



**MID SUSSEX**  
**DISTRICT COUNCIL**

Town and Country Planning Act 1990

APPEAL STATEMENT

**Planning Inspectorate Ref: 6002030**

**Local Authority Ref: DM/23/2866**

**Appeal by:**

**Fairfax Acquisitions Limited and The Norris Family**

**Appeal Site:**

**Land East of Ansty Way, Cuckfield Bypass, Cuckfield, West  
Sussex RG17 5AG**

## 1.0 INTRODUCTION

- 1.1 This statement is prepared by Mid Sussex District Council ("the Council") as the Local Planning Authority's response regarding an appeal under Section 78 by Fairfax Acquisitions Limited and The Norris Family ("The Appellants") following the Council's refusal (by a Decision Notice dated 25 November 2022) of application ref DM/23/2866 ("the Application"), which was seeking permission for

*Outline planning application (All matters reserved except for access) for the redevelopment of land to the east of Ansty to create a new Garden Community, comprising of the erection of up to 1,450 homes (including 30% affordable housing), up to 90 residential care units (C2 class), a primary school, a SEND school, health hub, sports facilities including all weather hockey pitches and tennis centre, allotments, retail, community and employment uses together with ancillary and associated development including new and enhanced pedestrian/cycle routes, open spaces, and landscaping.*

- 1.2 The Decision Notice lists three reasons for refusal:

- The proposal consists of major development within the countryside, out of keeping with the rural character, which fails to protect the distinctiveness of the area by extending the settlement boundary of Ansty, resulting in the perceived coalescence with Cuckfield, eroding the rural nature of the site which is further harmed by the proposed loss of trees. The application is therefore contrary to policies DP12, DP13 and DP37 of the Mid Sussex District Plan 2014-2031, policies AS1 and AS2 of and Staplefield Ansty Neighbourhood Plan and policies CNP3 and CNP5 of Cuckfield Neighbourhood Plan. AS1 and AS2 of and Staplefield Ansty Neighbourhood Plan and policies CNP3 and CNP5 of Cuckfield Neighbourhood Plan

-Due to the location and scale of the development, the proposal would result in an unacceptable urbanising feature, eroding the rural nature of the site that makes a positive contribution to the setting of the HWNL. The proposal would therefore fail to avoid and minimise the adverse impact on the High Weald National Landscape to the detriment of the scenic beauty of the designated area. The proposal is therefore contrary to policy DP16 of the Mid Sussex

District Plan 2014-2031, policy AS1 of the Ansty and Staplefield Neighbourhood Plan and policy CNP5 of the Cuckfield Neighbourhood Plan, the High Weald AONB Management Plan 2024 - 2029 and paragraph 189 of the NPPF.

- The proposal fails to provide the infrastructure, contributions, and off-site highway works to serve the development and the required affordable housing. The application therefore conflicts with policies DP20, DP21, DP31 and DP38 of the Mid Sussex District Plan 2014 - 2031, the Mid Sussex Supplementary Planning Documents 'Affordable Housing' and 'Development Infrastructure and Contributions'. The Council recognises that it is currently not able to demonstrate a five year supply of deliverable housing sites and having regard to the NPPF, and in particular para 11 it is not considered that the presumption in favour of sustainable development is engaged because having regard to the identified harm to the High Weald National Landscape para 11(d)(i) applies, and that material considerations do not indicate a decision otherwise than in accordance with the development plan.

## **2.0 STATEMENT OF COMMON GROUND**

2.1 A Statement of Common Ground ("SoCG") is being progressed between the and the Appellant and will follow.

2.2 The SoCG will include a detailed description of the site and surroundings and identify the relevant development plan policies and guidance. A schedule of up-to-date application and appeal documents will also be provided, that will form part of the Inquiry's Core Documents List. The SoCG will also identify any remaining areas of disagreement between the parties not identified in this statement ahead of the Inspector's Case Management Conference.

## **3.0 THE SITE AND ITS SURROUNDINGS**

3.1 The site covers a total of approximately 100ha of arable farmland, woodland and waterways immediately east of the settlement of Ansty, which abuts the site. There are two Grade II listed buildings (The Place and Barn House) located in the centre of the site, but outside the site boundary. A number of other listed buildings are located in proximity to the site. These have been excluded from the application site boundary.

- 3.2 A single access track is located within the site boundary, running east-west centrally through the site and connecting to the eastern boundary.
- 3.3 The A272 directly abuts the northern boundary of the site, and the settlement of Cuckfield lies approximately 1km further north. Arable land similar to that of the existing site separates the site and Cuckfield. A wastewater treatment plant borders an area of the site to the north.
- 3.4 Arable land (West Riddens Farm), and the B2036 abuts the south and southwestern boundary respectively.
- 3.5 To the east lies open countryside, including Mackerel's Farm Cottage and Copyhold Farm.
- 3.6 The topography of the site is gently undulating, made up of valleys and hills. Small waterways traverse the site from east to west.
- 3.7 The site is not located within the High Weald Area National Landscape ("HWNL"), but the boundary of the National Landscape lies to the west/northwest of the site.
- 3.8 The site lies primarily in Flood Zone 1 (with the lowest risk of fluvial flooding), however there are small areas of Flood Zone 2 alongside the streams located within the site. No development is proposed in areas that are not located within Flood Zone 1.
- 3.9 The land lies in the open countryside. It is not an allocated site for development under the adopted District Plan or the Site Allocations Development Plan Document (SADPD) and is not proposed for development within the Draft Submission Mid Sussex District Plan, which is currently at examination.

#### **4.0 PLANNING HISTORY**

- 4.1 There are no previous planning applications of direct relevance to the determination of this appeal.

