

**APPEAL UNDER
SECTION 78 OF THE TOWN AND COUNTRY PLANNING ACT 1990**

**PLANNING APPLICATION BY
MILLER HOMES LTD**

**OUTLINE PLANNING APPLICATION
WITH ALL MATTERS RESERVED EXCEPT FOR ACCESS,
FOR UP TO 80 DWELLINGS WITH ASSOCIATED LANDSCAPING, OPEN
SPACE, INFRASTRUCTURE AND VEHICULAR AND PEDESTRIAN ACCESSES**

LAND AT COLWELL FARM, HAYWARDS HEATH, RH17 7TB

**Appeal Ref: 6005786
LPA Ref: DM/25/0445**

Inquiry Opening: 28 July 2026

**OPENING SUBMISSIONS OF
THE APPELLANT**

1) INTRODUCTION

- 1.1. The Appeal proposal will deliver 80 dwellings, including 24 affordable homes. It is located at Haywards Heath, a Category 1 settlement, the highest tier within the Mid-Sussex District Plan, a settlement with ‘...a comprehensive range of employment, retail, health, education [and] leisure services and facilities...[and] good public service provision....’¹ The Appeal Site is within easily accessible distance of a wide range of local services and facilities (a primary school, a Tesco convenience store, pharmacy and GP), and also within walkable or cyclable range of the local Princess Royal Hospital, the Haywards Heath town centre and Haywards Heath Rail Station.
- 1.2. The Council had already confirmed on 2 June 2026 that they would no longer contest any of the Reasons for Refusal.² On 16 June 2026, they concluded a Statement of Common Ground confirming in express terms at [1.4]: “the Council agrees that permission should now be granted for the Application”.³

¹ CD5.3, p45 (NB All page number references throughout this document are to the PDF pages, rather than any internal/hard copy page numbers)

² CD10.2

³ CD8.2, p5 and p7, [3.5]

- 1.3. On 17 July 2026, the Council confirmed that the Site would be allocated for the same number of homes in the forthcoming Local Plan,⁴ fully recognising the sustainability of the Site and its capacity to bring forward much-needed homes at a time of major shortfall.
- 1.4. This is exactly the form of sustainable development that is urgently needed to address the local and national housing crisis, directly in line with the Government's national policy.⁵
- 1.5. The Rule 6 Party, Protect Colwell Farm Action Group have pursued four narrow bases of objection in respect of: (1) transport/location sustainability, (2) ancient woodland (3) three further discrete ecology matters and (4) general planning balance. Their position on each of these matters is wrong, and notably at odds with the relevant statutory consultees in respect of transport and ecology.
- 1.6. In opening, we shall briefly address the Inspectors' Main Issues identified in the Post-CMC Note,⁶ (including the Rule 6 Party's position on transport under Main Issue 1) and then address the Rule 6 Party's three other matters, before outlining the overall planning balance.

2) MAIN ISSUE 1: ACCESS TO SERVICES AND FACILITIES

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

- 2.1. The sustainable location of the Site has been explained in the Transport Assessment,⁷ as further confirmed in Mr Marshall's Proof of Evidence.
- 2.2. The sustainable nature of the Site has been confirmed by West Sussex County Council (as the Local Highways Authority) and by Mid Sussex District Council (as LPA) on at least five occasions:

⁴ CD7.15, pp25-26: The site reference is 844 within the table of site allocations.

⁵ Stacey and Pycroft Proofs of Evidence (PoE)

⁶ CD23.2

⁷ CD1.19, pp25-31 Section 6; Opportunities to Promote Sustainable Transport Modes

(1) First, West Sussex County Council, as Local Highways Authority confirmed their support for the proposal in their consultation responses (as concluded on 18 August 2025);⁸

(2) Second, the Case Officer's Report to Committee (10 September 2025) then confirmed compliance at [13.21] with Policy DP21 (and no conflict with NPPF);⁹

(3) The Council's Policy team then confirmed in their Site Selection documents (dated May 2026), the locational sustainability of the Site, most notably that the Primary School, Health and Retail could all be accessed within 15 minutes;¹⁰

(4) The LHA again confirmed via the Transport Statement of Common Ground (dated 1 June 2026) that: *"5.2 The site is in a location with good access to local amenities with a good network of paths and footways to help pedestrians navigate their way to amenities within a 10-minute walk."* (see also [5.3]-[5.9] with [5.8] confirming *"Pedestrian connectivity via Public Right of Way Footpath 29CU is confirmed suitable for year-round use."*¹¹

(5) Finally, the Council in its Master SoCG Addendum (16 June 2026), confirmed: *"3.12 It is agreed that the proposed development is in an appropriate location in terms of transport and accessibility."*¹²

2.3. As a Category 1 settlement, Haywards Heath has an excellent range of services in easily walkable or cyclable distance, notably at the Walnut Park area.¹³ The site is also within a walkable distance of Haywards Heath Town centre and cyclable distance of the Rail station, which provides regular rail services to Brighton and London. The Appeal proposals will also improve the sustainability of the Appeal Site, through improvements to the pedestrian network.

