



Appellant Statement of Case

Colwell Farm, Haywards Heath

Miller Homes Limited

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Basis of Report

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Acronyms and Abbreviations

5YHLS	5-Year Housing Land Supply
MSDC	Mid Sussex District Council's
RfR	Reason for Refusal
SLR	SLR Consulting Limited
SoC	Statements of Case
SoCG	Statement of Common Ground
NPPF	National Planning Policy Framework
PPG	Planning Practice Guidance
IPS	Interim Position Statement
PRoW	Public Right of Way
BNG	Biodiversity Net Gain
TRO	Traffic Regulation Order
TA	Transport Assessment
LVIA	Landscape and Visual Impact Assessment
SPD	Supplementary Planning Document
HRA	Habitats Regulations Assessment
SPA	Special Protection Area
SAC	Special Area of Conservation
RAMSAR	Wetland of International Importance (Ramsar Convention)
MfS	Manual for Streets (incorporating Manual for Streets 1 and 2)
DMRB	Design Manual for Roads and Bridges



1.0 Introduction

- 1.1 This Statement of Case (SoC) has been prepared by SLR Consulting Limited (SLR) on behalf of Miller Homes Limited (hereafter referred to as 'the Appellant') against Mid Sussex District Council's (MSDC's) decision to refuse outline planning permission (DM/25/0445). Outline permission was sought at Colwell Farm, Haywards Heath, 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.

- 1.2 A brief description of the appeal site is provided in section 2 of the SoC.

Key dates and background

- 1.3 Prior to submission, the appellant undertook pre-application engagement with MSDC as the Planning Authority. The pre-application request was received by MSDC on the 23rd August 2024 (CD8.1&2), and a formal response was provided via email from MSDC on the 5th November 2024. The MSDC response to the pre-app is provided at CD8.3. In summary, the pre-application advice indicated that an application would not be supported in principle. However, the advice was provided in a significantly different context, based on the December 2023 NPPF, which required, at that time, MSDC to demonstrate a 4-year housing supply, which MSDC claimed could be demonstrated at that time.
- 1.4 There are a good network of paths and footways to help pedestrians access a range of amenities within a 10-minute walk and there is an even greater range of facilities and amenities within cycling distance of the site. A package of off-site highway improvements has been put forward which will support the use of these good walking and cycling connections.
- 1.5 Also, prior to submission, the appellant undertook pre-application engagement with the Local Highway Authority, West Sussex County Council (WSCC), in the summer of 2024 (CD8.4). Their responses to the pre-app request are provided CD8.5. The Highways Authority response confirmed that they were 'supportive' of the access proposals. In terms of accessibility, the response also confirmed:
- 'There are a good network or [sic] paths and footways to help pedestrians navigate their way to amenities within a 10-minute walk'.
 - 'There is good provision of bus stops'
 - 'Haywards Heath railway station is 3.5km away and is within a reasonable cycle distance and only a 5-minute journey by car.'
 - Confirmed the proposed scope of traffic modelling was appropriate
 - Provided advice on potential local transport improvements



- 1.6 The application was subsequently submitted to and made valid by MSDC on 19 February 2025 under application reference DM/25/0445.
- 1.7 The application's statutory determination date was 21st May 2025. However, the applicant agreed several formal Extensions of Time (EoT) following discussions with the case officer to facilitate their consideration of the application, to give us time to address a number of consultee comments and to allow for the final consideration at the MSDC planning committee. The final EoT agreed was for the 1st September 2025.
- 1.8 At the point of decision, the statutory consultee responses stood as follows (the date in the below table refers to the final comment provided by the consultee):

Consultee	Response
WSCC Highway Authority (18 th August 2025)	No objection subject to conditions and S106 (Travel Plan, TRO obligation; visibility splays and off-site works incl. Snowdrop Lane, Birch Close crossing, lay-by alterations).
WSCC Local Lead Flood Authority (LLFA) (5 th March 2025)	No objection subject to conditions (detailed SuDS design, construction phase surface-water plan, maintenance/verification).
WSCC Planning (Infrastructure) (24 th March 2025)	No objection ; seek S106 contributions (education, libraries, Total Access Demand), plus monitoring fees.
WSCC Fire & Rescue Service (28 th April 2025)	Condition requested to secure fire hydrants/location. (no objection formally recorded).
WSCC Minerals & Waste (19 th March 2025)	No objection subject to LPA being satisfied prior extraction is impracticable/unfeasible.
Sussex Police – Crime Prevention (13 th May 2025)	Design/layout recommendations (no objection formally recorded).
Sussex Police – Infrastructure (28 th February 2025)	Financial contribution required (no objection formally recorded subject to obligation).
NHS Sussex (ICB) (14 th April 2025)	Financial contribution required towards GP services / Primary Healthcare (no objection formally recorded subject to obligation).
Southern Water (27 th March 2025)	No objection ; network reinforcement may be needed; condition to phase occupation until reinforcement available; condition for the developer to advise the local authority of landscaping proposals in proximity of public apparatus.
MSDC Ecology Consultant & NatureSpace (GCN) (28 th July 2025)	No objection subject to conditions (CEMP; Biodiversity; method statement for GCN; dark corridors, reptile hibernacula, dormouse licence & measures).
Landscape Consultant (9 th June 2025)	Concerns about local character effects; provided recommendations (not a formal objection).



Consultee	Response
MSDC Conservation (Heritage) (26 th March 2025)	Objection: development causes less-than-substantial harm (mid–high range) to Lewes Road Conservation Area; harm to Grade II Colwell House setting and to the North Colwell Barn (NDHA).
Archaeological Consultant (25 th April 2025)	No objection subject to investigation/mitigation conditions.
MSDC Environmental Health (Air Quality/Noise) (18 th March 2025)	No objection subject to conditions (AQ mitigation equal to £25,696 damages cost; CMP; AVO scheme).
MSDC Contaminated Land (29 th April 2025)	No objection subject to phased contamination conditions.
MSDC Housing (Affordable) (3 rd March 2025)	Confirms 30% affordable; scheme generates requirement for 24 units. No objection formally recorded.
MSDC Tree Officer (3 rd June 2025)	Objection: loss of Category B trees (incl. some mature oaks) cannot be fully compensated; conflicts with DP37.
MSDC Leisure (11 th March 2025)	Contributions required (formal sport; community buildings) and LEAP to be secured by condition.
Haywards Heath Town Council (15 th July 2025)	Objection maintained (principle, highways safety, ecology incl. dormouse/badgers/GCN, conservation area impact, access).

- 1.9 The application was subsequently considered by MSDC Councillors at the planning committee on 21st August 2025. Councillors were assisted in their consideration of the application by a professional Planning Officer Report prepared by the planning case officer, Joanne Fisher, which recommended approval of the application. The officer report is provided at CD3.3.
- 1.10 Notwithstanding the officer's recommendation for approval, Councillors voted to narrowly refuse the application at planning committee, with six voting against the recommendation and five voting in favour of the recommendation.
- 1.11 After considerable debate, Councillors then voted on whether to refuse the application based on five grounds:
- 1) Harm to the character of the landscape
 - 2) The unsustainable location of the site and reliance on the private car for access
 - 3) Adverse impact on the setting of heritage assets
 - 4) Adverse impact arising from the loss of trees
 - 5) Absence of a completed s106 to secure the required infrastructure payments and affordable housing



- 1.12 The vote was six Councillors voting for refusal based on the above grounds, and five Councillors voting against refusal.
- 1.13 The minutes of the committee meeting, including the resolution, are provided at CD3.5.
- 1.14 The application was formally refused on 10 September 2025 via the District Planning Committee. The Council's decision notice listed five Reasons for Refusal (RfR). The full decision notice is provided at Appendix A (and also provided at CD3.2), with the below providing a summary of the RfRs:
- 1) **Out of keeping with rural character** – contrary to MSDP DP12, HHNP E5, E9.
 - 2) **Unsustainable location** – poor pedestrian access to town centre, reliance on car – contrary to MSDP DP21, NPPF.
 - 3) **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) **Loss of trees** – resulting in harm to character of the area with inadequate compensation – contrary to MSDP DP37, HHNP E9.
 - 5) **Failure to secure S106 obligations** – affordable housing, infrastructure, BNG – contrary to MSDP DP20, DP21, DP31, DP38.

Structure of this Statement

- 1.15 This SoC sets out the Appellants' case in response to the reasons for refusal, showing that reasons 1 to 4 are not justified and that RfR 5 can be overcome through completion of a s106 agreement.
- 1.16 The draft Statement of Common Ground (SoCG) sets out the background to the appeal, including a summary of the main matters considered and resolved during the consideration of the application. The appellant will work proactively to agree a SoCG with MSDC.
- 1.17 The first sections will summarise the appeal site context and planning history (section 2), before summarising the Planning Policy Context (section 3).
- 1.18 The Appellant will also be making a case in respect of the Council's 5-year Housing Land Supply (5YHLS) position and their Affordable Housing Need. The appellant argues that the Council is not able to demonstrate a 5YHLS and has a significant shortfall in the delivery of affordable housing. The appellant will be seeking to agree certain matters in relation to 5YHLS with the Council via a SoCG ahead of the Inquiry. The Appellants' case in relation to 5YHLS and Affordable Housing Need matters is set out in Appendices C and D, respectively.



- 1.19 The statement will conclude by demonstrating the case for allowing this appeal; principally the substantial planning benefits weighing in favour of the proposal, and also how the proposals accord with the three objectives underpinning sustainable development as defined by the National Planning Policy Framework (December 2024, as amended February 2025) (the 'NPPF').
- 1.20 Whilst only published in draft and subject to an ongoing consultation, reference where relevant will also be made to the draft NPPF published on the 16th December 2025 which indicates the Government's intended direction of travel in respect of national planning policy.
- 1.21 Site description, planning history and matters on which the appellant reasonably believe are common ground with the Council are set out in the draft SoCG accompanying this appeal.
- 1.22 The appellant's justification for the inquiry procedure is set out in the appeal justification statement at **Appendix B**.
- 1.23 This SoC is therefore structured as follows:
- Section 2 – Appeal Site Context and Planning History (led by SLR Consulting).
 - Section 3 – Planning Policy Context (led by SLR Consulting)
 - Section 4 – The Appellant's case against each RfR:
 - Case against RfR 1 – Countryside Location (led by SLR Consulting with input on landscape matters from Pegasus).
 - Case against RfR 2 – Accessibility and Sustainability (led by SLR Consulting with input on Transport matters from i-transport).
 - Case against RfR 3 – Heritage (led by BT Heritage).
 - Case against RfR 4 – Trees and Landscape (led by FLAC).
 - Case against RfR 5 – Planning Obligations (led by SLR Consulting).
 - Section 5 – Deals with other matters, including 3rd party representations, conditions and obligations (led by SLR Consulting).
 - Section 6 - Planning Balance and Case for Allowing the Appeal (led by SLR Consulting).
- 1.24 This SoC has been prepared with input from other consultants to the relevant sections as indicated above.
- 1.25 The following technical notes have also been provided to support this appeal and have also informed the contents of this Planning SoC and are provided as appendices to this SoC:
- Housing Land Supply Statement by Emery Planning – (Appendix C)
 - Affordable Housing Statement by Tetlow King – (Appendix D)



- Updated Badger Surveys by EcoSupport (Provided separately)



2.0 Appeal Site Context and Planning History

Description of Site and Surroundings

- 2.1 The appeal site is located entirely within the administrative boundary of Mid Sussex District Council (MSDC), and within the neighbourhood Plan Boundary of Haywards Heath. The site is within the County of West Sussex.
- 2.2 Circa 100 metres south of the site is the administrative boundary with Lewes District and East Sussex County Councils.
- 2.3 The appeal site is located on the eastern edge of the town of Haywards Heath, to the south-east of Lewes Road (A272). The straight-line distance from the centre of the site to Haywards Heath Town centre is circa 2km.
- 2.4 Haywards Heath is the largest settlement within Mid Sussex District. It benefits from a very good range of facilities and services within its town centre, including supermarkets, comparison shopping and various leisure uses. The town also hosts numerous employment opportunities, including at the Princess Royal Hospital located circa 1.2km from the site.
- 2.5 The town also benefits from a train station located on the London to Brighton Mainline. It benefits from frequent services to Crawley (Three Bridges Station), Gatwick, London and Brighton. The station adheres with the proposed footnote 26 definition of a 'well-connected' rail station set out within the draft NPPF (2025) meaning the site and Haywards Heath sit in the Crawley Travel to Work Area (within the top 60 Travel to Work Areas (sitting at no 16)) and the station is served throughout the daytime by more than four trains per hour overall, or two trains per hour in any one direction.
- 2.6 Supplementing Hayward Heath's main town centre are a number of smaller district centres offering convenience shopping opportunities to meet day-to-day needs. The closest local centre to the site is located on Northlands Avenue and includes a Tesco Express convenience store and a doctor's surgery, and a pharmacy.
- 2.7 Haywards Heath has grown substantially over the course of the 20th Century from a relatively nucleated core focused around the train station to a much larger settlement serving a significant rural catchment. During the mid-late 20th century, developments have included the Franklands Village and Lyoth Common estates to the west of the site. More recent developments have included new residential estates south of the A272. Further development



has been recently approved¹ for 375 dwellings south of the A272 on a site allocated in the Haywards Heath Neighbourhood Plan policy H1.

- 2.8 To the south-east of the town and site is generally open countryside, interspersed with areas of historic woodland and small villages and hamlets.
- 2.9 The access to the site and a small part of the main site area is within the Lewes Road Conservation Area, characterised by mainly large 20th-century residential dwellings fronting onto Lewes Road. The Grade II Listed Colwell House is the sole listed building within the Conservation Area located south of Lewes Road. There is also a recognised non-designated heritage asset close to the site access known as Colwell Barn. Further discussion of heritage assets and their relationship to the site and proposed development is set out in section 4.

The Appeal Site

- 2.10 The appeal site measures circa 6.20 hectares in size, comprising three distinct fields, plus a strip of the existing garden of Colwell Farmhouse, which links the fields to Lewes Road.
- 2.11 Each of the fields is separated by large hedgerows. The fields were last in use for agriculture. There are no significant changes in level on-site, with a gentle slope from north to south.
- 2.12 The part of the site currently forming part of Colwell Farm's garden contains a mix of amenity garden and a number of trees, including trees on the frontage to Lewes Road.
- 2.13 The boundaries of the site are defined as follows:
- Northern Boundary – generally large hedgerow and tree planting providing natural screening to dwellings to the north of Lewes Road. An open field also separates the site from the Listed Colwell House.
 - Eastern Boundary – Predominantly Ancient Woodland which largely screens views to and from the east of the site.
 - Southern Boundary – predominantly defined by Ancient Woodland which screens views to and from the south.
 - Western Boundary – dense hedgerow planting which largely screens views to and from the west of the site.

¹ MSDC application reference [DM/22/2272](#)



- 2.14 A Public Right of Way (PROW No HAH-29CU) is located to the west of the site. Following the PROW north provides access to the Franklands Estate and to Northlands Wood Primary Academy school.
- 2.15 There are no Tree Preservation Orders within the appeal site, albeit there are a number of trees on site protected by virtue of their position within the Conservation Area. There is no Ancient Woodland within the site boundary, albeit the Ancient Woodland buffer does extend within the site.
- 2.16 All of the site is within Flood Zone 1. EA mapping indicates some very isolated areas of surface water flood risk for the 1 in 30 and 1 in 100 flood events but these very small areas are isolated to the very eastern edge of the site and a small area within an existing hedgerow. Neither area is proposed for development.
- 2.17 The planning history of the site is set out in the draft SoCG submitted with this appeal. There are no applications of relevance to the appeal scheme on the site itself.
- 2.18 A number of applications, whilst not being on the site itself, are considered of relevance to this appeal due to their relative proximity to the site or their comparable scale. These include:

Table 2-1 - Application and appeal decisions considered relevant to this appeal

Application Ref	Description	Location	Decision	Decision Date
13/02431/FUL	Erection of ten dwellings together with associated areas of open space, access, parking and landscaping.	Oldfield 55 Lewes Road Haywards Heath West Sussex	Approved at Committee	12/01/2013
DM/15/4930	Erection of seven dwellings from existing access road. Comprising of one two bed, four three bed and two four bed dwelling houses	Land Adj. To Oldfield 55 Lewes Road Haywards Heath West Sussex	Approved at Committee	09/06/2016
DM/16/0402	Erection of 113 no. dwellings together with access, associated parking, amenity space and landscaping.	Land Off Greenhill Way Haywards Heath West Sussex	Approved at Committee	22/08/2016
DM/22/2272	Outline application with all matters reserved except for access for the erection of up-to 375 new homes, a two-form entry primary	Land At Hurst Farm Hurstwood Lane Haywards	Approved at Committee	29/05/2025



Application Ref	Description	Location	Decision	Decision Date
	school, burial ground, allotments, open space with associated infrastructure, landscaping and parking areas. (Additional Highways, Drainage and Ecological information	Heath West Sussex		

2.19 Within the last five years, there have been no planning applications submitted in relation to the Appeal Site itself. This is confirmed in the Officer's Report, which states "there are no previous planning applications of direct relevance to the determination of this application" (*para 8.1*).