## 5.0 PLANNING POLICY

5.1 Section 70 (2) of the Town and Country Planning Act 1990 states:

*“In dealing with such an application the authority shall have regard to:*

- a) The provisions of the development plan, so far as material to application,*
- b) And local finance considerations, so far as material to the application, and*
- c) Any other material considerations.”*

5.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

5.3 In Mid Sussex, the Development Plan consists of the following so far as relevant to this appeal:

The Mid Sussex District Plan 2014 – 2031  
Cuckfield Neighbourhood Plan  
Ansty, Staplefield and Brook Street Neighbourhood Plan

### **The Development Plan**

5.4 Having regard for the issues being considered under this appeal, the relevant policies from the Development Plan are considered to be:

DP6 Settlement Hierarchy  
DP12 Protecting and Enhancement of Countryside  
DP13 Preventing Coalescence  
DP16 High Weald Area of Outstanding Natural Beauty  
DP17 Ashdown Forest Special Protection Area (SPA) and Special Areas  
DP20 Securing Infrastructure  
DP21: Transport

DP31: Affordable Housing  
DP37 Trees Woodlands and Hedgerows  
DP38 Biodiversity

### **Ansty, Staplefield and Brook Street Neighbourhood Plan**

- 5.5 The relevant policies from this neighbourhood plan are considered to be:
- Policy AS1 New Housing Development
  - Policy AS2 Preventing Coalescence
  - Policy AS3 High Weald Area of Outstanding Natural Beauty
  - Policy AS4 Housing Mix
  - Policy AS8 Improvement of Community Facilities

### **Cuckfield Neighbourhood Plan**

- 5.6 The relevant policies from this neighbourhood plan are considered to be:
- Policy CNP5 Protect and Enhance the Countryside
  - Policy CNP21 Securing Infrastructure

### **High Weald AONB Management Plan 2024-2029**

- 5.7 The Management Plan is adopted by all the relevant local authorities with land in the High Weald National Landscape as their policy for the management of the area and for the carrying out of their functions in relation to it and is a material consideration for planning applications affecting the HWNL. The following objectives are relevant to the application.

S1: To protect the historic pattern and character of settlements.

S2: To enhance the architectural quality of the High Weald and ensure new development reflects the character of the High Weald in its siting, scale, layout and design.

R1: To maintain the historic pattern, morphology and features of routeways

W2: To protect and restore the ecological quality and functioning of woodland at a landscape scale.

DS1: To preserve the dark skies of the High Weald AONB by minimising light pollution, obtrusive external lighting and internal light spill from domestic, commercial and public premises in both existing and new developments

within the High Weald, and from highways lighting.

DS2: To protect wildlife and habitats from light pollution across the High Weald.

PQ2: To protect the unspoilt rural landscape with its intrinsic sense of naturalness, valued views, and the extent of green space which foster experiences of rurality and tranquillity.

### **Mid Sussex District Plan 2021 - 2039 - Submission Draft (Regulation 19)**

- 5.8 The Council is reviewing and updating the District Plan. The NPPF states that Local Planning Authorities may give weight to relevant policies of the emerging plan according to the stage of preparation; the extent to which there are unresolved objections to the relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the NPPF.
- 5.9 The Regulation 19 Draft of the District Plan 2021-2039 was submitted for examination in July 2024. The Inspector initially appointed to examine the draft Plan was Ms Louise Nurser. Following the conclusion of the Stage 1 Hearing session, Ms Nurser wrote to the Council advising that she considered the draft Plan had failed the Duty to Co-operate, and inviting the Council to decide whether it wished to withdraw the draft Plan or request her to write a formal decision letter. Having taken advice, the Council concluded the Inspector's reasons were legally defective and that it would, therefore, not withdraw the draft Plan. In addition to sending a Pre-Action Protocol Letter to the Secretary of State, the Council wrote to Ms Nurser inviting her to re-open the examination to consider further submissions. Ms Nurser agreed to that request and was in the process of arranging a date for a further hearing session, when the Government announced that it was proposing to abolish the Duty to Co-operate and would shortly be laying the necessary statutory instruments to remove the need for plans which were already at examination to satisfy the duty.
- 5.10 This announcement made it possible to resume the examination of the draft Plan on the basis that (even if Ms Nurser's position on compliance with the Duty to Co-operate had remained unchanged) this would not have prevented adoption of the Plan. However, due to Ms Nurser's other commitments at the time of the announcement, it was not possible for her to continue to a Stage 2

Hearing session in a timely manner, and a new Inspector (Mr Jonathan Bore) was appointed to take over the Examination.

- 5.11 Mr Bore has since delivered his preliminary observations on the Development Management Policies of the draft Plan. The scheduled hearing sessions into all other aspects of the Plan were held over a period of three weeks between 24 February 2026 and 19 March 2026.
- 5.12 At the end of the first week of the Examination, and in light of the significant unmet needs arising in Crawley (and, to a lesser extent, Brighton & Hove) Mr Bore asked the Council to review its assessment of sites with a view to identifying further allocations in order to meet a higher housing requirement, which he has suggested should be “towards the upper end” of the range from 1200-1300 dpa. The Council is currently undertaking this work, which will include a reappraisal of all sites previously rejected, including the Appeal Site. The outcome of that process is not known, but the Council will keep the Appellant and the Inspectorate updated, as appropriate.
- 5.13 At present, there are unresolved objections to a number of the Policies in the draft District Plan and as such, only minimal weight can be given to it. This planning application has therefore been assessed primarily against the policies of the adopted District Plan and the NPPF. However, depending on the progress of the draft Plan between now and the determination of this appeal, the weight which can be given to it may change. Again, the Council will keep the Inspectorate updated, as necessary.
- 5.14 The Council expects to adopt the new District Plan 2021 - 2039 before the end of 2026. Once adopted, the new will replace the current District Plan 2014-2031, and its policies will have full weight.