⁸ CD4.26

⁹ CD3.3, p66, [13.21] and see also summary p5, [2.24]

¹⁰ CD7.4a, p263

¹¹ CD8.5, p6, [5.2]

¹² CD8.2, p5

¹³ CD8.5, p19: Figure 6.1

- 2.4. The Appeal Site is therefore a sustainable location for the purposes of NPPF 110 and 115 and for the purposes of DP21.

The Rule 6 Party's Case

- 2.5. The Rule 6 Party's case (as presented by Mr Russell) has been addressed in Mr Marshall's Proof of Evidence and further in Mr Marshall's Rebuttal Proof of Evidence. The position has narrowed somewhat through the topic-specific Statement of Common Ground, Section 6, to the specific points raised at [6.1]-[6.6].
- 2.6. In summary, there is no merit to the Rule 6 Party's varied submissions (a) that the distances are "excessive"; (b) the pedestrian and cycle infrastructure is unsafe/inadequate. This is clearly a sustainable location where future residents will have a genuine choice of travel modes to meet their day-to-day needs, as testified by the Council's and the LHA's support, and by the draft allocation of the appeal site.

3) COUNTRYSIDE / GENERAL CHARACTER AND APPEARANCE

The effect of the proposal on the countryside/general character and appearance.

- 3.1. The Appellant's position on landscape impacts was set out in the LVIA,¹⁴ as now further supplemented by Mr Cook's Proof of Evidence.
- 3.2. Put simply, this is a very well-enclosed Site, with no public views into it. The development will not have any wider landscape effects and the Appeal Proposal has substantially mitigated any harm.
- 3.3. The site is not designated nor a valued landscape. On a proper approach to Policies DP12, E5 and E9, the proposal is therefore fully in accordance with the development plan,¹⁵ and also NPPF 187b.

¹⁴ CD2.13 (final version building on earlier CD2.11 and CD1.25)

¹⁵ Cook PoE, pp40-44

- 3.4. The Officer's Report [13.9] essentially concurred and emphasised that "*the site is well enclosed and would not be visible in wider viewpoints.*"¹⁶ The Council's Master SoCG Addendum (16 June 2026) has further confirmed at [3.7]: "*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.*"¹⁷

Rule 6 Party's Case

- 3.5. The Rule 6 Party's position have not called a Landscape witness and Mr Greaves has no landscape qualifications.
- 3.6. The Rule 6 Party's Landscape Witness has also made clear through the most recent exchanges in respect of a Master Statement of Common Ground: "*R6 do not make a Landscape case.*" The Rule 6 Party therefore have no evidential basis to allege conflict with DP12, E5, E9, nor any wider list of policies, including any of the Neighbourhood Plan policies.
- 3.7. In short, the Inspector's CMC Note Issue 2 can therefore be answered simply: The effect of the proposal on the countryside/general character and appearance is entirely acceptable and in accordance with the development plan and national policy.

4) TREES

The effect of the proposal in terms of proposed loss of trees.

- 4.1. The Appeal scheme was the subject of a detailed Arboricultural Assessment, which identified the loss of 43 moderate quality trees.¹⁸ However, 100% of high quality trees will be retained and 87% of moderate quality trees would also be retained.¹⁹ DP37 provides for a pragmatic and balanced approach to tree loss – it does not place a 'bar' on tree loss, nor does national policy where it relates to trees. The Case Officer accordingly confirmed no objection in respect of DP37.²⁰

¹⁶ CD3.3, p65

¹⁷ CD8.2, p5

¹⁸ CD1.29

¹⁹ CD2.19, p1, [3]

²⁰ CD3.3, [12.174]-[12.179]

- 4.2. The Rule 6 Party case have not called any arboriculturally qualified witness and not set out any specific objection on the basis of loss of trees. (Their separate ancient woodland submissions are addressed below in Section 6).
- 4.3. In summary, the effect of the proposal in terms of proposed loss of trees is again entirely acceptable and in accordance with development plan and national policy.