2.20 The only recorded application on the Site is an older proposal dating from 1980, which sought: "*Change of use for conversion of existing dilapidated and unused farm buildings to form a new farmhouse to serve the whole property.*" This application was refused at appeal in May 1980. Both parties agree that this historic decision is irrelevant to the current appeal proposals.

Site Promotion

2.21 The Site has been promoted for residential development by the appellant, Miller Homes, throughout the Mid Sussex District Plan Review process. Representations were submitted at each relevant consultation stage, and the Site (identified as SHELAA site ID 844) was assessed by the Council within the Strategic Housing and Economic Land Availability Assessment (CD9.19 to CD9.24) and subsequently the Site Selection process (CD9.12-CD9.18). The Council identified the Site as "*relatively unconstrained*" and that it has walkable access to primary education, health and retail facilities.

2.22 **Table 3-2** below summarises the stages at which the Site was promoted, noting the promoting party was the Appellant at each below described state.

Table 2-2 - Site Promotion History.

Consultation Stage/ Evidence Document	Date	Comment
Call for Sites / SHELAA Submission (SHELAA ID 844)	2021	Site included in the updated SHELAA and assessed as " <i>relatively unconstrained</i> ".
Draft District Plan (Reg. 18) Consultation	2022	Site considered through the Site Selection Methodology; sustainability noted due to proximity to schools, health and retail.



Consultation Stage/ Evidence Document	Date	Comment
Fact-Check Stage for Site Assessments	2022	Promoter participated in the fact-checking exercise for site assessments.
Updated Site Selection Assessment (2023)	2023	Site re-assessed as part of the updated SHELAA and Site Selection rerun to include additional submissions.
Draft District Plan (Reg. 19) Representations	2023/24	Site resubmitted/confirmed for promotion as a potential allocation in the emerging plan.



3.0 Planning Policy Context

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications should be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. This is re-affirmed in section 70(2) of the Town and Country Planning Act 1990, and in paragraphs 2 and 48 of the National Planning Policy Framework (2024).

Adopted Development Plan

- 3.2 For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the Development Plan for the District comprises:
- Mid Sussex District Plan 2014–2031 (adopted 28 March 2018) [CD5.3]
 - Site Allocations Development Plan Document (DPD) (adopted 29 June 2022) [CD5.4]
 - Haywards Heath Neighbourhood Plan (2016–2031) (made in 2016) [CD5.5]
 - West Sussex Joint Minerals Local Plan (May 2018, with partial review March 2021) [CD5.6]
 - West Sussex Waste Local Plan (April 2014)

Mid Sussex District Plan 2014-2031 (MSDP)

- 3.3 The MSDP was adopted in March 2018 and is hence more than five years old. It has not been reviewed and found up-to-date, meaning that, consistent with NPPF paragraph 78 and national guidance, the 5YHLS must be measured against Local Housing Need (LHN) calculated via the Standard Method.
- 3.4 The following policies of the MSDP are considered most relevant to the consideration of the appeal. Those in **Bold** are considered the ‘most important’ policies for determining the application and those in *italics* are those policies specifically referenced in MSDC’s RfR:

Table 3-1 MSDP Relevant Policies

Policy Reference	Policy
DP4	Housing
DP5	Planning to Meet Future Housing Need
DP6	Settlement Hierarchy
<i>DP12</i>	<i>Protection and Enhancement of Countryside</i>
DP13	Preventing Coalescence
DP15	New Homes in the Countryside
<i>DP20</i>	<i>Securing Infrastructure</i>
<i>DP21</i>	<i>Transport</i>



DP23	Communication Infrastructure
DP26	Character and Design
DP27	Dwelling Space Standards
DP28	Accessibility
DP29	Noise, Air and Light Pollution
DP30	Housing Mix
<i>DP31</i>	<i>Affordable Housing</i>
<i>DP34</i>	<i>Listed Buildings and Other Heritage Assets</i>
<i>DP35</i>	<i>Conservation Areas</i>
<i>DP37</i>	<i>Trees, Woodland and Hedgerows</i>
<i>DP38</i>	<i>Biodiversity</i>
DP39	Sustainable Design and Construction
DP41	Flood Risk and Drainage
DP42	Water Infrastructure and the Water Environment

Site Allocations Development Plan Document (DPD)

- 3.5 The DPD only concerns itself with the allocation of housing and employment sites. It does not amend or update any of the policies in the MSDP and is not referenced in the RfR. Consequently, it is considered of minimal relevance to the appeal.

Haywards Heath Neighbourhood Plan (HHNP)

- 3.6 The HHNP, made in 2016, is also more than five years old. Consequently, the provisions of paragraph 14 of the NPPF do not apply. Furthermore, the weight to be afforded to its policies must also be viewed in the context of their consistency with the most recent NPPF and the application of paragraph 11(d).
- 3.7 The following policies of the HHNP are considered most relevant to the consideration of the appeal. Those in **Bold** are considered the ‘most important’ policies for determining the application and those in *italics* are those policies specifically referenced in MSDC’s RfR:

Table 3-2 HHNP Relevant Policies

Policy Reference	Policy
E5	<i>Local Gaps</i>
E6	Green Infrastructure
E7	Sustainable Drainage Systems
E8	Sustainable Development
E9	<i>Local Character</i>
E11	Landscape Visual Assessment



Policy Reference	Policy
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

Other Material Considerations

3.8 Planning law dictates that relevant material consideration should be taken into account in decision making; and can justify a departure from the policies contained within the adopted Development Plan where those policies are judged to be out of date and inconsistent with the policies set out in the National Planning Policy Framework

3.9 The following are considered to be relevant material considerations in this appeal:

National Planning Policy Framework (NPPF, February 2025)

3.10 The most recent version of the NPPF was published in February 2025. This document is the Government's overarching planning policy framework for England and sits alongside the Planning Practice Guidance (PPG).

3.11 The policies contained with the current NPPF that are considered most relevant to this appeal include policies contained within the following chapters:

Table 3-3 - NPPF Relevant Chapters

Paragraph/Section	Theme
Paragraph 8	Sustainability objectives
Paragraphs 11–13	Presumption in favour of sustainable development
Paragraphs 56–58	Use of conditions and planning obligations
Paragraph 61	Boosting the supply of housing
Paragraph 78	Maintaining supply and delivery
Paragraph 85	Economic growth
Paragraphs 109–111 & 115–118	Promoting sustainable transport
Section 11	Making effective use of land
Section 12	Achieving well-designed places



Paragraph/Section	Theme
Paragraphs 170–182	Planning and flood risk
Paragraph 187	Natural and local environment
Paragraph 188	Designated ecology sites
Paragraphs 192–195	Habitats and biodiversity
Section 16	Conserving and enhancing the historic environment

- 3.12 The presumption in favour of sustainable development (NPPF Paragraph 11(d)) is relevant in the case of this appeal given the housing land supply position in Mid Sussex which is well below the required 5-years. The application of Paragraph 11d directs that permission should be granted unless it can be shown that the impact of granting permission would significantly and demonstrably outweigh the benefits being offered.
- 3.13 The National Planning Practice Guidance (NPPG) is also a material consideration with various sections providing national guidance on multiple matters.
- 3.14 A consultation on a new version of the NPPF was launched in December 2025 and remains live until 10th March 2026. Whilst this consultation document shows the Government's new direction of travel on national planning policy, the policies contained within the consultation draft NPPF carry very little weight in decision-making at this time. Should a new NPPF be formally published by the government prior to the appeal being determined, the appellant reserves the right to provide further evidence in respect of any new NPPF.

The Emerging MSDC Local Plan Review [CD6.1]

- 3.15 MSDC are undertaking a local plan review. The emerging plan has been submitted for examination and undergone a first round of Local Plan Hearings in 2024. The result of these hearings was a recommendation from the Inspector, at that time, that the plan be withdrawn as a result of concerns about the Council's adherence to the Duty to Cooperate (DtC).
- 3.16 Due to subsequent Government announcements in relation to the DtC, the Inspectorate have announced a reopening of the examination with a new examining inspector. The examination is essentially restarting. The second round of hearings is taking place currently and the appellant is participating in those hearings and has objected to the plan.
- 3.17 Given the previous concerns raised by the Inspector, and new questions raised by the newly appointed Inspector which are yet to be fully examined or concluded on, at this time the emerging plan is considered to attract only very limited weight.



- 3.18 Should this change as the examination progresses, the appellant reserves the right to provide further evidence in respect of the emerging plan.

Other Policy Documents and Guidance

- 3.19 Other Supplementary Planning Documents (SPDs) considered to be relevant to the consideration of this appeal, includes:

- Affordable Housing Supplementary Planning Document (2018)
- Design Guide SPD (2020)
- Development Infrastructure and Contributions SPD

- 3.20 MSDC also approved two Position Statements in December 2025 of relevance to the appeal. The position statements are not part of the statutory development plan but are a material consideration. The statements were prepared in the context of the Council's acknowledged lack of 5YHLS. They are of relevance to the appeal in that they provide a number of criteria under which MSDC will consider applications for housing development on sites not currently adopted in the local plan and within the context of their current lack of 5YHLS. The two position statements are:

- Planning Statement 1: Delivering Sustainable Development (2025)
- Planning Statement 2: Infrastructure (2025)



4.0 The Appellant's Case

- 4.1 This section sets out the appellant's case in respect of each RfR. It has been prepared with the input of relevant technical professionals in respect of each matter.

Case Against RfR 1 – Countryside Location

- 4.2 This section has been prepared jointly by SLR Consulting (planning) and Pegasus Group (landscape).
- 4.3 RfR 1 states:

The proposed development is located within the countryside outside of the built-up area of Haywards Heath. It is considered that the development would be out of keeping with the rural character of the area and fails to protect the local distinctiveness of the area by extending the settlement boundary of Haywards Heath and eroding the rural nature of the site, contrary to policy DP12 of the Mid Sussex District Plan 2014-2031 and policies E5 and E9 of the Haywards Heath Neighbourhood Plan.

Appellant's Case

- 4.4 The Council allege harm with regard to the following two matters:
1. Extension of the settlement boundary outside of the built-up area of Haywards Heath
 2. The development would be out of keeping with the rural character of the area and would fail to protect the local distinctiveness of the area.
- 4.5 The appellant's case will demonstrate that neither concern is justified when considered in the context of national policy, the Council's housing land supply position, and the evidence submitted with the application.
- 4.6 RfR 1 cites MSLP policy DP12 and HHNP policies E5 and E9. These policies aim to protect rural character and prevent coalescence. However, there are a number of considerations in relation to each policy of relevance.
- 4.7 Firstly, the Council cannot demonstrate a 5YHLS, engaging paragraph 11(d) of the NPPF and footnote 8. As confirmed in the Officer's Report (7 August 2025), this reduces the weight afforded to policies DP12 and E5/E9.
- 4.8 Policy DP12 seeks to protect the countryside and confirms the types of development that are acceptable – namely where it is necessary for agriculture or is supported by a specific policy in a development plan document or relevant neighbourhood plan.



- 4.9 It is accepted that the proposals are in conflict with policy DP12. However, in the context of the council's lack of 5YHLS and the resultant application of NPPF Paragraph 11(d), policy DP12 is out of date and hence attracts less weight. Consequently, the identified conflict with this policy is also of significantly less weight.
- 4.10 Policy E5 relates to maintaining settlement gaps. The site is within the policy E5 'gap', but this is in common with all areas outside of the settlement boundary of Haywards Heath. Policy E5 is hence not a 'true' gap policy but instead should be considered as a more 'general' policy designed to manage development in the countryside, outside of the built-up area boundary. This is inferred by the wording of the policy which confirms that land outside of the built-up area is designated as 'local gap' – i.e. all land is gap that is not within the boundary. There is no evidence that in devising such a policy that a 'gap' assessment was undertaken to formally identify if each area had the true characteristics of a gap.
- 4.11 Policy E5 is also a positively worded policy that does not prevent all development within the areas identified as 'gap' but instead allows development where it
- 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.
- 4.12 This is confirmed in the HHNP examiner's report (CD5.13), which states '*...the policy does not entirely preclude development within the policy E5 areas but rather seeks to apply tests for development.*' (paragraph 6.6.15)'
- 4.13 Finally, the wording of RfR 1 does not imply any concern in respect of criterion 3 relating to the retention of the separate identity of communities, nor do the minutes of the planning committee meeting, which, in setting out the resolution to members, only reference 'harm to the character of the landscape' as being the matter of concern. There is no reference to harm with regard to general visual amenity or residential visual amenity.
- 4.14 In evidence, the appellant will demonstrate that the proposals adhere with each of the three criteria and hence are in accordance with policy E5 and that there is no conflict with this policy.
- 4.15 Policy E9 (Design) is addressed through a high-quality layout, retention of boundary vegetation, and provision of open space buffers as will be demonstrated in evidence as outlined below. Overall, the appeal scheme is considered to be in compliance with the relevant criteria of Policy E9.



- 4.16 The appeal scheme has been carefully designed to respect the site's context and mitigate any perceived harm. The *Landscape and Visual Impact Assessment* (ACD Environmental Ltd, December 2024) confirms that the site is visually enclosed by mature vegetation and woodland, with negligible views from public rights of way and roads, except for the Lewes Road entrance. The layout retains the western parcel as open space to protect the setting of the Lewes Road Conservation Area and introduces extensive buffer planting, including a 15-metre stand-off from ancient woodland. These measures ensure the development sits comfortably within its setting and maintains ecological connectivity.
- 4.17 The Site Selection Conclusions Paper (2024) [CD9.12] assessed the site (SHELAA ref. 844) as a "*Reasonable Alternative*" and confirmed that it performed well against most sustainability objectives. The assessment noted that the site is adjacent to a Category 1 settlement, has good access to services, and presents no insurmountable constraints in respect of highways, utilities, or environmental designations. The only reason for non-allocation was its relative connectivity compared to other shortlisted sites, rather than any fundamental unsuitability. As the Council's own evidence states: "*No significant constraints identified; mitigation for Ashdown Forest impacts achievable.*" This demonstrates that the site is not an inappropriate or speculative location but one that has been rigorously tested and found suitable in principle for sustainable growth.
- 4.18 Haywards Heath is a Category 1 settlement in the District Plan hierarchy, the most sustainable location for growth. The site is contiguous with the built-up area and the proposed access lies within the built-up area of Haywards Heath (Officer's Report, paras 9.2 and 12.6). The site is within walking and cycling distance of local services, schools, healthcare facilities, and public transport. The Officer's Report confirms that the site is well-related to Haywards Heath and that the proposed off-site works (footway improvements and crossings) are acceptable in principle, with the Highways Authority raising no objection (paras 12.37 – 12.38, 12.64).
- 4.19 Further discussion of the site's sustainable location and accessibility is provided in Section 4 of this Statement (Case Against RfR 2).
- 4.20 The LVIA assesses the site and its immediate surroundings as having high landscape quality and value, but low susceptibility to change and low visual sensitivity due to strong enclosure and topography. The overall weighted sensitivity is medium, and the magnitude of impact is medium, reflecting the partial alteration of baseline characteristics. Residual visual effects are limited to the site entrance on Lewes Road, which will be mitigated by new planting. Views from public rights of way and the wider landscape are negligible, ensuring the rural character and settlement identity remain intact.