### **Position Statement 1**

- 5.15 As a result of Ms Nurser’s preliminary conclusions on the Duty to Co-operate, progress of the new District Plan was stalled for much of 2025. In that time, and as a consequence of (a) the fact that the adopted District Plan was more than 5 years old (b) the December 2024 changes to the NPPF and (c) the Council’s inability to adopt the new Plan, the Council became unable to demonstrate a 5-

year housing land supply. In order to address this situation, and provide guidance on its approach to development management in the absence of an updated District Plan, the Council adopted Position Statement 1: Delivering Sustainable Development in Mid Sussex, which stated that:

*Approved by the Council in December 2025, the position statement is a material consideration in the determination of planning applications and provides guidance on how the Council will consider speculative planning applications to ensure future development takes place in the right places, is delivered in a sustainable and high-quality manner and is accompanied by the necessary infrastructure.*

- 5.16 Section 5 of the Position Statement sets out that the Council continues to support the delivery of the housing sites and sustainable communities identified for development of the Submission Draft District Plan.
- 5.17 The Position Statement sets out that the Council will expect planning applications on the preferred sites to comply with the site-specific principles as set out in the Submission Draft District Plan. This reflects that many of the site-specific policy principles were the subject of discussion and agreement with site promoters/developers during the preparation of the Plan.
- 5.18 Section 6 of the Position Statement sets out eight decision making principles, which reflect the chapters of the Submission Draft District Plan, which need to be taken into account as part of the decision process for any application. These principles are as follows:
- Sustainability
  - Natural Environment and Green Infrastructure
  - Countryside
  - Built Environment
  - Transport
  - Economy
  - Housing
  - Infrastructure

**Mid Sussex Design Guide Supplementary Planning Document (SPD)**

- 5.19 The Council has adopted a 'Mid Sussex Design Guide' SPD that aims to help deliver high quality development across the district that responds appropriately to its context and is inclusive and sustainable. The Design Guide was adopted by Council on 4th November 2020 as an SPD for use in the consideration and determination of planning applications. The SPD is a material consideration in the determination of planning applications.

#### **SDP Development Infrastructure and Contributions (2018)**

- 5.20 This SPD is applicable as it provides an overview of the full range of the District Council's requirements relating to planning obligations to offset the likely impact of development such as the proposed scheme will require. It should be read in conjunction with the Affordable Housing SPD and Development Viability SPDs.

#### **Affordable Housing Supplementary Planning Document (SPD)**

- 5.21 This SPD is applicable as it identifies the District Council's requirements relating to affordable housing. It should be read in conjunction with the Developer Contributions Infrastructure SPD and the Development Viability SPD.

#### **National Planning Policy**

- 5.22 The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three overarching objectives to sustainable development, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). The three objectives are economic, social and environmental.

- 5.23 Paragraph 9 of the NPPF states.  
*'These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so we should take local*

*circumstances into account, to reflect the character, needs and opportunities of each area.'*

5.24 Paragraph 11 of the NPPF sets out that plans and decisions should apply a presumption in favor of sustainable development, and states:

'For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development policies, or the policies which are most important for the determining the application are out-of-date, granting planning permission unless:

i. The application of policies within this Framework that protect areas of assets of particular importance provides a strong reason for refusing development proposed; or

ii. Any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. '

5.25 Footnote 7 states:

*"The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 194) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change"*

5.26 Paragraph 12 of the NPPF states:

*'The presumption in favor of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-*

*date development plan (including any neighborhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.”*

5.27 Paragraph 39 of the NPPF states.

*‘Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.’*

5.28 With specific reference to decision-taking paragraph 48 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

5.29 In regard to development in the open countryside para 187 states

*Planning policies and decisions should contribute to and enhance the natural and local environment by :*

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.*
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate.*

- d) *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs.*
  
- e) *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
  
- f) *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

5.30 In regard to impacts on National Landscapes, paragraph 189 states

*Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas*

### **National Design Guide**

5.31 Published in 2021, the National Design Guide illustrates how the government consider well-designed places that are beautiful, healthy, greener, enduring and Success can be achieved in practice.

5.32 Paragraph 134 of the NPPF sets out that this national document, along with the National Model Design Code should be used to guide decisions on application in the absence of locally design guides or design codes.

## **6. HOUSING LAND SUPPLY AND THE EMERGING LOCAL PLAN**

- 6.1 3 While the Council has performed excellently in respect of the Housing Delivery Test, a new standard method formula was published alongside the amendments which were made to the NPPF in December 2024, which gives Mid Sussex a significantly higher housing requirement than the current District Plan, which is now more than 5 years old. As a result, and having regard for the need for an appropriate buffer, the Council is currently unable to demonstrate a five-year supply of deliverable housing sites as per the requirements of paragraph 78 of the NPPF.

### **Adopted Local Plan Position**

- 6.2 The Mid Sussex District Plan 2014-2031 was adopted in March 2018. This established a housing requirement of 876 dwellings per annum until 2023/24 and 1,090 dwellings per annum thereafter.
- 6.3 Planning Practice Guidance (ID: 68-006-20190722) states that housing requirement figures identified in adopted strategic housing policies should be used for calculating the 5 year housing land supply figure where the plan was adopted in the last 5 years, or the policies have been reviewed within the last 5 years and found not to need updating. In other circumstances, the 5 year housing land supply will be measured against the area's local housing need calculated using the standard method.
- 6.4 As the Mid Sussex District Plan 2014-2031 was adopted more than 5 years ago and is currently being updated, the Council cannot rely on the housing requirement set out in the adopted District Plan for the purposes of the 5 year supply calculation. The standard method calculation therefore applies.
- 6.5 This means that the current standard method calculation is 1,358 dwellings per annum. It is this figure the Council's 5-year supply should be calculated against. The Council will seek to agree a precise figure for its housing land supply with

the Appellants in the Statement of Common Ground. However even if that is not possible, the Council recognises that it does not have a 5-year supply of housing when calculated against this figure.

6.6 At Submission (July 2024) the emerging District Plan (policy DPH1) established a housing requirement of 1,090 dwellings per annum for 2021-2039. However, following the hearing session held on 19<sup>th</sup> March the Inspector has indicated that the proposed requirement of 1,090 dwellings is not sound, and has asked the Council to test the potential for an increased housing requirement towards the upper end of the range between 1,200 – 1,300 dwellings per annum, and to allocate additional sites accordingly to ensure the overall housing requirement is met and that a 5 year supply can be demonstrated on adoption.

6.7 The Council has commenced work on this, with a view to publishing a 'long list' of sites in mid-May which will be subject to further in-combination testing. Subject to the results of the in-combination testing, the additional sites proposed for allocation will be put forward as main modifications to the plan and subject to consultation and potential further hearings (indicatively in Summer 2026).

6.8 The Inspector has indicated that the review process should consider all sites previously rejected (including those rejected at an early stage on the basis that there was a "showstopper" which rendered them unsuitable). The Appeal Site will therefore be among the sites being reviewed

6.9 While the outcome of this process is not yet known, it is expected that the new District Plan will identify a requirement which is in the range requested by the Inspector, but will also identify sufficient sites to provide a 5-year supply of deliverable housing sites.