5) HERITAGE

The effect of the proposal on:

(1) the character and appearance of the Conservation Area and on the setting of the Conservation Area

(2) The setting of the Grade II listed Colwell House

(3) The setting of the non-designated North Colwell Barn.

- 5.1. The Appellant's position was set out in the original Heritage Assessment,²¹ as now supplemented by Mr Smith's Proof of Evidence:

- (1) Conservation Area: Low level of less than substantial harm;
- (2) North Colwell Barn: Low degree of harm
- (3) Colwell House (Listed Building): No harm

- 5.2. Mr Smith's explanation that the Appeal Site does not form part of the setting of Colwell House is carefully set out in his Proof at Section 7.²² There is no other evidence to the contrary by any other Party at the inquiry. The Rule 6 Party has produced no evidence on heritage matters and Mr Greaves has no heritage qualifications. The Rule 6 Party therefore (correctly) does not challenge any of Mr Smith's findings. Mr Smith's findings should be accepted in full.

²¹ CD1.18, Chapter 5, pp20-22

²² Smith PoE, pp17-18

5.3. Whilst the Council's Committee Report identified heritage harms at a different level, the Report concluded that they were clearly outweighed by the public benefits.²³ The Council's SoCG further confirms the position at [3.15] and [3.16].²⁴

5.4. Mr Billington has explained in his Proof how the public benefits clearly outweigh the harms, including in the context of the statutory framework under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and national policy framework under NPPF 215.²⁵ The same would also apply even if any harm were identified to the significance of the listed building, applying s66(1) of the 1990 Act, however, for the reasons identified above, there is no such harm.²⁶

6) ANCIENT WOODLAND

6.1. The NPPF defines ancient woodland strictly:

Ancient woodland: An area that has been wooded continuously since at least 1600 AD. It includes ancient semi-natural woodland and plantations on ancient woodland sites (PAWS).

6.2. In the Committee Report, the Case Officer expressly stated at [12.178]: "*The Ancient Woodland is not within the site*"²⁷ Later on the Council confirmed in the original SoCG at [5.43]: "*5.43 It is common ground that the proposed development does not give rise to any adverse impacts to irreplaceable habitat trees or woodland.*"

The Rule 6 Party's case

6.3. The Rule 6 Party did not set out their case on ecology at time of the CMC. It was only in their Updated SoC (on 19 May 2026) that they first alleged, but in extremely vague terms, that there was ancient woodland on site. They provided no historic map and did not specify any locations.

²³ CD3.3, pp4-5 [2.2]

²⁴ CD8.2, p8, [3.15] and [3.15]

²⁵ Billington PoE, p41, [8.44]-[8.46]

²⁶ Billington PoE, p41, [8.46]

²⁷ CD3.3, p50

- 6.4. The Appellant informed them at least twice that there was no cartographic evidence of ancient woodland.
- 6.5. It was not until Proof of Evidence were submitted on 30 June 2026, that the Rule 6 Party set out their three ancient woodland points. None of their three points in respect of (a) the north-eastern boundary area; (b) the central overgrown hedgerows or (c) the off-site drainage matters is methodologically correct or based on a correct approach to the NPPF definition. None of the Rule 6 Party's various attempts to bring NPPF 193c into play are correct. There will be no loss of or deterioration of ancient woodland as a result of the Appeal proposal. This shall be addressed by Mr Forbes-Laird in evidence.

7) ECOLOGY

- 7.1. The Application was supported by an Ecological Impact Assessment ("EcIA") and a Habitats Monitoring and Management Plan ("HMMP") which was progressively updated through the application in response to Places Services and the various third party consultation responses.²⁸
- 7.2. Place Services agreed with the content of the EcIA and HMPP and recommended that permission be granted.²⁹ The Council's Officers concurred in the Officer's Report at [12.216].³⁰ There was no ecology RfR. The Council's original SoCG further confirmed this position.³¹

The Rule 6 Party's Case

- 7.3. On 19 May 2026, the Rule 6 Party set out three issues in its Statement of Case, confined to (1) reptiles; (2) biodiversity net gain and (3) bats. None have any merit, for the reasons set out extensively within Ms Barrett's Rebuttal Proof, building on her earlier Proof of Evidence. On BNG, the Rule 6 Party itself even accepted this position in its Statement of Case at [3.27]: "*The R6 accept the*

²⁸ EcIA (CD2.8 (April 2025) and CD 2.20a (July 2025)) and HMPP (CD2.8 (April 2025) and CD2.15 (June 2025)) and the earlier documents (CD1.14 and CD1.15 (January 2025))

²⁹ CD4.3

³⁰ CD3.3, p54, [12.216]

³¹ CD8.1, pp23-24, [5.63]-[5.67]

Appellant will likely be able to achieve the biodiversity gain objective and that it will be corrected so the mandatory 10% post-development value is achieved".³²

- 7.4. The Appeal proposal will be fully in accordance with the development plan and national policy in respect of ecology.