- 4.21 We note Place Services' advice that effects on the site and immediate context should be judged higher than medium and that the scheme represents a major change to local character, with recommendations for further design/ mitigation.
- 4.22 Notwithstanding this, the Officer's Report (CD3.3) recommended approval of the application under the tilted balance, concluding that the benefits of housing delivery significantly outweighed the identified harms. Recent permissions and allocations have extended Haywards Heath beyond its historic boundary on greenfield sites, reflecting the need to accommodate growth adjacent to Category 1 settlements. Furthermore, the emerging plan proposes further greenfield land released adjacent to Haywards Heath and elsewhere to meet their housing requirement. The appeal site shares these characteristics and can deliver housing quickly to address the acute shortfall.
- 4.23 The overall planning balance and case for allowing the appeal is discussed in detail in Section 8 of this Statement.

Conclusion

- 4.24 Although the proposal is technically in conflict with MSDP policy DP12 (Protection and Enhancement of Countryside) of the Mid Sussex District Plan, this conflict attracts limited weight given the Council's failure to maintain a 5YHLS and the application of paragraph 11(d) of the NPPF means that this limited impact is outweighed by the benefits. The appellant will demonstrate that the development is not in conflict with HHNP policies E5 and E9 of the Haywards Heath Neighbourhood plan,
- 4.25 The site is sustainably located adjacent to a Category 1 settlement, well-related to the existing built-up area of Haywards Heath, and capable of delivering significant public benefits, including affordable housing and biodiversity net gain. When read in the context of the Development Plan as a whole, and having regard to national policy and material considerations, including the significant housing shortfall, the principle of development at this location is acceptable.

Case Against RfR 2 – Accessibility and Sustainability

- 4.26 This section has been prepared jointly by SLR Consulting and i-transport .
- 4.27 RfR states:

The site is considered to be an unsustainable countryside location where pedestrian access to the town centre would not be convenient or attractive for future residents, and this could not be sufficiently mitigated by the proposed off site works in this application. Therefore, the proposal would result in heavy reliance on the private car to address basic day to day needs



from local services and shops. The proposal therefore conflicts with policy DP21 of the Mid Sussex District Plan 2014-2031 and the provisions of the NPPF which seeks to actively managing [sic] patterns of growth to make the fullest possible use of public transport.

Appellant's Case

- 4.28 MSDC's concern focuses on the site being in an unsustainable countryside location, along with pedestrian connectivity not being convenient, attractive, or sufficiently mitigated, leading to reliance on private car travel.
- 4.29 The appellant contends that this reason for refusal is not justified when considered against the sustainable characteristics of the site, the evidence submitted with the application and the collective professional position of the Local Highway Authority, WSCC, and the Officer's Report
- 4.30 Policy DP21 seeks to ensure development is sustainably located and provides opportunities for walking, cycling, and public transport. The NPPF (paragraphs 115–116) recognises that opportunities to maximise sustainable transport will vary between urban and rural areas and requires decision-makers to take a proportionate approach. The appeal site meets these objectives and sits adjacent to the Built up Area Boundary of Haywards Heath (indeed the Lewes Road site access junction sits within the Built up Area Boundary of Haywards Heath as defined by the District Plan), a Category 1 settlement in the District Plan hierarchy, the most sustainable location for growth.
- 4.31 The Officer's Report acknowledged that the site is contiguous with the built-up area of Haywards Heath and benefits from proximity to local services, schools, and healthcare facilities. The Officer concluded that the development was acceptable under the tilted balance, stating:
- "...the benefits of this development, as highlighted within the report, significantly outweigh the adverse impacts, which will in any event be mitigated for as far as possible".*
- 4.32 West Sussex County Council (WSCC), as the statutory Local Highway Authority, raised no objection to the application (CD3.29-3.34). Their consultation responses confirm that the proposed access arrangements, visibility splays, and pedestrian improvements are acceptable and that the development will not result in any severe or otherwise unacceptable highway safety impacts.
- 4.33 WSCC also supported the principle of extending the 30mph speed limit eastwards along Lewes Road, which will further improve pedestrian safety and comfort. Planning obligations can secure the submission of a Traffic Regulation Order (TRO) to facilitate this change in speed limit to the benefit of future and existing residents.



- 4.34 The professional judgment of the Highways Authority carries significant weight and directly undermines MSDC's claim that the site is "*unsustainable*".
- 4.35 The development itself will provide public open space, play areas and an informal kickabout area.
- 4.36 All residential parts of the site are within a reasonable walking distance (accessed by a safe walking route(s) from a number of local amenities and facilities including:
- Primary School - Northlands Wood Primary Academy Primary School – via public footpath 29CU (or via Lewes Road and Snowdrop Lane);
 - Supermarket or local grocery shop (selling fresh food) – Tesco Express at Walnut Park – via public footpath 29CU (or via Lewes Road and Snowdrop Lane);
 - Doctors surgery – Northlands Wood Practice, at Walnut Park, with a Pharmacy (Kamsons) adjacent - via public footpath 29CU (or via Lewes Road and Snowdrop Lane);
 - Leisure / Recreation – Walnut Park and Forest Fields Play area - via public footpath 29CU (or via Lewes Road and Snowdrop Lane); and
 - Employment / hospital - Princess Royal Hospital (via Lewes Road)
- 4.37 Haywards Heath town centre boundary is around a 2.08km walk distance from the centre of the site giving many future residents the opportunity to access the town centre on foot via Lewes Road and Franklynn Road.
- 4.38 All of the above facilities and amenities, including Haywards Heath town centre and train station are within a reasonable cycle distance of the site.
- 4.39 Existing infrastructure includes:
- Footways along Lewes Road linking to the town centre and local facilities.
 - Public Rights of Way (PRoW), including PRoW 29CU approximately 350m west of the site, providing an alternative green route to Walnut Park and onward to Tesco Express, Northlands Wood Primary Academy, and healthcare facilities, as well as an alternative route to Haywards Heath town centre.
- 4.40 The planning application and WSCC's highways consultation responses confirm that the proposed development will deliver targeted improvements, including:
- A new 2.0m footway along the site access road, linking to Lewes Road; with an uncontrolled pedestrian crossing to the north side footway on Lewes Road;



- Package of off- site highway improvements to include dropped kerbs and tactile paving in the wider highway network to improve pedestrian walking or wheeling experiences from the site to local amenities;
- Additional works at Snowdrop Lane, including extended hardstanding and signage to alert drivers to pedestrians;.
- Provision of a footway on Lewes Road to replace existing layby;
- Footway widening on the eastern side of Birch Close and an informal crossing with dropped kerbs and tactile paving across Lewes Road ; and
- Support for a Traffic Regulation Order (TRO) to extend the 30mph speed limit eastwards along Lewes Road, reducing vehicle speeds and improving pedestrian and cyclist perceptions of safety.

4.41 The appellant is also agreeable to the following section 106 planning obligations:

- Implementation of the Framework Travel Plan and payment of WSCC's Travel Plan Monitoring fee
- TRO for extending the 30mph speed limit along Lewes Road to the east of the Proposed Site Access - undertaking a two-stage process for the TRO and TRO highway works scheme. The appellant will commence the TRO process, and if the TRO is successful, the applicant will commit to designing a TRO scheme of highway works to the satisfaction of WSCC Highways and to deliver this under a s278 agreement.

4.42 The nearest bus stops to the site are located on Northlands Avenue, accessible on foot via public footpath 29CU. These stops offer an hourly service from bus routes 31/31A Uckfield (Maresfield - Newick - Haywards Heath – Cuckfield). The southbound bus stop (towards Hayward Heath town centre and beyond) includes a shelter with seating, timetable information and real time information indicating arrival times of the next bus, this is a good level of existing provision. A signalised pedestrian crossing exists adjacent to the bus stop to provide safe access to the northbound bus stop.

4.43 Further bus stops with additional services are located on the B2272 Lewes Road and on Franklynn Road, circa 1.4km from the centre of the site. In total, there are over ten bus services available from the B2272 bus stops outside the Princess Royal Hospital. The westbound bus stop (towards Haywards Heath town centre) includes two shelters with seating, timetable information and real-time information indicating arrival times of the next bus. This again is a good existing provision.



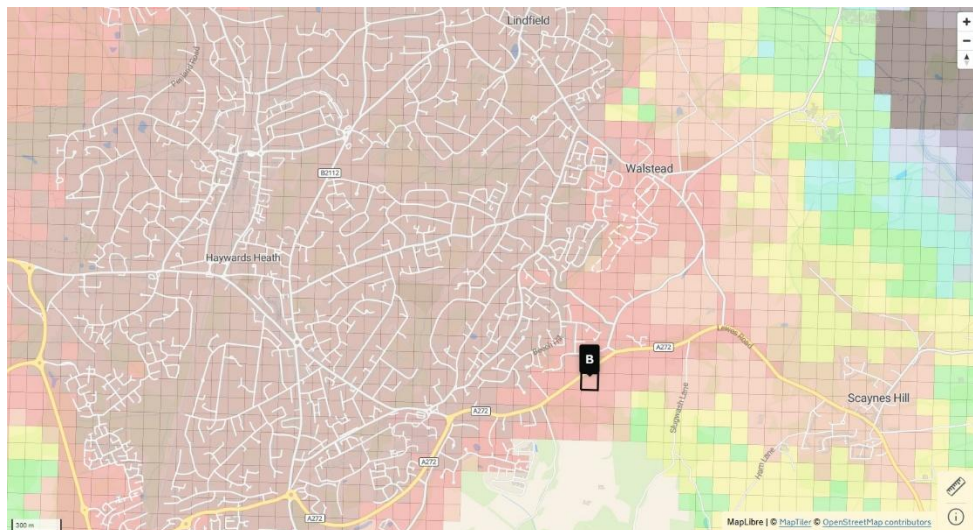
- 4.44 The draft NPPF (December 2025) introduces a decision-making policy (Policy S5) that applies the presumption in favour of sustainable development to sites within a reasonable walking distance of well-connected railway stations. Footnote 45 explains that Well-connected rail stations are:
- “...those in a top 60 Travel to Work Area located partially or fully within England by Gross Value Added (GVA) and which, in the normal weekday timetable, are served (or have a reasonable prospect of being served due to planned upgrades or through agreement with the rail operator) throughout the daytime by four trains or trams per hour overall, or two trains or trams per hour in any one direction”.*
- 4.45 The site and Haywards Heath site in the Crawley Travel to Work Area (Travel to Work Areas, United Kingdom, 2011: E30000196 – Crawley).
- 4.46 Crawley is within the top 60 Travel to Work Areas (sitting at no 16).
- 4.47 Haywards Heath rail station is located north-west of the site. It offers regular services to a number of destinations including Three Bridges Station in Crawley, Gatwick and London Victoria (served throughout the daytime by more than four trains per hour overall, or two trains per hour in any one direction – thus meeting the Travel to Work area / train frequency “well connected” criteria). It also provides services to destinations including Burges Hill, Brighton and Lewis
- 4.48 Whilst the station is at the upper end of the distances that most people will walk, the station is accessible for future residents on bike, by bus or by car.
- 4.49 The Department for Transport (DfT) Connectivity Tool has recently been made available in the public domain. The tool measures how easily (opportunity) people can reach employment, services and social activities within one hour from a chosen location (lite version includes 100m x 100m grid selection). It assesses access to destinations across different transport modes, including walking, cycling, driving, and public transport.
- 4.50 The tool can show how connected a location is on a scale between 0 (poorly connected) to 100 (highly connected), this is a percentage of the highest score in England and Wales, being 100.
- 4.51 It is also possible to review how a location scores within a specific Local Planning Authority area, which in this case is Mid Sussex. The individual grid selection compares the connectivity scores within the Local Planning Authority area with results ranging between ‘A’



(highest connectivity) and 'J' (lowest connectivity), each band representing 10th percentile intervals.

- 4.52 The majority of the residential parts of the site score predominately a 'B' (which is the second highest score for connectivity in Mid Sussex) although some parts score at C), this is demonstrated by a screenshot of the tool in Figure 4-1.

Figure 4-1 DfT Connectivity Tool - Local Authority View (<https://connectivity-tool-lite.dft.gov.uk/app#14.7/50.99499/-0.0793>)

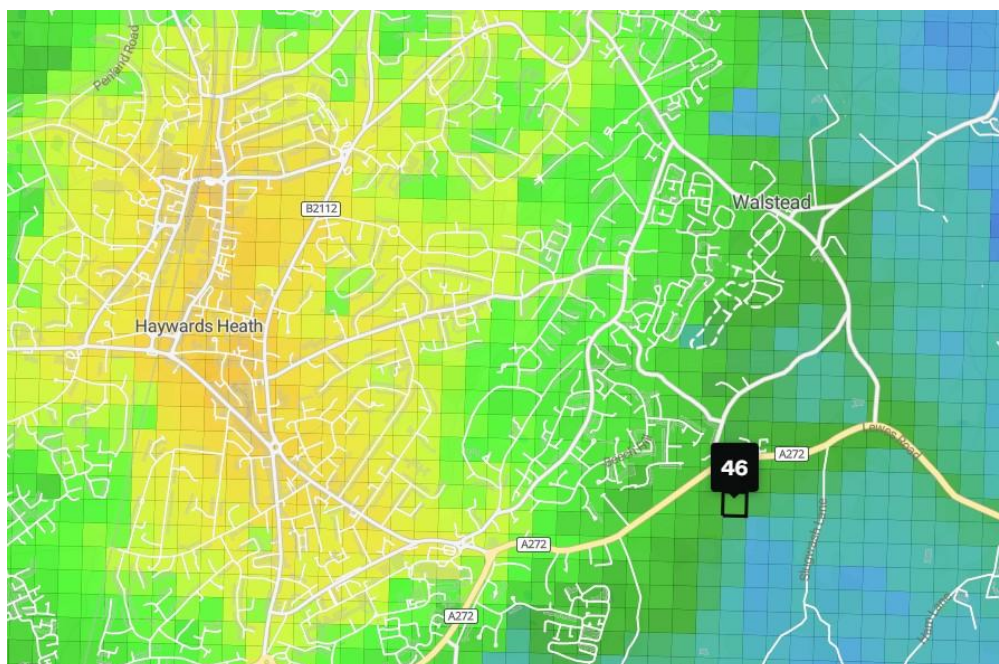


- 4.53 In terms of the site location connectivity for all modes of transport (except driving), the majority of the residential areas generally fall between a score of 43 and 46, this is shown in Figure 4-2. In comparison, the highest score in Haywards Heath is around Haywards Heath



rail station which scores 77. The site is located on the edge of Haywards Heath where there is overall good connectivity.

Figure 4-2 DfT Connectivity Tool - Connectivity Score (Source: <https://connectivity-tool-lite.dft.gov.uk/app#14.7/50.99499/-0.0793>)



- 4.54 The appellant further demonstrates via a comparative site analysis that the appeal site performs at least as well as, and in several respects better than, a number of housing sites in and around Haywards Heath that have already been accepted by the Council or Inspectors as suitable and sustainable locations for residential development.
- 4.55 The appeal site is located approximately a 23-minute walk or a 7-minute cycle from Haywards Heath town centre. While opportunities to maximise sustainable travel will vary by location, these distances fall within the range of walking and cycling distances commonly accepted in decision-making, including in guidance referenced by the Chartered Institution of Highways & Transportation. When assessed against this context, a consistent pattern can be identified in recently consented and appeal-approved developments:
- Rocky Lane Phases 1 and 2 (refs. 12/00535/OUT and 13/00656/OUT) are located approximately 1.2 km from their nearest primary school and convenience shop (around a 14-minute walk), and perform no better in accessibility terms than the appeal site.
 - Rogers Farm (DM/22/0733), approved in 2022, is located approximately 2.6 km from the nearest primary school, which is not realistically accessible by walking or cycling, and approximately 1.5 km from the nearest convenience shop.