## **7.0 CASE FOR THE LOCAL AUTHORITY: OVERVIEW**

7.1 The Council will present evidence to the Inquiry to support the reasons for refusal set out above which is summarised here and expanded under each subheading below.

7,2 In summary, the appeal should be dismissed because:

1. The proposed development is contrary to the development plan as a whole.

In particular:

- the appeal site lies outside of the built-up area boundary as defined by the development plan. It is not a type of development that is supported in the defined countryside area for planning purposes and does not protect the intrinsic character and beauty of the countryside. It is therefore contrary to Policies DP6, DP12 and DP15 of the Mid Sussex District Plan
  - the proposed development would result in the perceived coalescence of Ansty and Cuckfield, contrary to Policy DP13 of the Mid Sussex District Plan
  - the proposed development would adversely affect the setting of the High Weald National Landscape, contrary to Policy DP16 of the Mid-Sussex District Plan, policy AS1 of the Ansty and Staplefield Neighbourhood Plan, policy CNP5 of the Cuckfield Neighbourhood Plan, the High Weald AONB Management Plan 2024 - 2029 and paragraph 189 of the NPPF.
2. Although (because the Council cannot demonstrate a 5-year housing land supply) para 11(d) of the NPPF is engaged, the tilted balance is not triggered, and there are no material considerations which justify a decision other than in accordance with the development plan because:
- a. Policies DP6, DP12, DP13 and DP15 remain consistent with the NPPF and should be given significant weight; and
  - b. the impact on the setting of the High Weald National Landscape provides a strong reason for refusing the development proposed; and/or
  - c. the adverse effects on the character of the countryside, coalescence and the National Landscape together significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

## **8.0 REASONS FOR REFUSAL**

### **Reason 1**

### ***Development Outside the Built-up Area Boundaries***

8.1 The starting point for this reason is that the application site falls outside of the built-up area of Ansty as defined by the District Plan, is in the open countryside and will result in perceived coalescence of settlements.

8.2 Policy DP12 of the District Plan refers to the protection of the Countryside and states, in part, that development will be permitted in the Countryside provided it maintains or where possible enhances the quality of the rural and landscape character of the District, and is necessary for the purposes of agriculture or is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.

8.3 Policy DP6 of the District Plan states in part that:  
*'Outside defined built-up area boundaries, the expansion of settlements will be supported where:*

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

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

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

8.4 The residential development the subject of this appeal does not meet any of these criteria.

8.5 Policy DP15 of the MSDP refers to new homes in the countryside and sets out the special justifications where new homes would be permitted. Special justification would include.

- Essential agricultural or forestry workers accommodation
- Exceptional design quality for isolated new homes
- Rural exception sites

- DP6 requirements being met

- 8.6 This residential development does not meet any of these special justifications.
- 8.7 Policies DP6, DP12 and DP15 are consistent with the two neighbourhood plans.
- 8.8 Policy AS1 of the ASNP seeks to focus new housing development within the built-up area of Ansty., and that development outside the Ansty Development boundary will be refused if it fails to comply with the countryside policies of the MWDP
- 8.9 Policy CNP5 of CNP relates to the protection and enhancement of the countryside, and states.

*Outside of the Built-up Area Boundary, priority will be given to protecting and enhancing the countryside from inappropriate development. A proposal for development will only be permitted where:*

*a) It is allocated for development in Policy CNP 6 (a) and (b) or would be in accordance with Policies CNP 10, CNP 14 and CNP 17 in the Neighbourhood Plan or other relevant planning policies applying to the area, and*

*b) It would not have a detrimental impact on, and would enhance, areas identified in the Cuckfield Landscape Character Assessment (summarised in Table 1) as having major or substantial landscape value or sensitivity, and*

*c) It would not have an adverse impact on the landscape setting of Cuckfield and*

*d) It would maintain the distinctive views of the surrounding countryside from public vantage points within, and adjacent to, the built-up area, in particular those defined on Map 5, and*

*e) Within the High Weald Area of Outstanding Natural Beauty, it would conserve and enhance landscape and scenic beauty and would have regard to the High Weald AONB Management Plan.'*

- 8.10 As the site is not allocated for residential development, the application is in conflict with the above policies, which are central to the principle of development at this location, and a fundamental aspect of the spatial strategy of the adopted

development plan. Of itself, that is sufficient to render the proposed development contrary to the development plan as a whole.

### ***Visual and Landscape Impact, Coalescence***

8.11 Policy DP13 of the MSDP seeks to prevent coalescence and states.

*‘The individual towns and villages in the district each have their own unique characteristics. It is important that their separate identity is maintained. When travelling between settlements people should have a sense that they have left one before arriving at the next.*

*Provided it is not in conflict with Policy DP12: Protection and Enhancement of the Countryside, development will be permitted if it does not result in the coalescence of settlements which harms the separate identity and amenity of settlements and would not have an unacceptably urbanising effect on the area between settlements.*

*Local Gaps can be identified in Neighbourhood Plans or a Site Allocations Development Plan Document, produced by the District Council, where there is robust evidence that development within the Gap would individually or cumulatively result in coalescence and the loss of the separate identity and amenity of nearby settlements. Evidence must demonstrate that existing local and national policies cannot provide the necessary protection.’*

8.12 Policy DP13 is complemented by Policy AS2 of the ASNP, which states.

*‘Development proposals are expected to demonstrate that they would not result in the coalescence with any neighbouring settlement either individually or cumulatively or result in the perception of openness being unacceptably eroded between the following areas:*

- Ansty and Burgess Hill*
- Brook Street and Cuckfield*
- Ansty and Cuckfield Planning permission will not normally be granted for development which:*

*Contributes towards the ad hoc or isolated development of dwellings outside the built-up area, including infilling of built-up frontages or linear development along roads.'*

