

APPEAL BY MILLER HOMES LTD

LAND AT COLWELL FARM

APPEARANCES FOR PROTECT COLWELL FARM ACTION GROUP (R6)

COUNSEL:

Piers Riley-Smith

INSTRUCTED BY:

Paul Wyard, Solicitor & Patrick Lyons, Associate: Richard Buxton Solicitors

WITNESSES:

John Russell (CMILT MCIHT), Director, JR Transport Planning Limited

Ben Carpenter (CIEEM), Principal Ecologist, Bioscan (UK) Limited

Simon Greaves (Licentiate MRTPI) –Director, Castellum Consulting

OPENING SUBMISSIONS ON BEHALF OF PROTECT COLWELL FARM ACTION GROUP

1. This appeal concerns the Appellant's proposal to develop the Land at Colwell Farm, Lewes Road, Haywards Heath, West Sussex, RH17 7TB ('the Site') for “*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.*” ('the Appeal Scheme').
2. Before turning to outline the issues that R6 Party will raise at this Inquiry it is important to deal with a preliminary matter: who Protect Colwell Farm Action Group are and the role they have been compelled to play at this Inquiry.
3. Protect Colwell Farm Action Group ('the R6') is an unincorporated association of over 50 members of local residents who are concerned about the uncontrolled overdevelopment of Haywards Heath. It was formed in 2025 to oppose the development and maintains a register of supporters who come from within the immediate area.
4. The role of R6 to this inquiry has, by necessity, adapted since the start of this appeal. Initially R6 were intending to reinforce and enhance what it believed was Mid Sussex District Council ('the Council') concerns about the unsuitability of the Site for housing development due to the impact on landscape, trees, heritage and the inherent unsustainable location of it.
5. However, the change in stance of the Council in deciding not to resist the Appeal has meant that the necessary scrutiny and resistance to this proposal has fallen to R6.
6. Considering this wider context, the approach that R6 has taken – in, it is hoped, a manner to assist the Inspector – is to focus on a few key issues which we were able to find available experts who could give objective expert evidence to reinforce and corroborate residents' concerns.

7. The Appellant will likely place considerable emphasis on the Council's decision not to contest this Appeal and to proposed to allocate the Site as part of the Main Modifications to the emerging MSDC Local Plan Review.
8. However, the fact remains that:
 1. That is a proposed allocation that is still subject to both consultation and then scrutiny by objectors (including the R6 Party) and the Examining Inspectors at an envisaged future examination hearing. Just because the Site has been proposed for allocation does not make it 'allocated'. The R6 Party would submit – for some of the very same issues this Inquiry will hear about – that the Site will not be allocated in the final version of the emerging plan.
 2. The Inspector as the decisionmaker must be satisfied that the issues before you – on which you have considerably more detailed evidence that the proposed allocation – are addressed and that the planning merits of the Appeal Proposal are established regardless of the stance of the planning authority.
9. It is clear that the Appellant feels particularly aggrieved that residents have had the temerity to continue to resist the Appeal Scheme and question the purported merits and unevidenced assertions that forms the central spine of their case. But this Appeal remains valid, the R6 are entitled to be here and raise their case appropriately and reasonably through three qualified professional experts, and the Inspector is required to determine it according to the evidence before them, rather than the according to stance of the Council.
10. Turning to the substance of the R6 case, there are broadly three issues which we will seek to raise.
11. The first – presented via the evidence of Mr Russell – is that the Site is not sustainable in transport terms.

12. The Site is located on the edge of Haywards Heath and predominantly (apart from the access) lies outside of the defined built-up area and instead sits in designated countryside. This has clear ramifications for the transportational sustainability of the Site.
13. As Mr Russell will set out and evidence the Site does not offer a genuine choice of transport modes. This is because – in relation to walking and public transport (Bus and Rail) there are no facilities or services within a reasonable distance to be attractive to residents. This issue is then compounded by the unsuitability of the walking routes from the Site. With cycling, while the facilities would be within a reasonable distance, they would be along dangerous sub-standard roads which means that people will not want to use them. This – Mr Russell will explain – means that these routes for walking, cycling and public transport are neither safe nor convenient. This analysis is then further supported by the poor scoring that the Site receives from the DfT Connectivity Tool.
14. Overall Mr Russell will present evidence to show that the Appeal Scheme is contrary to DP1, NPPF 110 and 115.
15. The second issue – presented via the evidence of Mr Carpenter – concerns ecology and ancient woodland.
16. Mr Carpenter will set out how there are several omissions and errors within the Appellant's case which remain unaddressed and should give the Inspector serious concern.
17. One of the starkest – which has elicited the most unorthodox reaction from the Appellant – relates to the possible presence of Ancient Woodland, an irreplaceable habitat, within the Site.
18. It is accepted by all the parties that the Site lies adjacent to recognised Ancient Woodland known as Cains Wood. The evidence of Mr Carpenter is that this Ancient Woodland possibly extends into the Appeal Site via the linear wooded features within and around the periphery of the Appeal Site and connect directly to Cains Wood. This is supported by historic mapping which is consistent with- though not conclusive of- the presence of wooded areas on the Site prior to 1600 AD.