- Scamps Hill (DM/15/4457), allowed on appeal in May 2025 (APP/D3830/W/24/3350075), is located approximately 1.1 km from the nearest shop, equating to around a 13-minute walk.
- Other permitted schemes, including Ridgeway, Greenhill Way, Lewes Road Phase 2, and Rookery Farm, exhibit walking and cycling catchments that are comparable to, or weaker than, those of the appeal site.

4.56 Despite these accessibility characteristics, all of the above schemes were accepted as compliant with the Development Plan and national policy, either by MSDC or by Inspectors. Against this established pattern of decision-making, there is no reasonable or defensible basis to single out the appeal site as being “unsustainable” on accessibility grounds. To do so would result in inconsistent decision-making and would conflict with the requirement for planning judgments to be made on a rational and even-handed basis. The appeal site lies well within the range of accessibility outcomes that have previously been judged to represent sustainable development in the Haywards Heath context.

Conclusion

- 4.57 While MSDC asserts that the site is not sustainably located, this assessment does not reflect the actual evidence of proximity to Haywards Heath and its local amenities and facilities, including the town centre, existing and proposed connectivity, and the Local Highway Authority’s no objection to the scheme. The site is well-related to Haywards Heath, benefits from existing infrastructure, and will deliver targeted improvements to enhance pedestrian safety and accessibility. This position is further reinforced by the comparative evidence provided, which demonstrates that the appeal site performs at least as well as a number of recently permitted and appeal-approved residential schemes in and around Haywards Heath that have been accepted as sustainable locations.
- 4.58 In the context of the NPPF and DP21 and given the acute housing need and application of the tilted balance, the appellant contends that the proposals represent sustainable development and that the appeal scheme is in general conformity with policy DP21 of the MSDP.

Case Against RfR 3 – Heritage

- 4.59 This section has been prepared jointly by SLR Consulting (Planning) and Blake Turnbull Heritage Consultancy.
- 4.60 RfR 3 states:



The development would result in an unacceptable intensification of development within the setting of the Grade II listed Colwell House and North Colwell Barn, an undesignated heritage asset. The development would also detract from the rural character of the setting of the southern part of the Lewes Road Conservation Area. It is not considered that the public benefits of up to 80 dwellings on the site would outweigh the harm to the setting of both the designated and non-designated heritage assets. The proposal is therefore considered to be contrary to the requirements of policies DP34 and DP35 of Mid Sussex District Plan 2014-2031 and the aims of the NPPF and policy E9 of the Haywards Heath Neighbourhood Plan.

Appellant's Case

- 4.61 The section sets out the appellant's case against this reason for refusal and demonstrates that the proposals will not cause unacceptable harm to the significance of the identified built heritage assets. Where any harm is identified, it is at the lower end of the spectrum of less than substantial harm and is clearly outweighed by the public benefits of the scheme in accordance with paragraph 215 of the NPPF.
- 4.62 The Council's Conservation Officer, in comments dated March 2025, expressed concerns that the site forms part of the rural setting of the Lewes Road Conservation Area and contributes to its transitional character between town and countryside. The consultee also considered that the site makes a strong positive contribution to the wider setting of Colwell House and North Colwell Barn, and that development would introduce urbanising effects such as noise, activity, and lighting. The level of harm was assessed by the consultee as "mid-level" within the spectrum of less than substantial harm for the significance of the designated Colwell House and the non-designated North Colwell Barn. The consultee concluded an "around the mid-high" level of harm to the significance of the Lewes Road Conservation Area. While these concerns are noted, the appellant does not agree with this assessment and relies on the findings of the Heritage Statement prepared by RPS (January 2025), which provides a proportionate and robust analysis of significance, setting, and impact.
- 4.63 Colwell House is a Grade II listed building, primarily derived from its architectural and historic interest as a Neo-Classical early Victorian villa and its immediate garden setting. The Heritage Statement concludes that the appeal site forms no meaningful part of Colwell House's setting and makes no contribution to its significance. Dense planting and topography mean the house is almost entirely screened from the site, and the proposed development, which will be no greater than two storeys in height, combined with strengthened northern boundary planting, will cause no harm to the significance of Colwell



House. This conclusion aligns with the Council's own Site Selection Paper, which identified listed buildings as a "neutral" planning constraint.

- 4.64 Turning to the Lewes Road Conservation Area, this is a heritage asset of high local significance, characterised by large houses in spacious, well-planted gardens along Lewes Road, creating a green, low-density approach to Haywards Heath. Only a tiny part of the site, approximately 0.15 hectares, lies within the Conservation Area (the residual trackway along a part of the site's north-western boundary and proposed access), with the remainder forming a very small part of its wider setting. The proposed development will introduce built form into a small part of this element of the setting, but with mitigation measures including retention of the historic trackway, deepened landscape buffers, and an evergreen hedge along the access, the impact will be low within the spectrum of less than substantial harm. The illustrative masterplan shows built form set back from the Conservation Area boundary, with strengthened planting to maintain screening. While the consultee raises concerns about urbanising effects such as noise and light, these are overstated given the scale of development and the opportunities for sensitive design at reserved matters stage.
- 4.65 North Colwell Barn is a non-designated heritage asset of only local significance. Its historic setting has been eroded by conversion to residential use and surrounding development, and its immediate curtilage is now wholly domestic in character. The site's western field forms a small part of its wider setting, and while the proposed development will introduce built form into this area, the impact will be mitigated by set-back and strengthened planting. The Heritage Statement concludes that the level of harm will be low and that, under NPPF paragraph 216, this harm must be weighed as a balanced judgment against the scheme's public benefits.
- 4.66 In policy terms, the proposals comply with DP34 and DP35, which require protection of listed buildings and conservation areas, because harm is either absent (Colwell House) or low and, to an extent, mitigated. Under NPPF paragraph 215, less than substantial harm to Lewes Road Conservation Area must be weighed against public benefits, and paragraph 216 applies to North Colwell Barn. The statutory duty under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is engaged for the Conservation Area, meaning great weight must be given to its conservation. However, paragraph 215 does not direct refusal where harm is less than substantial to designated assets, and the appellant contends that the identified harm is clearly outweighed by the benefits of the scheme.
- 4.67 The public benefits of the proposal are significant and include the delivery of up to 80 dwellings in a highly sustainable location, 30% affordable housing, biodiversity net gain of at



least 10%, substantial landscape enhancements and new public open space, and economic benefits during construction and in the longer term through support for local services. This reflects the Case Officer's findings that these benefits attract substantial/ positive weight (housing and affordable housing: paras 13.8, 13.10, 13.26; BNG: para 13.13; economic benefits: paras 12.103–12.104, 13.26) and that, applying the tilted balance, *"the benefits of this development...significantly outweigh the adverse impacts, which will in any event be mitigated for as far as possible."* (para 13.29).

Conclusion

- 4.68 The appellant accepts that the site lies within a part of the setting of the Lewes Road Conservation Area (with a tiny part of the site within the Area) and North Colwell Barn. Any harm is at the lower end of the less than substantial spectrum and is clearly outweighed by the public benefits of the scheme in accordance with the NPPF. Importantly, the Officer's Report acknowledged this position, concluding that while some harm would arise, it was less than substantial and that the benefits of housing delivery, affordable housing, and biodiversity net gain significantly outweighed this harm, in effect delivering clear and convincing justification for the identified harm. The Officer recommended approval of the application under the tilted balance, confirming that the planning benefits justify granting permission. The appellant therefore contends that the same conclusion should apply at appeal, the proposals being in compliance with DP34, DP35, E9, and national policy, and hence permission should be granted.

Case Against RfR 4 – Trees and Landscape

- 4.69 This section has been prepared jointly by SLR Consulting (Planning) and Forbes-Laird Arboricultural Consultancy (Arboriculture).
- 4.70 RfR 4 states:

The proposal would result in the loss of a significant number of trees, which make an important contribution to the character and appearance of the area. The loss of these trees is not adequately compensated for or mitigated against in the application. The proposed development therefore conflicts with policy DP37 of the Mid Sussex District Plan 2014-2031 and policy E9 of the Haywards Heath Neighbour Plan.

Appellant's Case

- 4.71 The Council's concern relates to the removal of trees within the site and the perceived inadequacy of mitigation measures. The appellant contends that this reason for refusal is not justified when considered against the evidence submitted with the application, relevant policy context, and the comprehensive arboricultural strategy proposed.



- 4.72 Policy DP37 seeks to protect and enhance trees, woodland, and hedgerows, with particular emphasis on ancient woodland and veteran trees. It does not preclude tree removal where justified and mitigated. Policy E9 of Haywards Heath Neighbourhood Plan similarly requires development to respect local character and incorporate appropriate landscaping. Both policies allow for a balanced approach where losses are unavoidable but offset through robust mitigation.
- 4.73 The Arboricultural Impact Assessment prepared by Forbes-Laird Arboricultural Consultancy (January 2025) provides a detailed BS5837:2012-compliant assessment of the site's tree stock and the implications of the proposed development. The findings confirm:
- 100% of A-category (high quality) trees will be retained, ensuring that the most important specimens remain in situ.
 - 87% of B-category (moderate quality) trees will be retained, with only 43 trees (13% of this grade) proposed for removal.
 - Losses are primarily driven by the need to create a safe and policy-compliant access from Lewes Road and to accommodate the development parcels within the site.
 - Of the 43 B-category trees to be removed, only three mature oaks (references 7053, 7064, and 7068) are affected. No veteran trees are present, and an at least 15-metre, and in many places larger, buffer zone to the off-site ancient woodland is maintained throughout.
 - The Tree Officer's consultation response incorrectly assumed that all 43 B-category losses were mature trees. Moreover, the majority of trees identified for removal are of limited public amenity value: they occur within the site interior, where their contribution to the wider landscape is negligible.
- 4.74 Importantly, the Officer's Report acknowledged that the arboricultural impacts of the scheme had been assessed and mitigated. While noting that some tree loss would occur, the Case Officer concluded that the proposals retained all high-quality trees and the majority of moderate-quality trees, and that mitigation through new planting and biodiversity enhancements would offset these losses. The Officer recommended approval under the tilted balance, confirming that the benefits of housing delivery significantly outweighed the identified harm. This professional judgment reinforces the appellant's position that the objection lacks proportionality.
- 4.75 The appellant has proposed a comprehensive mitigation strategy, including:



- Significant new planting of native species to reinforce site boundaries and create green corridors within the development.
- Enhancement of existing hedgerows and habitat buffers to support biodiversity and maintain ecological connectivity.
- A Tree Protection Plan and Arboricultural Method Statement to safeguard retained trees during construction.
- Integration of tree planting with the biodiversity net gain strategy, ensuring that ecological and landscape objectives are delivered in tandem.

4.76 These measures will ensure that any losses are more than adequately compensated for, both in terms of visual amenity and ecological function.

4.77 The Landscape and Visual Impact Assessment confirms that the site is visually enclosed by mature vegetation and woodland, limiting views from the wider countryside. The removal of a small proportion of internal trees will not materially affect the character of the area or the setting of the Lewes Road Conservation Area. The western parcel of the site will remain as public open space, incorporating new planting and natural play areas, further enhancing the landscape framework and providing benefits for both new and existing residents.

Conclusion

4.78 The proposed development achieves a high retention rate of quality trees, causes no harm to ancient woodland and veteran trees, and provides robust mitigation through replanting and landscape enhancements. The Tree Officer's objection overlooks these factors. The Officer's Report supports the Applicant's (now Appellant's) position, confirming that the planning benefits significantly outweigh any residual harm. The proposals therefore comply with Policy DP37 and Policy E9, and any residual harm is minor and clearly outweighed by the substantial public benefits of housing delivery, affordable housing provision, and biodiversity net gain.

Case Against RfR 5 – Planning Obligations

4.79 RfR 5 states:

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



4.80 RfR 5 cites non-compliance with policies DP20 (Infrastructure), DP21 (Transport), DP31 (Affordable Housing) and DP38 (Biodiversity), as well as the Council's adopted SPDs on Affordable Housing and Development Infrastructure and Contributions. The Officer's Report confirms that the following obligations were expected to be secured via a Section 106 Agreement:

- Affordable Housing: 30% on-site provision (24 units for a scheme of 80 dwellings), tenure split in accordance with policy DP31.
- Highways and Transport: Off-site works including uncontrolled pedestrian crossings, footway improvements along Lewes Road and Snowdrop Lane, and a Travel Plan monitoring fee.
- Education and Community Infrastructure: Contributions towards primary and secondary education, libraries, and community facilities.
- Formal Sport and Leisure: Contributions towards formal sport facilities and community buildings.
- Health and Policing: Contributions to NHS GP services and Sussex Police infrastructure.
- Biodiversity Net Gain (BNG): Delivery of a minimum 10% net gain, including off-site credits where necessary.

4.81 These requirements were clearly set out in the Officer's Report and are standard for major residential development in Mid Sussex.

Resolution Through Draft Agreement

4.82 The Appellant has prepared a draft Section 106 Agreement to accompany this appeal (CD4.3), which secures all of the above obligations. This includes:

- Full compliance with affordable housing policy and tenure mix.
- Delivery of off-site highway works and Travel Plan measures.
- Financial contributions in accordance with the Council's formulae for education, libraries and community infrastructure.
- Mechanisms for securing biodiversity net gain in line with statutory requirements.

4.83 Completion of this agreement will ensure the development accords with the relevant policies and SPDs, removing the basis for RfR 5.



Conclusion

- 4.84 RfR 5 is a technical reason for refusal that can be fully addressed through the execution of the Section 106 Agreement. The absence of a signed agreement at the time of determination does not indicate any fundamental policy conflict. Once completed, this reason should carry no weight in the appeal.

Five-Year Housing Land Supply

- 4.85 The Appellant's outline case in respect of the Council's 5YHLS position is set out in Appendix C.
- 4.86 The Appellant's view is that the Council do not have a 5YHLS and consequently the provisions of paragraph 11(d) of the NPPF (the 'tilted balance') apply.
- 4.87 The application of paragraph 11(d) also renders those policies 'most important' to the consideration of the appeal scheme 'out of date', meaning they attract less weight.
- 4.88 Furthermore, the lack of housing supply is itself a material consideration which should result in substantial weight being placed on the delivery of housing.

Affordable Housing Need

- 4.89 The appellant's outline case in respect of affordable housing need is set out in Appendix D.
- 4.90 This confirms that there is an acute and growing need for housing within the district, which is not being met. The proposed development delivers 30% affordable housing in line with policy DPH8 and of a mix and tenure needed locally.
- 4.91 Consequently, the appellant's case will be that very substantial weight should be given to the proposed delivery of affordable housing, in addition to the separate weight to be given to housing delivery as outlined above.



5.0 Other Matters

5.1 This section briefly addresses other matters raised, including those by 3rd parties.

Third Party Representations

5.2 A total of 146 representations were submitted to the application across three consultation periods. Some comments were submitted by the same address. Matters raised by 3rd parties included (see Section 4.0 of the committee report which provides a full summary):

- The principle of development in the countryside
- Site is not allocated for housing
- Contrary to local policies
- Unsustainable location
- Additional traffic
- Inadequate local infrastructure (schools, doctors, utilities etc)
- Inadequate local employment
- Inadequate surface and foul drainage
- Impact on heritage assets
- Impact on local residential amenities from residential use of the site
- Loss of ecology on site
- Inadequate and omitted ecology surveys
- Loss of mature trees within conservation area
- Important hedgerows on site
- Not a proven need for the development
- Designated as a 'green corridor' in the Haywards Heath Local Plan which policy E5 applies

5.3 The above matters are considered to have been addressed either by the documentation submitted in respect of the application, and the officers report to committee, or are otherwise addressed elsewhere within this statement.

5.4 In light of some of the 3rd party comments raised in respect of badger surveys, a suite of additional badger surveys have been conducted, the results of which are provided at



Appendix E. These do not result in any need to amend the appeal scheme or result in any change to the overall conclusions in respect of the effect of the scheme on ecology and biodiversity.

- 5.5 Should a 3rd party decide to participate as a 'Rule 6' party and submit their own case, the appellant reserves the right to make further submissions to respond to the party's case.