- 8.13 The development is considered contrary to these policies as a development of this scale in proximity to the established settlement of Ansty and Cuckfield will result in the visual coalescences of these settlements. T
- 8.14 The Council's evidence will demonstrate that the development of this substantial greenfield site will fail to protect the natural and historic environment resulting in unacceptable coalescence between the settlements of Ansty and Cuckfield
- 8.15 The application was supported by an Environmental Statement, and Volume 3 relates to Landscape and Visual Impact Assessment (LVIA). The Council will demonstrate that judgements in the LVIA relation to value, susceptibility, sensitivity, and magnitude underestimated the likely effects of the proposed development on landscape character and visual amenity
- 8.16 The council will demonstrate that development of this scale will clearly have an impact on the identity of Ansty. Given the immediate visibility of the development when travelling along the A272 Cuckfield bypass, there will be a strong reduction in the visual separation between the two villages. The introduction of built form of this scale would render Ansty readily visible in views from Cuckfield, where it is currently not readily visible. This will remove the perception of separation, impact the identity of the villages and create visual coalescence
- 8.17 The proposal which is readily visible from the surrounding areas and public highways will result in significant adverse effects on the immediate landscape site and its setting and that the development will create a clear perception of coalescence between Ansty and Cuckfield
- 8.18 As such, the proposal is contrary to MSDP policy DP12 and policy AS2 of the ASNP..

## **Reason 2 Impact on the setting of the HWNL**

8.19 The Council will demonstrate that the proposed development will adversely impact on the setting of the HWNL

8.20 Local Plan policy DP16 relates to the HWNL and states, in part that:

*“Development on land that contributes to the setting of the AONB will only be permitted where it does not detract from the visual qualities and essential characteristics of the AONB, and in particular should not adversely affect the views into and out of the AONB by virtue of its location or design.”*

8.21 Policy AS3 of the Ansty Staplefield and Brook Street Neighbourhood Plan relates development within the AONB The policy states that development should

- conserve and enhance the natural beauty of the AONB area; and
- demonstrate how they meet the objectives of the High Weald AONB Management Plan; and
- 

8.22 The High Weald Management plan in section entitled AONB setting states

*“Section 85 of the CROW Act 2000 requires public bodies to consider whether any activities outside the AONB may affect land in an AONB. Not all activities will be detrimental; conservation practices and economic activities outside the National Landscape can support the National Landscape’s conservatio purpose.”*

8.23 It also states:

*“It is not only development within the boundary of the High Weald AONB that needs to be informed by consideration of the Management Plan; national planning policy and guidance make clear that land within the setting of AONBs often makes an important contribution to maintaining their natural beauty, and here poorly located or designed development can do harm. This is especially the case where long views from or to the designated landscape are identified as important, or where the landscape character of land within and adjoining the designated area is complementary. Development within the settings of these areas will therefore need sensitive handling that takes these potential impacts into account”*

8.24 The Countryside and Rights of Way Act 2000 (CROW) places a statutory duty on all relevant authorities, including a local planning authority such as Mid Sussex District Council, that in ‘exercising or performing any functions in relation to, or so as to affect, land in an AONB, they must seek to further the purpose of conserving and enhancing the natural beauty of the AONB’. This includes land both within the landscape designation and within its setting.

8.25 Section 84(4) of the CROW confirms the powers of local planning authorities to ‘take all such action as appears to them expedient for the accomplishment of

*the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty’.*

8.26 Section 89 of the CROW requires local authorities to *‘prepare and publish a plan which formulates their policy for the management of the area of outstanding natural beauty and for the carrying out of their functions in relation to it’*. The High Weald AONB Management Plan has been adopted by Mid Sussex District Council, and it is a material consideration in the planning process including decisions on planning applications.

8.27 Furthermore, paragraph 189 of NPPF states that:

*‘Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.’*

8.28 The council will demonstrate that the site will be visible in a number of vantage points, particularly along the western boundary (the A272 corridor) – the northerly section of which forms the boundary of the HWNL. The proposal by virtue of the very large scale and its proximity to the High Weald National Landscape (HWNL), will result in a significant and discernible extension of built development into the surrounding countryside, creating a large new urbanisation adjacent to and abutting the HWNL, and would introduce an abrupt change of landscape character in close proximity to the HWNL, and a loss of natural landscape contiguous with the HWNL. Further, it would adversely impact on perceptual qualities of the HWNL of tranquillity and rurality, due to the level of noise, activity and lighting that would inevitably be associated with a development of such large scale, in such close proximity to the HWNL.

8.29 The Council considers that the submitted LIVA fails to provide an accurate and full assessment of the effects on the HWNL and its setting.

8.30 The VVMs provided do not appear to relate to the baseline images and do not reflect the extent and potential effect that the scheme would have on the landscape and HWNL.

8.31 The development would clearly be visible in the landscape and would introduce urbanising features in the rural landscape. VVM2 (from Cuckfield Road looking south) would likely result in a moderate adverse impact due to the change of view from trees to buildings. VVM 3 is of most concern, representing a major change from rural vista to urban character over a large part of the view. VVM4 does not appear to show the site, and it is therefore unclear why this view was selected in the LVIA.

8.32 The High Weald National Landscape Unit (HWNLU) have reviewed the application and consider that while views may be ‘limited to those in close

proximity' or 'filtered' through trees and be restricted to those from the eastern edge of the AONB, that this does not diminish the importance of intervisibility, or the potential for harm.

8.33 It is evident that the proposed development will have a large degree of impact on the setting of the HWNL, particularly in respect of Management Plan objectives S1, S2 and DS1, and as such there is conflict with policy DP16 of the MSDP. Moreover, para 189 of the NPPF requires development within the setting of National Landscapes to be sensitively located, and to "avoid or minimise adverse impacts". The Council will demonstrate that the proposed development does not satisfy these requirements.

8.34 In respect of the duty placed upon the Council to seek to further the statutory purposes of protected landscapes (i.e. the HWNL) Government Guidance detailed in "Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes" published 16 December 2024 sets out the duty is an active duty, not passive, which means (amongst other things).

- A relevant authority should take appropriate, reasonable and proportionate steps to explore measures which further the statutory purposes of protected landscapes
- As far as is reasonably practical, relevant authorities should seek to avoid harm and contribute to the conservation and enhancement of the natural beauty, special qualities, and key characteristics of protected landscapes.