8) HOUSING LAND SUPPLY AND AFFORDABLE HOUSING

Housing Land Supply

- 8.1. The housing land supply figure was agreed with the Council as 3.75 years:³³ *"It is agreed that the maximum level of supply the Council can demonstrate is 3.75 years and the shortfall in the 5YHLS is at least 1,758 dwellings. It is agreed that this is a substantial shortfall."* The Appellant's position is clear, given the shortfall, the development proposals should be accorded very substantial weight.
- 8.2. The Rule 6 Party accept this figure, although Mr Greaves's Proof notably does not specifically attribute weight, which it should have done to ensure a balanced assessment of the benefits.
- 8.3. The current Government's position has remained consistent, with the return of the present Secretary of State and Minister of State for Housing and Planning. From the July 2024 election onwards, the Government has adopted a robust position: there must be a sharp increase in housing delivery nationally to deliver 1.5 million homes within the Parliament. The Written Ministerial Statement "Building the homes we need" accompanying the NPPF (12 December 2024) produced by the current (returning) Housing Minister noted both the *"acute and entrenched housing crisis"* in the country today and the *"urgency that this demands"*.³⁴
- 8.4. Government policy could hardly be clearer: the national crisis means that a very substantial number of homes must be granted permission right now. In that context, any LPA's shortfall below 5YHLS is wholly at odds with national policy.

³² CD11.2, p8

³³ CD8.3, p8

³⁴ CD16.1

The presumption in favour of sustainable development must accordingly be applied with full force.

(2) Affordable Housing

8.5. Mr Stacey's Proof is also uncontested by the Rule 6 Party. It sets out in great depth the scale of the challenge in Mid Sussex District. The Appellant has also concluded an Affordable Housing SoCG with the Council, which sets out in terms the acute position locally, see notably [7.1]-[7.12].³⁵

8.6. As he summarises at [11.7]:

"11.7 Considering the Authority's past poor record of affordable housing delivery, the inability of the future supply to instigate a step change in delivery and high and rising numbers of households on the Housing Register, there can be no doubt in my mind that the provision of up to 24 affordable dwellings on this site should be afforded very substantial weight in the determination of this appeal."

8.7. The highest levels of weight: very substantial weight should be accorded to meeting a serious affordable housing shortfall in this District.

9) SECTION 38(6) PCPA 2004 AND THE PLANNING BALANCE

The Development Plan and the Presumption

9.1. In conclusion, it is agreed that the Appeal Proposal would conflict with Policies DP6 and DP12, but those policies are out of date and must be accorded considerably reduced weight. Mr Billington has attributed this limited weight.

9.2. The Rule 6 Party's attempt to argue NPPF 11d(i) on the basis of ancient woodland as irreplaceable habitat is wrong.

9.3. This is therefore a case where the presumption in favour of sustainable development in NPPF 11d(ii) applies. The presumption clearly directs towards the grant of permission and is a very powerful material consideration.

³⁵ CD8.4, pp12-13

Benefits

- 9.4. There will be a substantial package of benefits: the provision of both market housing (very substantial weight) and affordable housing (very substantial weight) to address the major shortfalls, alongside economic benefits (significant weight). There would also be transport benefits (accorded moderate weight, but still important in their own right) and other broader community benefits (all moderate weight).³⁶

Harms / Adverse Effects

- 9.5. The harms of the development would all very much be at the lower end: capable of being accorded no more than limited weight.³⁷ The low level of harm to the Conservation Area is to be attributed great weight, but is outweighed by the public benefits, including the delivery of housing at a time that there is an acknowledged substantial deficit in the Councils housing land supply.

Conclusion

- 9.6. This is an excellent example of exactly the form of development which the Government wants: a scheme of 80 units with 24 affordable homes capable of delivering very substantial benefits rapidly within the 5 years, at a sustainable location.
- 9.7. For all these reasons, the Appellant will in due course request that the appeal be allowed and permission granted.

JAMES CORBET BURCHER
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28 July 2026

³⁶ Billington PoE, pp37-43: Section 8, including Tables at [8.47] and [8.48]

³⁷ Billington PoE, p42, [8.48]