Planning conditions and Obligations

- 5.6 The appellant will seek to agree a list of agreed planning conditions with MSDC in the event the appeal is allowed. These can also be tested in evidence.
- 5.7 Similarly, a draft s106 is submitted with this appeal and the appellant will seek to agree a draft s106 with the council prior to the start of the inquiry.
- 5.8 Both the conditions and obligations we expect to be tested in evidence.



6.0 Planning Balance and Case for Allowing the Appeal

- 6.1 This SoC has demonstrated that the Council cannot demonstrate a 5YHLS of deliverable housing sites. Paragraph 11(d) of the NPPF is therefore engaged and relevant policies for the supply of housing are out of date. In this context, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.
- 6.2 Section 4 of this SoC has addressed each of the Council's reasons for refusal. As explained, the identified harms relate primarily to countryside policy conflict, change to landscape character, loss of trees, and less-than-substantial harm to heritage assets. These harms are acknowledged, but they are limited in extent, capable of being mitigated, and attract reduced or moderate weight when considered in the context of the Council's acute housing shortfall and the application of the titled balance. The provision of housing and other benefits attract substantial weight and we believe clearly weigh in the balance of supporting the proposals, as set out below.
- 6.3 The site's long-standing promotion and positive assessment through the Local Plan process add further weight to its suitability and deliverability. The Site Selection Conclusions Paper (CD9.12-9.17) assessed the site (SHELAA ref. 844) as a "*Reasonable Alternative*" and confirmed that it performed well against most sustainability objectives. Crucially, the Council's own evidence stated: "*No significant constraints identified; mitigation for Ashdown Forest impacts achievable.*" In refining the shortlist, the Council applied a comparative assessment that included relationship to settlements and connectivity/access to services. Within that exercise, larger proposals that could deliver on-site facilities or sit alongside strategic growth areas tended to be favoured (e.g., West of Burgess Hill), whereas some large sites with poor existing access were only considered sustainable because of on-site provision (e.g., Ansty, Sayers Common). By contrast, the site is a modest, edge-of-settlement site adjoining a Category 1 town and does not rely on the delivery of extensive on-site facilities to function sustainably. It was not taken forward at that stage as part of this wider comparative judgement, rather than due to any identified constraint or conclusion that the site is unsuitable for development.
- 6.4 This history shows the site has been rigorously tested through the Local Plan process and aligns with the District Plan's spatial strategy for growth adjacent to Category 1 settlements, and is in single ownership, free from overriding constraints and capable of early delivery. These factors carry substantial weight in the current housing shortfall context.



- 6.5 When assessed in the round, the proposal delivers significant public benefits which weigh heavily in favour of the appeal. Consistent with paragraph 8 of the NPPF, these benefits contribute positively to the social, environmental and economic objectives of sustainable development.

Social Benefits

- 6.6 The appeal proposal would deliver up to 80 new dwellings in a district that is unable to demonstrate a five-year housing land supply. The delivery of new housing attracts substantial positive weight, in particular where development is well related to an existing Category 1 settlement and able to integrate with established services and facilities.
- 6.7 Thirty percent of the dwellings would be affordable, meeting policy requirements and making a meaningful contribution towards addressing identified local affordability pressures. The Officer's Report confirms that this provision is policy compliant and affords it substantial positive weight in the planning balance. Appendix D demonstrates an acute affordable housing need within the district. The affordable housing case will reinforce that very substantial weight is appropriate given the acute need for affordable housing in the district.
- 6.8 The scheme would also secure new public open space and a locally equipped area for play, improving recreational provision for future residents and the wider community. In addition, planning obligations would support education, libraries, community facilities, healthcare and policing, ensuring that local services are appropriately funded to accommodate population growth arising from the development. Whilst in part required to mitigate the development, the provision of contributions to local services and facilities will also benefit the wider local community and should be given moderate positive weight.
- 6.9 Targeted pedestrian and highway safety improvements, including upgraded crossing facilities, footway enhancements and a reduction in speed limits along Lewes Road, would deliver tangible safety and accessibility benefits. The Highway Authority raised no objection to the proposal and confirmed that the agreed package of measures would be effective. Whilst in part required to mitigate the development, the provision of such improvements will also benefit the wider local community and should be given moderate positive weight.

Environmental Benefits

- 6.10 The proposal would deliver a minimum of 10% biodiversity net gain through a combination of on-site habitat creation and enhancement, supported by off-site provision where necessary. This represents a clear environmental benefit and is correctly afforded positive weight in the Officer's Report.



- 6.11 Further environmental benefits include the protection of ancient woodland through appropriate buffer zones, dark corridor design and secured ecological mitigation measures, alongside a sustainable drainage strategy supported by the Lead Local Flood Authority. The proposals also incorporate air quality mitigation proportionate to their impacts, and a comprehensive landscape and tree strategy which would reinforce green infrastructure and deliver significant new planting. The proposal was assessed as having no likely significant effects on the Ashdown Forest SPA/SAC, either alone or in combination.
- 6.12 It is accepted that, as with any green field development, that there will be a degree of landscape harm, which weighs negatively against the proposals. However, the harm has been as mitigated as far as possible and consequently such harm should only attract low weight in the balance.
- 6.13 Similarly, it is accepted that there is a low level of less than substantial harm to the conservation area. It is recognised that this is still harm arising from the development and hence should attract negative weight, albeit of only low weight. Furthermore, in accordance with paragraph 215 of the NPPF, the public benefits outweigh the harm.
- 6.14 Finally, it is accepted that the loss of some mature trees results in some level of harm. This harm has been mitigated through proposed replacement planting which will significantly outnumber the loss. All the same, a low level of negative weight is considered to apply to the loss of some mature trees on site.

Economic Benefits

- 6.15 The development would generate economic activity during construction through the creation of jobs and expenditure within the local supply chain. In the longer term, new residents would support the vitality and viability of local services, facilities and businesses within Haywards Heath.
- 6.16 Investment secured through planning obligations, including highway works, leisure provision and community infrastructure, would deliver wider economic benefits by improving accessibility, safety and the quality of the built and natural environment.
- 6.17 Together these benefits should be given significant weight in accordance with paragraph 85.
- 6.18 Positive weight should also separately be given to the economic benefits arising to the local economy during the construction period. This should also be given significant weight.

Overall Planning Balance

- 6.19 When all matters are weighed together, the limited and mitigated harms arising from the proposal do not approach the high bar required to outweigh its substantial public benefits.



- 6.20 Where the NPPF paragraph 11d tilted balance is applied, and weighting the negative and positive weighting together, the collective harms clearly do not ‘significantly and demonstrably outweigh the significant benefits arising from the appeal scheme.
- 6.21 The Officer’s Report is highly relevant to this assessment. It acknowledges the identified harms but concludes that they are outweighed by the benefits of the scheme when applying the tilted balance. The Officer recommended approval, stating that *“the benefits of this development, as highlighted within the report, significantly outweigh the adverse impacts, which will in any event be mitigated for as far as possible.”*
- 6.22 Furthermore, even if the paragraph 11d tilted balance were not applied, the weighting of the positive elements of the scheme against the negative elements clearly shows that even with a flat balance the positives outweigh the negatives arising from the scheme and hence the appeal should be allowed.
- 6.23 For these reasons, when assessed against the Development Plan taken as a whole and the policies of the NPPF, the proposal constitutes sustainable development. The Appellant respectfully requests that the appeal be allowed and outline planning permission granted.



Appendix A Decision Notice
DM/25/0445

Miller Homes Ltd
Mr Nicholas Billington
SLR Consulting Ltd
Mountbatten House
1 Grosvenor Square
Southampton
Hampshire
SO15 2JU

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE
ENGLAND) ORDER 2015

REFUSAL

REFERENCE: DM/25/0445

DESCRIPTION: OUTLINE APPLICATION WITH ALL MATTERS RESERVED EXCEPT FOR ACCESS, FOR UP TO 80 DWELLINGS WITH ASSOCIATED LANDSCAPING, OPEN SPACE, INFRASTRUCTURE AND VEHICULAR AND PEDESTRIAN ACCESSSES.

LOCATION: LAND AT COLWELL FARM, LEWES ROAD, HAYWARDS HEATH, WEST SUSSEX

DECISION DATE: 10 SEP 2025

CASE OFFICER: JOANNE FISHER - JOANNE.FISHER@MIDSUSSEX.GOV.UK

The Council hereby notify you that they **REFUSE** to permit the above development as shown in the submitted application and plans.

The reasons for the Council's decision are:-

1. The proposed development is located within the countryside outside of the built-up area of Haywards Heath. It is considered that the development would be out of keeping with the rural character of the area and fails to protect the local distinctiveness of the area by extending the settlement boundary of Haywards Heath and eroding the rural nature of the site, contrary to policy DP12 of the Mid Sussex District Plan 2014-2031 and policies E5 and E9 of the Haywards Heath Neighbourhood Plan.

2. The site is considered to be in an unsustainable countryside location where pedestrian access to the town centre would not be convenient or attractive for future residents, and this could not be sufficiently mitigated by the proposed off site works in this application. Therefore, the proposal would result in a heavy reliance on the private car to address basic day to day needs from local services and shops. The proposal therefore conflicts with policy DP21 of the Mid Sussex District Plan 2014-2031 and the provisions of the NPPF which seeks to actively managing patterns of growth to make the fullest possible use of public transport.
3. The development would result in an unacceptable intensification of development within the setting of the Grade II listed Colwell House and North Colwell Barn, an undesignated heritage asset. The development would also detract from the rural character of the setting of the southern part of the Lewes Road Conservation Area. It is not considered that the public benefits of up to 80 dwellings on the site would outweigh the harm to the setting of both the designated and non-designated heritage assets. The proposal is therefore considered to be contrary to the requirements of policies DP34 and DP35 of Mid Sussex District Plan 2014-2031 and the aims of the NPPF and policy E9 of the Haywards Heath Neighbourhood Plan.
4. The proposal would result in the loss of a significant number of trees, which make an important contribution to the character and appearance of the area. The loss of these trees is not adequately compensated for or mitigated against in the application. The proposed development therefore conflicts with policy DP37 of the Mid Sussex District Plan 2014-2031 and policy E9 of the Haywards Heath Neighbourhood Plan.
5. The proposal fails to provide the required affordable housing, the infrastructure contributions, off site highway works and the biodiversity net gain requirements. The application therefore conflicts with policies DP20, DP21, DP31 and DP38 of the Mid Sussex District Plan and the Mid Sussex Supplementary Planning Documents 'Affordable Housing' and 'Development Infrastructure and Contributions'

INFORMATIVES

1. In accordance with Article 35 Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, thereby allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied as part of a revised scheme. The Local Planning Authority is willing to provide pre-application advice and advice on the best course of action in respect of any future application for a revised development.

Human Rights Implications

The planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

Plans Referred to in Consideration of this Application

The following plans and documents were considered when making the above decision:

Plan Type	Reference	Version	Submitted Date
Location Plan	02.38(01)00		21.02.2025
Other	02.38(01)01		19.02.2025
Planning Layout	02.38(01)02		19.02.2025
Other	MILL24496_21		19.02.2025
Other	(04)01		19.02.2025
Topographical Survey	62713BWLS-01		19.02.2025
Topographical Survey	62713BWLS-02		19.02.2025
Topographical Survey	62713BWLS-03		19.02.2025
Topographical Survey	62713BWLS-04		19.02.2025
Topographical Survey	62713BWLS-05		19.02.2025
Topographical Survey	62713BWLS-06		19.02.2025
Highways Plans	ITL19597-GA-004	H	17.06.2025
Highways Plans	ITB19597-GA-011	B	17.06.2025
Highways Plans	ITL19597-GA-018		18.06.2025
Highways Plans	ITL19597-GA-021	A	17.06.2025
Highways Plans	ITL19597-GA-015	A	19.02.2025
Highways Plans	ITL19597-GA-016	A	19.02.2025



Ann Biggs
Assistant Director Planning and Sustainable Economy

REOUTZ

APPEALS TO THE SECRETARY OF STATE

Notes for Applicants

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice;

However, if

- (i) this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, and you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice; or
- (ii) an enforcement notice is subsequently served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within:
 - 28 days of the date of service of the enforcement notice, or
 - within 6 months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.

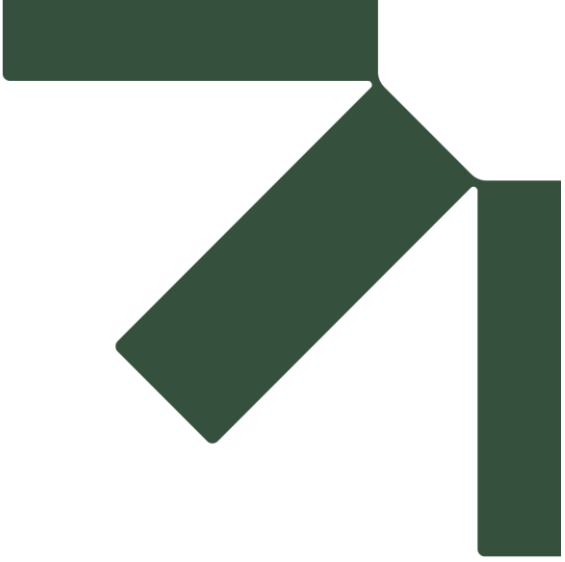
Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>.

If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.uk](#).



Appendix B Justification for the Inquiry Procedure

2 March 2026

Appellant: Miller Homes Limited
Local Planning Authority: Mid Sussex District Council

SLR Project No.: 433.000082.00001

Local Planning Authority Reference: DM/25/0445

RE: Justification for Planning Inquiry Procedure Colwell Farm, Haywards Heath

This statement has been prepared on behalf of the appellant, Miller Homes Limited, to explain why they consider an Inquiry is the most appropriate mechanism for considering the appeal against Mid Sussex District Council (MSDC's) decision to refuse planning permission for the redevelopment of the land at Colwell Farm, Haywards Heath (Application Reference: DM/25/0445).

A formal notice of intention in line with Recommendation 3 of the Rosewell Review was sent to Mid Sussex District Council and the Planning Inspectorate on 13th February 2026. A copy of the notice is appended to this letter.

The appellant is of the view the appeal should be heard via the Inquiry procedure for a number of key reasons.

Firstly, the appeal raises several complex and interrelated planning issues that require detailed technical evidence and cross-examination. These include:

- Ancient Woodland – the site is surrounded by this on two sides
- Heritage – the site is partly in a Conservation Area and near to a Listed Building
- Coalescence between settlements
- Complex highway, transportation and sustainability position which disputed by the LPA but not the LHA
- Off-site highway works and footpath improvements
- Housing Land Supply – the council's 5 year supply shortfall is very significant
- European Habitat Law relating to ecology including dormice, bats, badgers, reptiles, hedgehogs, deer; concern over survey/lighting; loss of mature trees; important hedgerows.
- Footnote 7 of the NPPF in which several inspectors decisions have been quashed recently

Secondly, the above matters will require the engagement of at least seven expert consultants and would benefit from being thoroughly examined through the exchange of evidence and cross-examination by barristers, best conducted via the Planning Inquiry procedure.

Thirdly, the planning application resulted in a very high level of public interest as demonstrated by the number of public comments received. This included commentary on complex matters such as ecology, not raised as a reason for refusal, which may require the involvement of further expert consultants in the appeal.

Fourthly, the planning context within MSDC is complex and is likely to become more so during the course of the appeal. Key complicating factors include:

- The ongoing examination of the Mid Sussex Local Plan Review, which is highly unusual to say the least and which has failed the Duty to Cooperate and then been re-opened.
- Resultant potential changes to the housing land supply position
- The consultation on a draft NPPF and the potential for a new NPPF to be published ahead of the conclusion of the appeal.

For these reasons and having regard to the published guidance on determining the procedure for planning appeals,¹ a planning inquiry is considered the most appropriate route for consideration of this appeal.

Based on this, the appellant expects at least six inquiry days will be required to fully hear these matters. The appellant will however seek to work with the Council in order to focus the areas of dispute and agree key areas of common ground so as to make the most efficient use of time during the inquiry process.