8.35 The guidance makes it clear the duty to further the purposes of Protected Landscapes applies to development that affects the setting of a National Landscape:

*The duty also applies to functions undertaken outside of the designation boundary which affects land within the Protected Landscape.*

*Natural beauty, special qualities, and key characteristics can be highly dependent on the contribution provided by the setting of a Protected Landscape. Aspects such as tranquillity, dark skies, a sense of remoteness, wildness, cultural heritage or long views from and into the Protected Landscape may draw upon the landscape character and quality of the setting.*

*Functional connectivity is also important where there are flows or close interconnection between the Protected Landscape and its setting, for example: a shared water catchment and management of water resources ecological connectivity where species are able to move across and between the designated and non-designated area*

*Rights of Way, Open Access Land and other recreational links joining the designated area to the wider countryside*

*Development and the management of land, water and estates located in the setting have the potential to adversely affect the natural beauty, special qualities, and key characteristics of a Protected Landscape.*

8.36 The submitted ES highlights the following adverse residual effects on the landscape (those that remain following mitigation) during construction, which are considered significant.

- Effects on Landscape and Visual:
  - Effect on landscape character (moderate-minor adverse to moderate-major adverse).
  - Effect on natural landscape receptors (moderate-minor adverse to moderate adverse).
  - Effect on cultural / social landscape receptors (major adverse).
  - Effect on perceptual and aesthetic landscape receptors (major adverse).
  - Effect on landscape character receptors (moderate to major adverse).
  - Effect on views for residential receptors (minor adverse to major adverse).
  - Effect on views for transient from transport corridors receptors (neutral to moderate adverse).
  - Effect on views for transient from public rights of way receptors (neutral to major adverse).
  - Effect on views for receptors using visitor attractions and areas of open space (minor adverse-negligible to moderate-minor adverse).

8.37 By acknowledging there will be harm to the HWN, the appellant's LVA accepts that the development will not further the purposes of conserve or enhance the natural beauty of the HWNL. As such any approval would be contrary to the Council's duty to ensure development furthers the conservation and enhancement of the natural beauty of the HWNL. Moreover the ES states that the adverse Landscape and Visual Impacts will be temporary in nature as they are limited to construction only, the council strongly disagree with this conclusion and will provide evidence to establish the permanent adverse impacts would occur.

8.38 It is therefore considered any granting of the appeal in would result in the irreversible change to part of a landscape that is considered important at both a National and European level for its intimate, agricultural character, tranquillity and beauty. Officers conclude that the application conflicts with Local Plan policy DP16.

- 8.39 As such the council will argue that any approval of this appeal would be contrary to the duty under the CRow Act, policy DP16 of MSDP, policy AS3 of the Ansty Staplefield and Brook Street Neighbourhood Plan and para 189 of the NPPF.

### **Reason 3 Infrastructure**

- 8.40 The application was also refused due to a failure to provide the infrastructure, contributions, and off-site highway works to serve the development and the required affordable housing. Whilst it is anticipated that this reason can be resolved prior to the Inquiry by an appropriate section 106 legal Agreement, at the date of this Statement of Case this remains outstanding, In the event that it becomes necessary to do so, the Council will explain the need for contributions relating to the following

#### West Sussex County Council Infrastructure Requirements

##### Education

- Developer to construct and transfer to WSSC a 2.5FE primary school (with early years provision) on-site.
- Transfer of land to WSSC to enable the construction of a SEND school, with an appropriate contribution (calculated by formula based on final housing mix).
- Financial contribution towards secondary education (calculated by formula based on final housing mix).
- Financial contribution towards sixth form education (calculated by formula based on final housing mix).

##### WSSC Highways

- Direct contract for bus services to Haywards Heath (3 buses per hour) and Burgess Hill (1 bus per hour) will be secured on the basis of a Public Transport Strategy and implemented from an early stage of construction for up to two years post-completion.
- Travel Plan and Travel Plan Monitoring Fees (£5,640)
- Trip Monitoring Strategy at Reserved Matters stages, in line with NPPF paragraph 110.
- Highway works following agreement of Trip Monitoring Strategy.
- Traffic Regulation Order Fee of £10,205 and works to implement the revised speed limits (signage)
- Car Clubs
- Mobility Hubs
- Cycle route to Haywards Heath - Cycle Route Improvement Plan sheets 1 and 22207280-SK05 Rev H

- Proposed Northern Access (A272) 2207280-003 Rev G
- Proposed Southern Access 2207280-005 Rev E
- Proposed Western Access 2207280-004 Rev E
- Potential roundabout Improvement 2207280-002 Rev B
- Proposed cycle connections A272 / BOLNEY ROAD / B2036 2207280-007 Rev A (noting need to revisit connection to Deaks Lane)
- PROW upgrade to Footway 8aCU towards Cuckfield – to enhance the connection to Warden Park Academy
- PROW upgrade to Footway 69CR towards Copyhold Lane – to enhance the connection onto Bridleway 67CR

#### Mid Sussex District Council Infrastructure Requirements

- Affordable Housing at 30% of total (up to 435 homes). 75% social rent and 25% First Homes/shared ownership.
- Up to 30 self/custom build plots
- 90 residential case units (Use Class C2)
- Developer to construct a sport facility including pavilion building, 2 x hockey pitches (floodlit), 4 x outdoor tennis courts (floodlit), 4 x covered padel courts (floodlit) 4 x indoor tennis courts and potential transfer to MSDC.
- Developer to construct an on-site village centre to include a mix of the following uses – a local food store / Flexible Class E uses (such as a café, retail, offices) / Health hub (to include a range of healthcare services) / other community uses (such as a creche, shared workspace and small gym) and potential transfer of some or all of the completed units.
- An off-site formal sports contributions consisting of a financial contribution to Beech Farm Field pitch drainage improvements (estimated at £1.26m (excl. VAT)), as long as there is assurance on security of tenure and long-term community access.

If not delivered within 5-year period, the contribution will instead support sports facilities development at Cuckfield Recreation Ground and/or Whitemans Green and/or Ansty Recreation Ground and North Field.

- A financial contribution to MSDC towards the provision of off-site Gypsy and Traveller Pitches of £450,000.
- The construction and transfer of a 0.63Ha allotment site to MSDC or the Parish Council.
- The use of the part of the off-site land within the applicant's control (Parkland Reserve Site) for the provision of BNG and a BNG monitoring fee of £15,000.