19. The obvious next step – and one which was consistently urged upon the Appellant – was to conduct a joint ecological visit to survey for Ancient Woodland Indicator species (alongside a search for historical boundary features such as wood banks) to assist in understanding whether the features could be ancient in origin. But not only was this offer consistently rejected but the R6 were threatened with various legal action if it attempted to do so, and – in remarkably bullish terms for a professional proof - the Appellant’s Mr Forbes-Laird alleged that Mr Carpenter must be ‘unaware of Natural England’s methodology’ and has failed ‘to undertake even basic cartographic investigations’. A bullish stance that Mr Carpenter’s detailed proof – which has not been rebutted by Mr Forbes-Laird - has shown to be wrong even at the outset of this Inquiry.
20. It remains hard to understand why the Appellant has reacted so aggressively to this point. If – as Mr Forbes-Laird insists – the concept of Ancient Woodland can be dismissed out of hand, then a joint ecological survey would have supported their case and killed off our point.
21. But in deciding to deny the Inspector having the benefit of that evidence they have placed us – and the Inspector – in an invidious position which they should not be able to benefit from. This is why, if the Inspector is satisfied with Mr Carpenter’s evidence that there is a clear indication of Ancient Woodland on Site, then they must proceed on the precautionary basis that it is Ancient Woodland. Mr Carpenter will then also explain how the Appeal Site would damage both the Ancient Woodland on the Site, and the Ancient Woodland adjacent to the Site. The policy effects of this will be explored by Mr Greaves.
22. Furthermore, Mr Carpenter will also set out how there are other ecological issues with the Appeal Scheme. The BNG Metric relies on a plethora of omissions and errors which means it cannot be relied upon. The true position may be a net loss in biodiversity rather than a net gain. It relies on an unsuitable reptile receptor site which will not be able to support the translocated reptile population. It takes a sub-standard approach to assessing and mitigating roosting and foraging bats.

23. Overall Mr Carpenter will set out how these ecological issues collectively bring the Appeal Scheme into breach with DP37 and DP38 of the Mid Sussex Local Plan and paragraph 187 and 193 of the NPPF.
24. This then leads to the final overarching issue which the R6 will be raising.
25. Mr Greaves will set out how – despite the accepted need for housing – the Appeal Scheme remains unacceptable in planning terms. The need for housing – and even the tilted balance (if triggered¹) - does not simply give a developer a blank cheque to develop where they please. It requires homes to be built in the right places rather than forgiving homes being built in the wrong places. And this – as Mr Greaves will set out – is clearly the wrong place. It is contrary to the current Development Plan, it is an unsustainable location in the policy designated countryside that will have a detrimental impact on ecology and possible Ancient Woodland and require residents to rely on the private car to reach everyday services and facilities. It also has some accepted landscape and heritage harm.
26. Overall, the Appeal Scheme is unacceptable on the merits and evidence presented to the Inquiry by the R6's expert evidence. Whether the Site is allocated in the future is a different question for a different day for a different decisionmaker. The potential allocation does not resolve or even really assist the Inspector in determining this Appeal.
27. What does assist is the clear and compelling evidence that will be presented by the R6 Party that shows this is the wrong type of development in the wrong place and at the wrong time. On that basis – at the conclusion of this Inquiry – the Inspector will be asked to refuse permission for the Appeal Scheme and dismiss the Appeal.

PIERS RILEY-SMITH
KINGS CHAMBERS
28 JULY 2026

¹ The Ancient Woodland point would mean that it is not due to being an asset of particular importance under 11d