Yours sincerely,

SLR Consulting Limited



Nick Billington MRTPI
Technical Director - Planning

nbillington@slrconsulting.com
07974 108360

Attachments Copy of Notification of Intention to submit an appeal

¹ <https://www.gov.uk/government/publications/criteria-for-determining-the-procedure-for-planning-enforcement-advertisement-and-discontinuance-notice-appeals/criteria-for-determining-the-procedure-for-planning-enforcement-advertisement-and-discontinuance-notice-appeals>



12 February 2026

Planning Department
Oaklands
Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

Emailed only to: planninginfo@midsussex.gov.uk & joanne.fisher@midsussex.gov.uk

LPA Planning Reference: **DM/25/0445**

SLR Project no: 433.000082.00001

**RE: Notification of forthcoming Planning Appeal (Inquiry) Submission
Land At Colwell Farm Lewes Road Haywards Heath West Sussex**

On behalf of Miller Homes, I write to give Mid Sussex District Council (MSDC) and (PINs) formal notice that Miller Homes (the appellant) will shortly be submitting a Planning Appeal against the refusal of application **DM/25/0445** by MSDC. A copy of the Decision Notice is appended to this letter.

A formal notice in line with Recommendation 3 of the Rosewell Review into inquiry appeals and the Planning Appeals Procedural Guide, is appended to this letter. The appeal is expected to be submitted by the end of the 2nd March 2026.

The appellant wishes the appeal to be considered via a planning inquiry. Further justification for this proposed route will be provided as part of our appeal submission but in summary an inquiry is considered appropriate in this instance due to the number and complexity of issues raised, the complex planning policy and housing landscape and the level of public interest in the planning application.

Alongside our full Statement of Case, we will be submitting a draft Statement of Common Ground to define areas of agreement as well as the main areas of dispute. We would welcome early engagement with MSDC Planning Officers and other consultees to discuss and agree the Statement of Common Ground in order to focus the areas of dispute and make the most efficient use of time during the inquiry process.

Please acknowledge safe receipt of this letter and the accompanying notice. Should you have any queries, please do not hesitate to contact me on the details below.

Regards,

SLR Consulting Limited



Nick Billington MRTPI
Technical Director – Planning
nbillington@slrconsulting.com
07974 108360

Attachments

- Notification of intention to submit an appeal
- MSDC Decision Notice DM/25/0445

cc

- Planning inspectorate - inquiryappeals@planninginspectorate.gov.uk
- Miller Homes Ltd

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

Notification of intention to submit an appeal

Under the provisions of Recommendation 3 of the Rosewell Review into inquiry appeals and in accordance with the Procedural Guide: Planning Appeals, this notification is to give the Local Planning Authority and Planning Inspectorate not less than 10 working days' notice of an intention to submit a planning appeal where the appellant will request the inquiry procedure.

The appeal will be against Mid Sussex District Council's for refusal of an outline planning application formally decided on the 10th September 2025.

Appellant name: Miller Homes Ltd

Site address: Land at Colwell Farm Lewes Road Haywards Heath
West Sussex

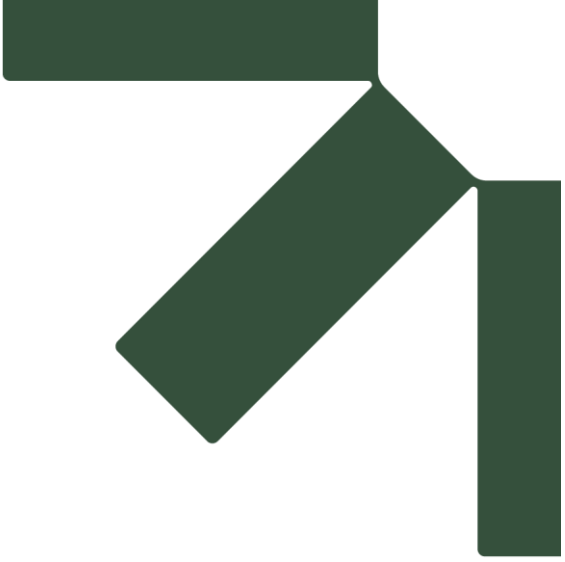
Description of development:

Outline application with all matters reserved except for access, for up to 80 dwellings with associated landscaping, open space, infrastructure and vehicular and pedestrian accesses.

MSDC Planning application number: DM/25/0445

Likely submission date of appeal: 2nd March 2026

Proposed duration of inquiry in days: Four Days



Appendix C 5-Year Housing Land Supply Statement of Case

Technical note re: Mid Sussex District Council's Five Year Housing
Land Supply (5YHLS)

For Miller Homes Limited | 26-091

Up to 80 dwellings with associated landscaping, open space, infrastructure and
vehicular and pedestrian accesses – Colwell Farm, Haywards Heath
LPA ref: DM/25/0445



Project: 26-091
Site Address: Colwell Farm, Haywards Heath
Client: Miller Homes Limited
Date: Wednesday, February 11, 2026
Author: Ben Pycroft

Contents

1.	Introduction _____	1
2.	Current 5YHLS Position _____	2
3.	Draft emerging 5YHLS position _____	7
4.	The Appellant's 5YHLS case _____	14



1. Introduction

- 1.1 This technical note is submitted on behalf of Miller Homes Limited (the Appellant) in support of its appeal against the decision of Mid Sussex District Council's decision to refuse outline planning permission for:

“up to 80 dwellings with associated landscaping, open space, infrastructure and vehicular and pedestrian accesses.”

At Colwell Farm, Haywards Heath (LPA ref: DM/25/0445).

- 1.2 It addresses the Council's 5 Year Housing Land Supply (5YHLS). It should be read alongside the technical note prepared by Tetlow King in relation to affordable housing and the statement of case prepared by SLR Consulting in relation to all other planning matters.



2. Current 5YHLS Position

- 2.1 From the outset, the Council accepts that it cannot currently demonstrate a 5YHLS.

The 5YHLS requirement

- 2.2 The adopted strategic policies of the Sussex District Plan 2014 - 2031 (adopted March 2018) are more than five years old and have not been reviewed and found to be up to date. Therefore, in accordance with paragraph 78 and footnote 39 of the Framework, the 5YHLS should currently be calculated against the local housing need calculated using the standard method set out in the PPG. This is currently 1,358 dwellings per annum. In addition, a 5% buffer should be applied. Therefore, the 5YHLS requirement is 7,130 dwellings (i.e. $1,358 \times 5 \text{ years} + 5\% = 7,130$ dwellings), which equates to 1,426 dwellings per annum.
- 2.3 The 5YHLS will continue to be calculated against the local housing need calculated using the standard method until the Mid Sussex District Plan 2021-2039 is adopted. This is discussed in the following section of this note.

The Council's latest published position on 5YHLS – October 2023

- 2.4 The Council's latest published 5YHLS position remains that set out in the "Housing Land Supply Position Statement 1 April 2023 – October update". It was originally published over 2.5 years ago in July 2023 and updated over 2 years ago in October 2023. This document explains that at 1st April 2023, the Council considered the deliverable supply to be 5,770 dwellings, which against the local housing need (at 1st April 2023 of 1,090 dwellings per annum – calculated using the previous standard method) and a 5% buffer equates to 5.04 years. Against the local housing need calculated using the current standard method of 1,358 dwellings per annum and a 5% buffer, the Council's supply figure of 5,770 dwellings equates to **4.04 years**.
- 2.5 The Council's latest published position on 5YHLS at 1st April 2023 is also referred to in the Council's most recent Authority Monitoring Report (AMR) 1 April 2023 – 31 March 2024, published in December 2024.

Scamps Hill, Lindfield Appeal (PINS ref: 3350075) – May 2025

- 2.6 An appeal made by Gladman Developments Ltd against the decision of the Council to refuse to grant outline planning permission for up to 90 dwellings at Scamps Hill, Lindfield, was considered at a public inquiry which took place in January 2025. The appeal was allowed and the decision notice was issued on 2nd May 2025.



2.7 The Council's Statement of Case (SoC) for the Scamps Hill appeal was issued on 3rd October 2024. Paragraph 3.20 on page 9 of the Council's SoC for that appeal states:

"The Council's most recently published land supply position was established through an appeal at Henfield Road, Albourne (PINS reference APP/D380/W/23/3319542) which determined in October 2023 that the Council can demonstrate 5.04 years' worth of housing land supply as-at April 2023. The Council has not yet calculated its position as-at April 2024 which will be published in the normal manner in the Authority Monitoring Report towards the end of the year."

2.8 The Case Management Conference (CMC) for the Scamps Hill appeal took place on 14th October 2024. At the CMC, the Council explained that its current 5YHLS position at that time was that set out at 1st April 2023 but it was working on a new position statement (base date 1st April 2024).

2.9 Whilst it has not published it on its "Consultation & Monitoring" section of its website, the Council's evidence for the Scamps Hill appeal provided its position at 1st April 2024. The Council's evidence was that at 1st April 2024 it could demonstrate a deliverable supply of 4,815 dwellings. Against the local housing need calculated using the current standard method (but using previous data inputs) of 1,356 dwellings per annum and a 5% buffer, the Council's supply figure equated to **3.38 years**.

2.10 Emery Planning prepared the evidence in relation to the 5YHLS for the Appellant at that appeal. Our case was that at 1st April 2024, the Council could demonstrate a deliverable supply of 3,427 dwellings, which equates to **2.41 years**. The difference between the two figures of 1,388 dwellings was because the Appellant disputed the inclusion of dwellings on the following 13 sites:

Table 2.1 – Disputed sites at the Scamps Hill appeal

Ref:	Address	No. of dwellings disputed
1125	Brookleigh, care element, Hill, 1C	60
493	Brookleigh, Burgess Hill (remainder)	635
832	Land west of Selsfield Road, Ardingly	35
1113	Linden House, Southdowns Park, Haywards Heath	14
827	Land south of 96 Folders Lane, Burgess Hill (SA12)	40
840	Woodfield House, Isaacs Lane, Burgess Hill (SA17)	29
479	Land at Hanlye Lane, east of Ardingly Road, Cuckfield (SA23)	55



Ref:	Address	No. of dwellings disputed
196	Land south of Crawley Down Road, Felbridge	170
770	Land south and west of Imberhorne Upper School, East Grinstead (SA20)	75
246	Hurst Farm, Hurstwood Lane, Haywards Heath	215
807	Land south of the Old Police House, Birchgrove Road, Horsted Keynes (SA28)	25
477	Land adjacent to Cookhams, south of Top Road, Sharpthorne	13
847	Former East Grinstead Police Station, East Grinstead (SA18)	22
	Total	1,388

2.11 Both the Council's 3.38 figure and the Appellant's 2.41 year figure are recorded in paragraph 96 of the Scamps Hill appeal decision, which states:

"The Council suggest they have 3.38 years housing land supply, whereas the Appellant suggests it is 2.41 years. The variation is due to the differences in anticipated delivery of various large sites. However, as both parties agreed to describe the shortfall as significant, the issue was not contested at the Inquiry"

Committee report for the appeal application – August 2025

2.12 The committee report for the appeal application explains that the Council is unable to demonstrate a 5YHLS. However, the base date of the calculation and the extent of the shortfall in the 5YHLS are not referred to. The summary of the comments provided by the Planning Policy Officer in relation to the 5YHLS are as follows:

"Paragraph 78 of the National Planning Policy Framework (NPPF) requires local planning authorities to "identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old."

The adopted District Plan is now more than five years old. Therefore, the housing land supply is measured against Government's standard method. The standard method is currently 1,334 dwellings per annum (dpa), compared to the 1,090dpa if the adopted Plan figure were applied. Whilst the Council has performed excellently against other



Government measures of delivery (Housing Delivery Test) the Council is currently unable to demonstrate a five-year supply of deliverable housing sites.”

The Council’s latest evidence on 5YHLS for the Mid Sussex Local Plan examination – 26th January 2026

- 2.13 On 17th December 2025, the Local Plan Inspector (Inspector Jonathan Bore) wrote to the Council to request topic papers relating to (amongst other things) the proposed housing requirement, unmet need in the housing market area and the anticipated housing supply position.
- 2.14 On 26th January 2026, the Council published its response to the Inspector’s letter of 17th December 2025. This is set out in a Local Plan examination document: “MS-TP2: Housing” dated January 2026. The contents of this document in relation to the proposed housing requirement are set out in the following section to this statement. However, it does set out that the Council considers its deliverable supply at 1st April 2025 is 5,632 dwellings.
- 2.15 Against the local housing need of 1,358 dwellings and a 5% buffer, the Council’s supply figure of 5,632 dwellings equates to 3.95 years.
- 2.16 The 5,632 figure is the Council’s prediction of the anticipated deliverable supply on adoption of the Local Plan. For example, table 18 (page 23) of “MS-TP2” explains that the 5,632 figure includes (amongst other sources of supply):
- 252 dwellings on draft District Allocations with planning applications pending determination: and
 - 431 dwellings on draft District Allocations without applications submitted.
- 2.17 This is of note because the allocation of these sites is subject to the outcome of the examination of the Local Plan. Examination hearing sessions which are scheduled to take place in March 2026 are due to consider some of the draft allocations.
- 2.18 Nevertheless, even including these sites, the Council cannot demonstrate a 5YHLS at 1st April 2025 against the local housing need and a 5% buffer.

Latest position – February 2026

- 2.19 The Council continues to accept for decision-making purposes that it cannot demonstrate a 5YHLS. For example, in a report to the Planning Committee meeting on 12th February 2026 regarding an application for up to 40 dwellings at land at Old Vicarage Field, Turners Hill (LPA ref: DM/25/1467), the Council refers to the fact that it cannot demonstrate a 5YHLS. Again, the base date of the calculation and the extent of the shortfall in the 5YHLS are not referred to.



Summary in relation to the current 5YHLS position

2.20 As set out above, the Council accepts that it cannot currently demonstrate a 5YHLS. We have set out the figures based on the Council's published supply figure (at 1st April 2023), its supply figure for the Scamps Hill appeal (at 1st April 2024) and its supply figure for the Local Plan examination (at 1st April 2025) in the table below.

Table 2.2 – Summary position of the Council's current 5YHLS position

		1 st April 2023 Published position	1 st April 2024 Scamps Hill Appeal	1 st April 2025 MS-TP2
	Requirement			
A	Annual local housing need	1,358	1,358	1,358
B	5YHLS requirement without buffer (A X 5 years)	6,790	6,790	6,790
C	5YHLS requirement plus 5% buffer (B + 5%)	7,130	7,130	7,130
D	Annual 5YHLS requirement including 5% buffer (C / 5 years)	1,426	1,426	1,426
	Supply			
E	Council's deliverable supply	5,770	4,815	5,632
F	Supply in years (E / D)	4.04	3.38	3.95
G	Shortfall in 5YHLS (E – C)	-1,360	-2,315	-1,498

2.21 As set out in section 4 of this statement, the Appellant will provide its own assessment of the deliverable supply and set this out in evidence.



3. Draft emerging 5YHLS position

- 3.1 As set out above, on 26th January 2026, the Council published on its Local Plan examination website a topic paper called “MS-TP2”. This states that the Council considers the deliverable supply at 1st April 2025 is 5,632 dwellings. Against the proposed (stepped) housing requirement of 999 dwellings per annum and a 5% buffer, table 19 (page 24) of topic paper MS-TP2 explains that this equates to 5.37 years (a surplus in the 5YHLS of 387 dwellings).

