no material harm to highway safety, in accordance with paragraph 116 of the NPPF.

13) Inadequate Surface and Foul Drainage

- A1.27. Some third-party representations raise concerns that the development would increase surface water run-off and place additional pressure on existing foul drainage infrastructure. In particular, reference is made to localised flooding, the loss of permeable land, and the potential for increased run-off from new hardstanding. Concerns are also expressed regarding sewer capacity, alongside doubts about the effectiveness of proposed drainage measures and their resilience to extreme weather events.
- A1.28. The Council and LLFA has raised no concern in respect of this matter.
- A1.29. However, statutory consultees, raised no objection in respect of drainage and confirmed the strategy is acceptable in principle (CD4.15). The Flood Risk Assessment (CD1.13) demonstrates that surface water can be managed through sustainable drainage systems, with run-off restricted to greenfield rates and no increase in flood risk elsewhere. The site lies within Flood Zone 1 and appropriate mitigation can be secured by condition (as per conditions 5, 19 and 20, as set out in CD15.2 and agreed with the Council).
- A1.30. In respect of foul drainage, whilst Southern Water identifies that reinforcement of the local network may be required (CD4.8), this is addressed through separate statutory processes whereby statutory water bodies, like Southern Water, must provide developers with a suitable connection within a reasonable timescale (usually within 24 months of planning permission being granted). Phasing of the development is controlled via suggested condition 21 (CD15.2).
- A1.31. The proposals therefore comply with Policy DP41 and relevant sections of the NPPF.

14) Impact on Local Residential Amenities from Residential Use of the Site

- A1.32. Third party representations raise concerns regarding impacts on residential amenity, including overlooking, loss of privacy, overbearing effects, and increased noise and disturbance from additional activity. Concern is also expressed about loss of tranquillity associated with the area's semi-rural character, alongside increased lighting and general activity, framed as a harmful change to living conditions.
- A1.33. However, the Committee Report confirms that, based on the illustrative layout and separation distances, the development would not result in a significant loss of amenity in terms of privacy, outlook, noise or disturbance (paragraphs 12.146 – 12.155 – CD3.3).
- A1.34. This is also reaffirmed in respect of Residential Visual Amenity by Mr Cook's Evidence (Section 8 – CD9.4). His evidence confirms the site is well contained by existing vegetation and will be set within a strong landscape framework, limiting effects to the site and a small number of adjacent properties. It further notes there is no right to a private view and that changes in outlook do not in themselves constitute unacceptable harm. Detailed design and



landscaping will be secured at the reserved matters stage to ensure appropriate relationships are achieved.

- A1.35. Accordingly, whilst some change is inevitable, the impacts on residential amenity are acceptable in planning terms, and the development complies with DP26 of the MSDP and E9 of the HHNP in respect of the effect of development on the amenities of existing residents.





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