- The on-site provision of three LEAPs, a NEAP and MUGA to meet the demands for children's play space.
- Sussex Police - Financial contribution of £232,142.10 for Officer recruitment, training, equipment, premises and fleet.

8.41 The Appellant's indicate a willingness to enter into a legal undertaking during the appeal process and sign a Section 106 agreement before the Inquiry Hearings, but if no such agreement is reached on these matters, the Council will present evidence in support of its position that the appeal scheme fails to accord with Policies DP20, DP24 and DP31, the Affordable Housing Development Infrastructure and Contributions SPDs and the NPPF.

## **9.0 Planning Balance and Conclusion**

9.1 Planning legislation requires the application to be determined in accordance with the Development Plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the development plan and then to take account of other material planning considerations including the NPPF.

9.2 Courts have confirmed that the Development Plan must be considered as a whole, not simply in relation to any one individual policy. It is therefore not the case that a proposal must accord with each and every policy within the Development Plan.

9.3 The policies contained within the NPPF are material considerations which should be taken into account in the determination of this application. This is confirmed within paragraph 231 of the NPPF. In particular, para 11 of the NPPF deals with the approach to be taken when a local planning authority is unable to demonstrate a five-year supply of housing. At the present time, the Council is unable to demonstrate a five-year supply of deliverable housing sites as per the requirements of paragraph 78 of the NPPF, and para 11 is therefore engaged.

9.3 With regard to para 11(d), the council will demonstrate that the significant impact of the scheme on the landscape and the setting of the HWNL provides a strong reason for refusal in accordance with para 11(d)(i) and/or that the combined impacts on the setting of the HWNL, the character and appearance of the countryside and the coalescence of Cuckfield and Ansty significantly and demonstrably outweigh the benefits for the purposes of para 11(d) (ii).

9.4 In particular, in considering the weight to be attached to the contribution which the proposed development would make towards meeting the identified need for housing, it is well established that it is relevant to consider the extent of the shortfall, the length of time for which it has existed, the reasons behind the

shortfall, and the steps which the local planning authority is taking to address this .

9.5 In this regard, the Council will note that (as detailed above) the current lack of a 5-year housing supply is as a result of the examination into the updated District plan having been paused. Prior to this, however, the Council will demonstrate that it has consistently managed to maintain a 5 year supply of housing since adoption of the current District Plan, and that its performance under the Housing Delivery Test has been outstanding.

9.6 In particular, the Council will refer to the conclusions of the Inspector's comment when dismissing appeal ref APP/D3830/W/23/3319542 (decision dated 5/10/2023, (Appendix 3) concerning an application for the development of up to 120 residential dwellings at Albourne), where she said:

*"From the Council's evidence it is clear that Mid Sussex has a history of housing delivery, and it is not an area with a record of persistent under delivery of housing. I am confident that the Council understands and acknowledges its obligations under the HLS and HDT. The Site Allocations DPD has allocated more land for housing than the DP required, and the Council approaches the issue of housing in a positive and proactive manner.*

*Overall, I find that the Council has taken and continues to take a proactive approach to housing delivery at both plan making and decision making. From the evidence to this Inquiry and in particular the summary contained within the Housing Land Supply Position including 5-year Housing Land Supply Statement (CDD.5), the Council is effectively using a variety of tools and mechanisms to ensure housing can be delivered in a timely manner. Plan making progress as acknowledged by the Appellant is commendable and is positive and continuing to progress. The use of dedicated planning officer resources for the Northern Arc, the use of both statements of common ground and Planning Performance Agreements and also planning conditions to reduce the timescales for submission of some applications is all positive. There is a methodical and robust analysis of lead in times and build out rates and therefore in my opinion, the Council has a good understanding of housing and infrastructure delivery within their administrative area"*

9.7 In this context, the Council will also refer to the fact that its new District Plan plan is currently back under further examination, with adoption anticipated by the end of this year, at which point the Council will again be able to demonstrate a 5-year housing supply. The Council will contend that significant weight should be given to the fact that the housing supply will shortly be addressed through the adoption by the end of the year of the emerging MSDP plan,

9.8 Depending on the progress of the emerging plan, and particular any report or interim report by the examining Inspector, the Council reserves the right to argue that approval of a development on the scale of 1400 houses is premature and would undermine the strategic growth and proposed housing allocations that have been identified in the new plan,

9.9 Further, in so far as the Appellants rely on any shortfall in the 5 year housing land supply as a basis for justifying development which is contrary to the

development plan, the Council will interrogate the Appellants' evidence as to the likelihood of the appeal scheme coming forward sufficiently quickly to make any, or any material contribution to that shortfall. In this regard, the Council will refer to the Appellants' own evidence to the District Plan examination concerning the realistic lead-in times for development on strategic sites.

- 9.10 In the light of the above, while the Council acknowledges the potential benefits of the scheme (provision of new housing, including affordable housing, specialist housing (residential care units and self-custom build plots), the provision of a primary school, sports facilities, local centre and health hub, public open space etc.) it will contend that these are outweighed by the impact on the setting of the HWNL in isolation, and /or that impact taken together with the resulting landscape impacts and coalescence between the settlement of Ansty and Cuckfield..
- 9.11 As such adverse impacts will significantly and demonstrably outweigh the benefits, of the development when assessed against the policies in this Framework taken as a whole
- 9.12 Taking all of the above into account, the Council will contend that the application represents a major housing development on an unallocated site, in conflict with the Development Plan when read as a whole and that there are no material considerations (including para 11 of the NPPF) which justify a determination which is not in accordance with the development plan.

## **10.0 Witnesses**

- 10.1 The Council will present evidence to the Inquiry to defend the reasons for refusal, with the following list of witnesses.
- Landscape Witness to address reasons for refusal 1 & 2
  - Planning Policy Witness to address matters associated with the progress of the District Plan
  - Planning witness to address reasons for refusal 1&2 (and 3, in so far as necessary)
- 10.2 It is anticipated that the Appellant will engage with the Council in a constructive dialogue ahead of the Inquiry to resolve the outstanding issues relating to the Section106 and a draft planning obligation to avoid the need to contend these matters in front of the Inspector. If so, no witness will be called to address reason for refusal number 3 issue

## **11 Inspecting documents**

- 11.1 All appeal documents are available digitally on the council's planning register at this link: <https://pa.midsussex.gov.uk/onlineapplications/>

11.2 Interested parties may also view paper copies of the appeal documents by appointment at Mid Sussex District Council, Oaklands, Oaklands Road, Haywards Heath, RH16 1SS.