The draft emerging 5YHLS requirement

- 3.2 Topic paper MS-TP2 explains that the proposed housing requirement over the emerging Local Plan period 2021 to 2040 is 20,674 dwellings. This comprises of 18,981 dwellings to meet housing needs in Mid Sussex based on the local housing need calculated under the previous standard method of 999 dwellings per annum (i.e. $999 \times 19 \text{ years} = 18,981$) and 1,693 dwellings towards meeting some of the unmet housing need in the Northern West Sussex HMA, predominantly at Crawley.
- 3.3 Table 14 (page 20) of MS-TP2 explains that the 1,693 contribution towards unmet need was calculated based on the total proposed supply in the Mid Sussex Local Plan of 21,241 dwellings minus the need for Mid Sussex of 18,981 dwellings and a headroom of 567 dwellings (i.e. $21,241 - 18,981 - 567 = 1,693$).
- 3.4 The housing requirement of 20,674 dwellings equates to 1,088 dwellings. However, table 15 (page 21) of topic paper MS-TP2 proposes that the housing requirement is stepped as follows:
- 999 dwellings per annum from 2021/22 to 2030/31; and
 - 1,187 dwellings per annum from 2031/32 to 2039/40.
- 3.5 The Council’s proposed housing requirement is subject to examination. The Local Plan Inspector has identified Matter 1 as: “The housing requirement, including LHN and unmet needs” and the following issues in relation to this:

“Whether the plan’s housing requirement makes sufficient provision for new homes.

a) Local housing need

b) Unmet need from neighbouring authorities and its effect on the plan’s housing requirement

c) Whether the housing requirement needs to be uplifted to meet any other need such as that for affordable housing

d) Whether a stepped requirement is appropriate”



- 3.6 Matter 1 is due to be discussed at the hearing sessions due to take place on Tuesday 24th February and the morning of Wednesday 25th February 2026.
- 3.7 It is not known as this stage whether the proposed housing requirement will be found sound. The key issues are discussed below.

Local housing need

- 3.8 Table 1 (page 4) of MS-TP2 explains that local housing need at the time the local plan was submitted was 1,090 dwellings per annum but it is now 999 dwellings per annum. It explains that the base date for calculating the local housing need is 1st April 2025. It is calculated using the previous version of the standard method. It uses the 2014 household projections to set the baseline by projecting the average annual household growth over the 10-year period 2025-35 and applies an affordability adjustment using the median workplace-based affordability ratios published in March 2025.
- 3.9 As a result, the base date of the Local Plan should be 1st April 2025 and not 2021. This is because the affordability adjustment in step 2 of the standard method takes account of past delivery as set out in paragraphs 68-031-20190722 and 2a-011-20190220 of the PPG. Therefore, by using the local housing need (LHN) at 2025, any past over or under supply pre-2025 has already been factored into the calculation of LHN and therefore the base date of the Local Plan should have the same date as the LHN calculation.
- 3.10 This issue was recently considered by the Inspector examining the North Norfolk Local Plan. In that case the local housing need was calculated to a 2024 base date. In a letter dated 24th May 2024, the Inspector in that case stated:

“The local housing need methodology takes account of any previous over or under supply, so there is no shortfall or surplus arising pre 2024 to add to this figure”

- 3.11 More recently, the issue was considered by the Inspector examining the Winchester Local Plan. In a letter dated 10th September 2025, the Inspector in that case stated:

“I am not convinced by the way in which the Council has derived the Plan’s housing requirement from LHN. The Plan’s most recent calculation of LHN was in 2024. The Plan’s housing requirement as set out in policy H1 runs from 2020-2040. The Plan’s housing requirement therefore includes completions since the start of the Plan period. It therefore includes completions that took place before the latest calculation of LHN.

The calculation of LHN is a forward-looking assessment of housing needs. From the point at which LHN is calculated it takes account of what has happened in previous years. The National Planning Practice Guidance (PPG) confirms that in calculating LHN using the standard method, the affordability adjustment is applied to take account of past under delivery. Whilst the PPG refers to past under delivery in this light, and is



silent on over-delivery, I take a common-sense approach on this matter. For this reason, past supply prior to the latest calculation of LHN (2024) should not be taken into account in deriving the Plan's housing requirement due to the effect of the affordability ratio in the standard method."

Unmet need and the housing requirement

- 3.12 It is not known whether the contribution of 1,693 dwellings towards unmet need from elsewhere in the nearby Housing market Areas will be found sound. It is based on the surplus supply in Mid Sussex once Mid Sussex's own needs have been accounted for and a headroom has been applied. The figure appears to have been selected so that the Council has an overall housing requirement which is just over 80% (80.1%) of the local housing need due to transitional arrangements and in an attempt to avoid the 20% buffer applying from 1st July 2026.
- 3.13 However, paragraph 3.28 (page 19) of MS-TP2 explains that the unmet need in Crawley is 7,505 dwellings. It is unclear why additional sites have not been allocated in Mid Sussex, to assist in addressing more of Crawley's unmet need
- 3.14 Nevertheless, even based on an unmet need figure of 1,693 dwellings, changing the base date of the Local Plan to 1st April 2025 would mean the requirement over the plan period 2025 to 2040 is 16,678 dwellings i.e. :
- 14,985 dwellings to meet Mid Sussex's needs (i.e. $999 \times 15 \text{ years} = 14,985$); plus
 - 1,693 dwellings for the contribution towards unmet need from elsewhere in the HMAs.
- 3.15 This would mean that the headroom for resilience is reduced from 567 dwellings to 239 dwellings because the total proposed supply set out in table 14 (page 20) of MS-TP2 excluding completions up to 2025 is 16,917 dwellings. (i.e. $16,917 - 16,678 = 239$). Again, the issue of the headroom is to be tested through the Local Plan examination.

The stepped housing requirement

- 3.16 As above, the Council proposes to step the housing requirement so that only Mid Sussex's needs are met up to 2031. By then (assuming that the Local Plan were adopted in 2026), the Local Plan will be more than five years old and if it has not been updated already, it will need updating to address the housing need as calculated using the current standard method (currently 1,358 dwellings per annum). At that time, the 5YHLS will also be calculated against the local housing need rather than the adopted housing requirement. The local housing need is only Mid Sussex's needs and does not include unmet needs from elsewhere.



- 3.17 The PPG (paragraph 68-021-20190722) states that a stepped housing requirement may be appropriate where there is a significant change in the level of housing between the emerging and previous policies. However, this is not the case in Mid Sussex, where the current adopted housing requirement of 964 dwellings per annum is 89% of the proposed annual average requirement in the new Local Plan of 1,088 dwellings per annum.
- 3.18 The Council also considers that dwellings have been completed on sites earlier in the plan period. However, as above, the Council has effectively reset the base date of the Local Plan by recalculating the local housing need at 1st April 2025 and for the reasons set out above, this already takes into account past delivery.

Summary in relation to the proposed housing requirement

- 3.19 For the reasons above, it is not known whether the proposed housing requirement will be found sound. The Local Plan Inspector has identified several issues in relation to the housing requirement, which are to be examined at the hearing sessions in February 2026. Until the Council's proposed housing requirement, including its approaches to the base date for calculating the local housing need, unmet need and a stepped requirement have been found sound, then the 5YHLS requirement upon adoption of the Local Plan is not known.
- 3.20 This affects whether the Council can demonstrate a 5YHLS. For example, if the stepped requirement is rejected then the Council cannot demonstrate a 5YHLS. The claimed 5,632 dwellings supply against the annual average requirement of 1,088 dwellings and a 5% buffer equates to 4.93 years.

The buffer

- 3.21 The 5% buffer currently applies due to the latest housing delivery test result being more than 85%. The 20% buffer will apply from 1st July 2026 if the adopted housing requirement is less than 80% of the local housing need.
- 3.22 Paragraph 3.33 (page 20) of topic paper MS-TP2, states that as the Council's proposed housing requirement of 1,088 dwellings is 80.1% of the local housing need, the 20% buffer will not apply from 1st July 2026.
- 3.23 Even using the Council's proposed housing requirement, this assumes that the local housing need remains at or is less than 1,358 dwellings per annum. However, this is based on affordability data and housing stock data published in March and May 2025 respectively. Should affordability worsen and / or the housing stock increase with the new data sets then the local housing need will increase. The local housing need would only have to increase by 3 dwellings per annum to 1,361 dwellings per annum for the proposed housing



requirement of 1,088 dwellings to be less than 80%. Given that the housing stock is expected to increase by around 837 dwellings which were completed in 2024/25, it is likely that the 20% buffer will apply from 1st July 2026.

- 3.24 In addition, whether the Council can rely on its proposal to address unmet need from elsewhere to avoid the 20% buffer from July 2026 will be considered during the examination of the Local Plan. The 999 figure to meet Mid Sussex's needs in the Local Plan is just 73.5% of the current local housing need of 1,358 dwellings per annum. Under transitional arrangements, the Council is allowed to use the previous standard method for the Local Plan. However, there remains significant unmet demand for homes in Mid Sussex as a result.
- 3.25 The Government's response to the then draft Framework in December 2024 explained that in such circumstances a 20% buffer should be applied (beyond July 2026) to close the gap between the adopted figure and the local housing need.

“there are many authorities whose local housing need figures will be substantially larger than their adopted or emerging local plan housing requirement figures, indicating a significant unmet demand for new homes in these areas. To help close the gap, we are introducing a new requirement that authorities with plans adopted under the old standard method must provide an extra year's worth of homes in their 5-year housing pipeline.

As such, those authorities whose adopted plan annual housing requirement figure is 80% or less of their annual local housing need figure will be required to add a 20% buffer to their 5-year housing land supply from 1 July 2026. This window will give these authorities time to make provision for the new policy. As with other housing supply buffers, this will not be cumulative, so those authorities who are already required to add a 20% buffer due to scoring below 85% in the most recent housing delivery test will not be required to add an additional buffer should they meet these criteria.”

- 3.26 Therefore, as there is a significant unmet demand for new homes in Mid Sussex, the 20% buffer is required to help close the gap.

The deliverable supply

- 3.27 As set out above, topic paper MS-TP2 states that the deliverable supply at 1st April 2025 is 5,632 dwellings. However, this includes proposed allocations which are the subject of examination. Whether these sites should be allocated and if they are whether there is “clear evidence” that they are “deliverable” as per the definition set out in the annex on page 72 of the Framework will be considered by the Local Plan Inspector.
- 3.28 In addition, whilst the trajectory in topic paper MS-TP2 includes other category b) sites in relation to the definition of “deliverable”, such as those allocated in the existing Local Plan and those with outline



planning permission, the topic paper itself does not explain why the Council considers these sites are deliverable or provide the clear evidence for their inclusion.

- 3.29 One example is the Brookleigh, Burgess Hill (remainder) site. 785 dwellings are included in the 5YHLS at this site, including 83 dwellings in the current year, 2025/26. However, this part of the site only had outline planning permission at 1st April 2025. Whilst other parcels of this site are being delivered and are included elsewhere in the 5YHLS, the Council has not provided clear evidence for the inclusion of the remainder of the site in the 5YHLS or how any development will happen before 1st April 2026.
- 3.30 The lead-in times and build rates of other sites will also be considered at the Local Plan examination. For example, the trajectory in MS-TP2 includes the delivery of dwellings on some sites from April 2027 (i.e. 14 months from now) when a planning application has not been made.
- 3.31 The build rates proposed will also be assessed. For example, the site known as Fallow Wood has proposed build rates of 108 dwellings in 2026/27 and 98 dwellings in 2027/28. The position at 1st April 2024 claimed that 104 dwellings would be delivered in 2024/25. However, the trajectory in MS-TP2 confirms that only 10 dwellings were completed on this site in that year.
- 3.32 The Local Plan Inspector has identified Matter 2 as: “Housing supply and headroom” and the following issues in relation to this:

Whether enough housing land has been allocated to ensure that, along with existing permissions and commitments, enough housing land will come forward to meet the housing requirement through the life of the plan and that a 5 year housing land supply will be maintained.

- a) Anticipated housing supply over the plan period
- b) The amount of potential supply headroom over and above the housing requirement
- c) The supply trajectory over the plan period
- d) The potential for lower than anticipated supply arising from delivery impediments, longer lead in times and slower build out rates
- e) The resilience of the plan against such contingencies
- f) The 5 year housing land supply position at adoption
- g) The ability to maintain a rolling 5 year housing land supply

- 3.33 Matter 2 is due to be discussed at the hearing sessions due to take place on Thursday 26th and Friday 27th February 2026.
- 3.34 In summary, it is not known what the deliverable supply will be or whether the Council’s trajectory in topic paper MS-TP2 will be found sound. As above, the surplus in the 5YHLS – even against the Council’s



proposed housing requirement - is only 387 dwellings (about 7% of the claimed supply). The removal of 387 dwellings on sites from the claimed deliverable supply and / or the extension of lead-in times and reduction of build rates will mean that the Council cannot demonstrate a 5YHLS on adoption of the Local Plan.

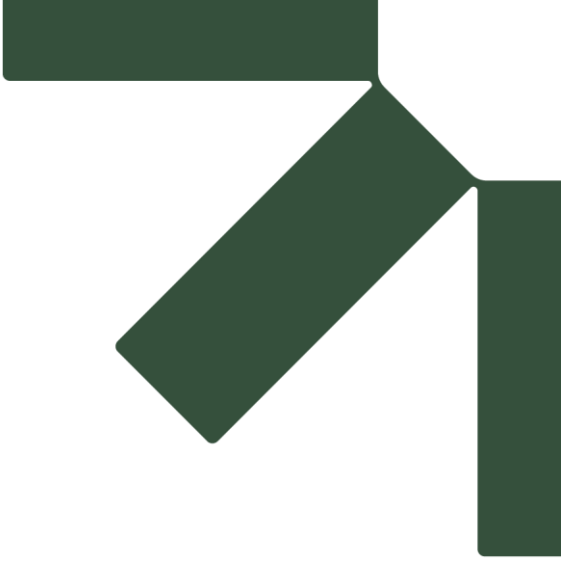


4. The Appellant's 5YHLS case

- 4.1 The Appellant will seek to agree the base date of the 5YHLS calculation with the Council. Given that the Council's recent topic paper for the Local Plan examination sets out the position at 1st April 2025, the 5YHLS period should be 1st April 2025 to 31st March 2030.
- 4.2 The Appellant will seek to agree the figure the 5YHLS should be calculated against. Until the adoption of the emerging Local Plan, this will be the local housing need calculated using the standard method. This is currently 1,358 dwellings per annum.
- 4.3 The Appellant will seek to agree the correct buffer to be applied. Based on the latest housing delivery test result, this will be the 5% buffer.
- 4.4 The Appellant will work with the Council to understand what its deliverable supply position is at 1st April 2025 for decision-making purposes. As above, whilst the Council's topic paper sets out the supply at 1st April 2025, this includes sites which are proposed allocations in the draft Local Plan and are the subject of examination.
- 4.5 The Appellant will set out in its evidence what it considers the deliverable supply is now and in the event the Local Plan is adopted.
- 4.6 The Appellant will seek to agree with the Council that it cannot demonstrate a deliverable supply.
- 4.7 The Appellant will work with the Council to produce a topic specific Statement of Common Ground in relation to 5YHLS.







Appendix D Affordable Housing Need Statement of Case

BRIEFING NOTE: Affordable Housing

Subject: Statement of Case – Affordable Housing Matters

Job Ref: M26/0203

Site: Colwell Farm, Haywards Heath

Date: 11 Feb 2026

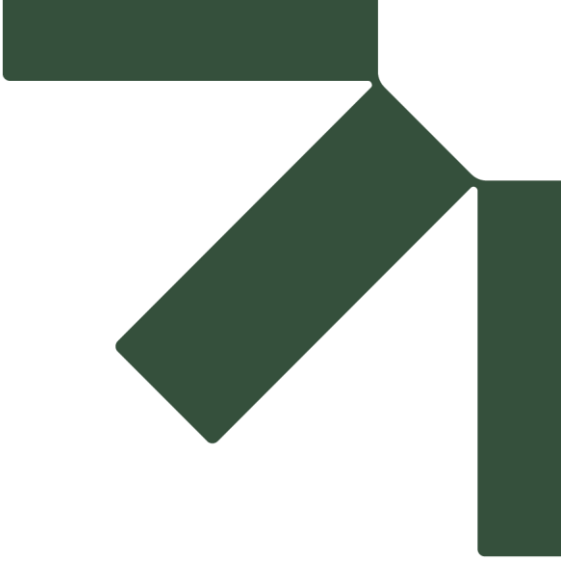
- 1 The appeal proposals seek permission for up to 80 dwellings, of which 30% are proposed as affordable which equates to a total of up to 24 affordable homes. The proposed development complies with the requirements of adopted Mid Sussex District Plan (MSDP) Policy DP31: Affordable Housing which seeks 30% provision of affordable housing from qualifying developments.
 - 2 The tenure split is a matter to be determined at the Reserved Matters stage. The provision of affordable housing will be secured through a Section 106 agreement ("S106").
 - 3 Evidence will be presented to look at the corporate priorities of the Council, including the following documents:
 - Mid Sussex District Plan 2014 – 2031 (2018);
 - Mid Sussex Site Allocations Development Plan Document (2022);
 - Haywards Heath Neighbourhood Plan (2016);
 - Affordable Housing Supplementary Planning Document (2018);
 - Emerging Mid Sussex District Plan 2021 – 2039 (at the time of writing Submission Draft/Regulation 19 was the most recent version);
 - Sustainable Economy Strategy and Action Plan 2025 – 2028;
 - Mid Sussex District Council Corporate Plan and Budget 2026 – 2027;
 - Mid Sussex District Council Homelessness and Rough Sleeping Strategy 2020 – 2025; and
 - Homelessness Review 2019.
 - 4 Evidence on the annual ongoing need for affordable housing will be presented, considering the evidence contained in:
 - Northern West Sussex Housing Market Area: Affordable Housing Needs Model Update (2014);
 - Mid Sussex District Council: Housing and Economic Development Needs Assessment (HEDNA) (February 2015);
-

BRIEFING NOTE: Affordable Housing

- Mid Sussex District Council HEDNA Update (November 2015);
 - Mid Sussex HEDNA Addendum (August 2016);
 - SHMA: Final Report (2021);
 - Mid Sussex SHMA Update (2024); and
 - MS-TP2: Housing Paper (2026).
- 5 Evidence will also be presented on past market and affordable housing delivery and comparisons will be made with the identified affordable housing needs against delivery performance.
- 6 The Appellants will consider a number of affordability indicators; for example, the number of households on the Mid Sussex Housing Register, which totalled c.2,468 households at 31 March 2025.
- 7 Other indicators include:
- House Prices;
 - Annual Earnings;
 - Affordability Ratios; and
 - Private Rents.
- 8 Evidence will be presented looking at other material considerations such as Secretary of State and Inspectors decisions.
- 9 The Appellants will present evidence that there is an acute need for more affordable housing and the benefit of 30% affordable housing weighs heavily in favour of the appeal.
- 10 The Appellants intend to agree a topic specific Statement of Common Ground in respect of Affordable Housing matters with the Council.
- 11 The Appellants reserve the right to expand upon the above information following receipt of the Council's Statement of Case.

JAMES STACEY
Managing Director

AMY JAMES
Associate Director
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Appendix E Badger Surveys 2025/26

Report	Phase II Badger Survey Report
Site Name	Land North of Colwell Farm, Haywards Heath
Author(s)	Abby Woolston BSc (Hons), MRes
Checked by	Lewis Lakudzala BSc (Hons), MRes, ACIEEM
Client	Miller Homes
Date of Issue	28 th January 2026
Revision(s)	n/a
Status	Final for submission

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1.0 INTRODUCTION

1.1 Background

Ecosupport Ltd carried out a Badger (*Meles meles*) activity survey for the site located at North Colwell Farm, Lewes Road, Haywards Heath, RH17 7SX (centred on OS grid reference TQ 35293 23299) hereafter referred to as the 'site'.

1.2 Brief Description of the Proposals

Proposals involve the construction of up to 80 dwellings with associated landscaping, open space, infrastructure and access.

2.0 RELEVANT LEGISLATION & POLICY

2.1 Badgers

2.1.1 *The Protection of Badgers Act 1992*

Badgers were initially partially protected by inclusion on Schedule 6 of the Wildlife and Countryside Act 1981. This protection has subsequently been strengthened by the Protection of Badgers Act 1992. The purpose of the Protection of Badgers Act 1992 is to protect badgers from incidental effects of lawful activities and deliberate attempts to inflict injury or kill badgers. Under the Act it is illegal to:

- willfully kill, injure, take, possess or cruelly ill-treat a badger or attempt to do so;
- interfere with a badger sett by damaging or destroying it;
- obstruct access to, or any entrance of, a badger sett; and
- disturb a badger when it is occupying a sett.

A badger sett is defined as '*any structure or place which displays signs indicating current use by a badger*'. This can include culverts, pipes and holes under sheds, piles of boulders, old mines and quarries etc. Natural England have not set a time period for current use as the rate of decay of badger signs around a sett varies depending on soil type, topography, etc. Natural England recommends that in addition to currently occupied setts, plans also consider the effect of development on seasonally used setts as these may be in use by badgers when development starts (Natural England, 2007).

3.0 BADGERS AND DEVELOPMENT

3.1 Badger Disturbance

Under the Protection of Badgers Act 1992, any activity causing disturbance of badgers when they are occupying a sett is an offence unless it is undertaken in accordance with the terms of a disturbance licence from Natural England. As the Act does not highlight what constitutes disturbance, English Nature (the predecessor of Natural England) provided advice on the types of development activities, and their proximity to setts, that would warrant a badger disturbance licence (English Nature, 1995, 2002). English Nature (1995) state *“Up to 30 metres from any sett entrance is considered by English Nature to be a reasonable distance for work to be considered as licensable. Badgers are likely to show observable changes in their behaviour when some types of work are carried out within this distance”*. English Nature’s disturbance licensing guidelines can be summarised as follows:

- all work within 10m of the nearest sett entrance should be licensed;
- between 10 and 20m use of machinery is licensable, but hand digging is not unless tunnels are accidentally breached;
- between 20 and 30m only the largest machinery requires a licence; and
- over 30m the use of explosives and pile-driving may need to be licensed.

Natural England’s badger licensing guidelines (Natural England, 2011) do not refer to disturbance zones around setts for different types of development activities. This is largely due to uncertainty over what activities will disturb badgers and a lack of clarity over the legal interpretation of the word ‘disturbance’. The 2015 guidelines recommend the following in relation to badger disturbance:

- Badger tunnels can extend to 20m from the entrance holes and are located between 0.2 and several metres deep (depending on soil and topography), therefore excavation work and heavy machinery should be kept well away from where it could result in damage to the sett or disturbance to any badger occupying the sett; and
- disturbances, such as loud noise or vibrations, that might agitate badgers occupying a sett should be avoided or limited to areas well away from the sett

In 2015, Natural England published further guidance on badger disturbance licensing following a legal review (Natural England, 2015). This guidance suggests that badgers are relatively tolerant of moderate levels of noise and activity around their setts (e.g. badgers will create setts under roads and railways and within urban gardens that are well-used by children and pets) and that low or moderate levels of apparent disturbance at or near to badger setts would not necessarily disturb badgers and would therefore not require a licence under the Act. Examples of activities at or near badger setts that Natural England do not consider likely to causedisturbance to badgers, and therefore would not normally be expected to require a disturbance licence, include the following:

- development, or other activities occurring close to badger setts (use of hand tools and/or machinery), where there is no reason to believe that the 'disturbance' will be greater than that which badgers commonly tolerate, and therefore any badger(s) occupying the sett are unlikely to be disturbed;
- vegetation removal (including felling small trees or shrubs) over or adjacent to setts (using hand tools and/or machinery); and
- clearing out of ditches/watercourses using machinery and/or hand tools where badger setts are present.

Notwithstanding the above, the persons involved with activities near badger setts will need to exercise judgement as to whether their action may or may not cause disturbance to badgers. Where badger disturbance is unavoidable, works would need to be carried out under a Natural England badger disturbance licence. It is important to note that these licences are only issued by Natural England between July and November inclusive (see below).

4.0 METHODOLOGY

In addition to the walkover survey completed by Ecosupport Ltd (December 2023 & June 2024), remote trail camera Badger surveys were completed. A summary of methodologies of these are outlined below:

4.1 Badger

4.1.1 Walkover survey

The site and where possible outside of private gardens in the surrounding environments was thoroughly searched for evidence of use by Badgers (*Meles meles*), with the specific aim of identifying the presence and location of any setts. In accordance with the *Badgers and Development: A Guide to Best Practice and Licensing* (Natural England, 2011) guidance, the survey accounted for a 50m from the site's boundary (observed where possible i.e. does not conflict with private dwellings). Evidence of Badgers could include latrines, dung pits, feeding remains and foraging evidence, trails and setts.

4.1.2 Trail Camera Surveys

Due to the identification of 13 potential Badger sett entrances during the updated walkover, to determine the levels of use and allow the sett types to be classified, a Badger activity survey using motion-activated cameras was subsequently undertaken following best practice guidelines (Natural England, 2015 & 2018). All 13 sett entrances were monitored with cameras between the 13th October 2025 and the 17th November 2025, with periodic site visits undertaken within this period to check camera footage, change the batteries and note any fresh footprints at the entrance. During each return visit to the site the full site area was searched for the presence of additional sett entrances and field signs.

4.1.3 Limitations

All surveys were carried out during the optimal survey period with suitable weather conditions (i.e no hard frost), and all trail cameras were in operation.

5.0 BADGER SURVEY RESULTS

5.1 Site Description & Location

The site comprises three grassland parcels separated by mature tree lines located at North Colwell Farm, Lewes Road, Haywards Heath, RH17 7SX (centred on OS grid reference TQ 35293 23299) (**Figure 1**). The site is bound by residential dwellings and Lewes Road to the north, ancient woodland to the east and south and an access track and patches of woodland to the west. The immediate wider environment is predominantly semi-rural located on the southern outskirts of the town of Haywards Heath.

Figure 1. Redline boundary of the site (Google satellite 2024).



5.2 Walkover Survey

Initially 12 sett entrances were found to be present during the walkovers in June 2024 and October 2025 to the south of the site (**Table 1** & **Figure 2**). One further sett entrance was identified within the first week of trail camera deployment, increasing the total entrances to 13. All setts were located within the ancient woodland bordering the site boundary to the south. The surrounding habitats for each entrance were very similar, featuring mostly bare ground with areas of bracken and a large woodland canopy made of a variety of native mature trees (**Figure 3**).

The presence of badgers was confirmed by the trail camera surveys. The entrance holes were also inspected and found to be the shape and size that correspond to Badger excavation. Typical snuffle foraging holes were also noted throughout the site.

Table 1. All sett entrances surveyed and their grid references.

Sett Entrances	Grid reference
1	TQ3524623214
2	TQ3521223235
3	TQ3521323233
4	TQ3521723219
5	TQ3523723222
6	TQ3522923200
7	TQ3523323202
8	TQ3523123198
9	TQ3522823205
10	TQ3522823205
11	TQ3522823205
12	TQ3522523212
13	TQ3522223209

Figure 2. The location of the 13 sett entrances surveyed.

Figure 3. Photos of some of the trail cameras set up at the sett entrances.



5.3 Trail Camera Surveys

Trail cameras were deployed to monitor 12 sett entrances on 13th October 2025, with an additional camera set up to observe a newly identified sett entrance that was subsequently monitored for a further 28-day survey period, as per the best-practice guidelines. All entrances were recorded for a minimum of 28 consecutive days. Review of the footage recorded a single adult badger emerging twice from entrance 6 (**Figure 4** & **Figure 5**) and displaying occasional foraging and commuting behaviour around entrances 1, 3, 5, 6, 7, 9, and 13 (see **Figure 2** above for locations). At no time during the monitoring period were more than one individual badger observed. Based on size, markings, and pelage, it is considered highly likely that all sightings relate to the same adult individual. Activity levels were sporadic over the 28-day period, with several nights recording no activity at all.

Based on the high number of entrances it is considered likely that the sett may have been previously utilised as a main sett. However, Given the limited and irregular activity, and the presence of only a single individual, the sett is assessed as an **outlier sett** used intermittently by one adult badger.

Figure 4. One adult badger emerging from sett entrance 6.



Figure 5. One adult badger emerging from sett entrance 6.



6.0 IMPACTS & MITIGATION

6.1 Impacts

6.1.1 Impacts from Proposed Works

Proposals involve the construction of up to 80 dwellings with associated landscaping, open space, infrastructure and access. The extent of the developable area is shown in **Figure 6** below. It should be noted that **the active sett is not within the developable area, and is located over 30m from the sites redline boundary (Figure 6)**. Furthermore, the development area does not include the removal of any ancient woodland or vegetated areas nearby to the sett. **All identified setts are to be retained under proposals.**

6.1.2 Construction and Landscaping

The construction of the new dwellings on site and associated will take place within the centre of the parcel, away from the badger sett location (**Figure 6**). Generally, works within 30m of a main Badger sett are considered likely to result in disturbance impacts, causing distress to the animals and possible abandonment of the sett. In addition, excavations within 20m of a sett risks breaching tunnels and/or chambers and causing tunnel collapse through the use of heavy machinery. The active sett is located 31m away from the site boundary and 65m from the nearest dwelling. Due to this, **the sett will not be impacted by the construction phase of the development.**

General landscaping will take place across the developable area and primarily involve the management and creation of grassland habitats. The works will not involve heavy machinery, however there may be increased foot traffic and use of hand tools. As the active sett is located around 30m away from the site boundary, and no landscaping will take place near to the active entrance sett, **the active entrance will not be impacted by landscaping works.**

6.1.3 Site Operation

Potential indirect impacts to Badgers, associated with the operational phase, are considered to comprise disturbance by lighting, and increased recreational pressure. Due to proposed development on the site, there will be a reduction in available foraging and commuting habitat. However, as there is extensive habitat available to the south in the form of ancient woodland, **the sett will not be significantly impacted by loss of foraging and commuting habitat.**

Figure 6. Proposed extent of the development with badger sett location indicated with a 30m buffer (active sett shown as red dot).



6.2 General Badger Mitigation

The following mitigation will be followed during the construction period to minimise impacts upon badger movement and foraging behaviour across the Site:

- Avoid blocking badger runs which are not directly affected by the Scheme.
- Avoid leaving open trenches into which animals could fall. If this is not possible a means of egress should be provided, such as a plank. It should be ensured dangerous areas such as deep excavations are fenced to prevent badger access or covered overnight.
- Across the Scheme, ensure at least one safe crossing point of the construction footprint is available every 100m.
- Avoid storage of plant or materials on areas of potential foraging habitat (such as retained grassland).
- Avoid night works where possible to avoid disturbance from the use of artificial lighting, and ensure the Site is left unlit at night during the construction period. If lighting of some areas is unavoidable, then hoods, cowls or shields should be used to avoid light spill onto setts or known badger paths.

7.0 CONCLUSION

A suite of trail camera monitoring surveys were carried out on a Badger sett located at Land North of Colwell Farm, in Haywards Heath for a development comprising the construction of up to 80 dwellings with associated landscaping, open space, infrastructure and access. The trail camera monitoring was undertaken in October - November 2025, with each entrance monitored for at least 28 days. A total of 13 sett entrances were identified just outside of the development boundary within the ancient woodland immediately south of the site boundary.

The trail camera survey recorded limited and irregular activity, with footage showing a single adult badger using the area mostly for sporadic foraging and commuting. The individual was recorded emerging from entrance 6 on two occasions. During the monitoring period, no more than one individual was observed at any given time, and activity was absent on several nights. Based on these findings, the sett is classified as an **outlier sett** used intermittently by a lone adult badger, likely for temporary refuge or occasional foraging.

The nearest active entrance (entrance 6) is located over 30m from the site boundary and more than 65m from the nearest proposed dwelling. As the sett lies outside the developable area and will be retained under the current proposals, no direct impacts are anticipated. The implementation of standard precautionary measures during construction, such as avoiding night works, leaving escape routes in open excavations, and preventing light spill onto the woodland, will ensure any potential indirect disturbances are minimised. Consequently, the proposed development is not expected to result in the loss of a sett or significant adverse effects on the local badger population.

8.0 REFERENCES

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Appendix I – Trail Camera Photos



1) Individual badger foraging (week 1)



2) Badger emerging from entrance 6 (week 1)



3) Badger foraging (week 3)



4) Badger emerging from entrance 6 (week 4)



5) Badger commuting (week 4)



6) Badger commuting (week 4)



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