## Appendix 1 Landscape Comments



12/12/2024

Stephen Ashdown  
Planning Department  
Mid Sussex District Council  
Oaklands Road  
Haywards Heath  
West Sussex  
RH16 1SS

### SPECIALIST LANDSCAPE ADVICE

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*Thank you for requesting advice on this application from Place Services' landscape advice service. This service provides advice to planning officers to inform Mid Sussex District Council planning decisions with regard to potential landscape impacts from development. Any additional information, queries or comments on this advice that the applicant or other interested parties may have, must be directed to the Planning Officer who will seek further advice from us where appropriate and necessary.*

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**Application:** DM/23/2866  
**Location:** Land East Of Ansty Way Cuckfield Bypass Cuckfield West Sussex  
**Proposal:** Outline planning application (All matters reserved except for access) for the redevelopment of land to the east of Ansty to create a new Garden Community, comprising of the erection of up to 1,450 homes (including 30% affordable housing), up to 90 residential care units (C2 class), a primary school, a SEND school, health hub, sports facilities including all weather hockey pitches and tennis centre, allotments, retail, community and employment uses together with ancillary and associated development including new and enhanced pedestrian/cycle routes, open spaces, and landscaping

Dear Stephen,

Thank you for re-consulting the Landscape Advisor to Mid Sussex District Council on the above application. We have reviewed the 'fabrik response to Place Services' Landscape Advice' (May 2024) alongside other submitted information and provided comments where relevant.

#### Review of Submitted Information

- [Para 2.1] Noted although our comments remain the same.

#### Landscape Character

- [Para 2.15] The justification states that the proposed development is in keeping with the scale of Cuckfield. However, the development is designed to be an 'extension' of Ansty, not

Cuckfield, and therefore introduces significant growth to a small village. The proposed development is not proportional to the existing size of Ansty village and therefore we do not agree with the justification provided.

- [Para 2.16] Noted although we disagree.
- [Para 2.17] Whilst this is an assessment of the impacts on Landscape Character, Para 2.17 relates to the visual effects of the proposals to the neighbouring National Landscape. The assessment of Landscape Character should only partially consider the visual effects (i.e. where views are identified within the LCA) and focus on the character that the site provides to the setting of the National Landscape.
- [Para 2.17] We judge that the effects will remain significant even after 15 years.
- [Para 2.18] Whilst views are being retained through limiting built development to the east, as has been demonstrated by VVM 6 (Viewpoint 23), the character adversely changed from a number of other viewpoints. Notwithstanding this, the assessment here relates to the effects on Landscape Character as opposed to specific viewpoint receptors and therefore we maintain our previous comments.

#### Visual Amenity

- [Para 2.20] We note that those panoramic photographs which do not have the site extent indicated are those that are located in close proximity of the site and therefore the site encompasses the entire view. We welcome the revised additions to the LVIA. We would prefer the full photographic survey to be submitted separately and further in accordance with TGN 06/19.
- [Para 2.21] The resubmitted LVIA (date) includes a number of additional viewpoint receptors to address our previous comments.

Whilst we welcome the approach within adding additional viewpoints to Figure 4.14 (Location Plan showing Visual Summary from Local Area), we note that the Internal Visual Survey (May 2024) replaces some visual receptors from the November 2023 assessment, as opposed to providing them in addition. For example, Views S28, S30 and S33 from the November 2023 assessment have been removed. We advised that the added viewpoints should be in addition to those within the November 2023 assessment, as opposed to replacements.

- PRoW 62CR: Additional viewpoint receptors have been included within the Internal Views (VP S27) and Visual Receptors (45, 46, 47). We welcome the inclusion of these visual receptors.
- South-east corner: An additional viewpoint receptor has been included (VP 32).
- PRoW 72CR/73CR: Viewpoint 48 has been added to address this concern.
- Viewpoint 27: Viewpoint 49 has been added to address this concern.

- [Para 2.23] We note that those panoramic photographs which do not have the site extent indicated are those that are located in close proximity of the site and therefore the site encompasses the entire view. We welcome the revised additions to the LVIA. We would prefer the full photographic survey to be submitted separately and further in accordance with TGN 06/19.
- [Para 2.25] Noted.
- [Para 2.26] We welcome the clarifications regarding landscape buffers and distances. We advise that these buffers are largely free of hard landscaping and any proposed features (i.e. paths, gates) are in keeping with the rural character. Introducing features into these areas could urbanise the character.
- [Para 2.27] Parameter Plans are included within the submitted DAS (Section B2). We advise that the Parameter Plans and associated text make specific reference to the Landscape Character Assessments and the key characteristics that have been integrated into the Green Infrastructure to relate back to the LCA. We also advise that specific reference to what features have been included to reduce impacts on the central PRoW.
- [Para 2.28] Noted.
- [Para 2.29] We note that the submitted LVIA (Section 5.1) now refers to the NPPF Paragraph 136 regarding the tree-lining of primary and secondary streets.
- [Para 2.29] An Access and Movement Plan (Dwg no. D3012-FAB-00-XX-DR-Y-036) has been submitted within the LVIA (Figure 5.4).

#### Verified Images

- [Para 2.31] Whilst additional VVMs have been submitted to provide a wider range of viewpoints to address our following specific comments, we continue to have concerns that the effects on internal site receptors are not covered by VVMs.
- [Para 2.33] VVM 1: We agree, in relation to Para 2.33, that it is the secondary mitigation such as tree-planting that we are referring to. However, as there is no perceptual change between Year 1 and Year 15 as judged from the verified image, we maintain that the significance of effect would stay at Moderate adverse rather than dropping to Moderate-Minor.
- [Para 2.34] VVM 2: Noted.
- [Para 2.35] VVM 3: Noted, however we maintain that further mitigation could be provided through setting back further of the built form and reducing its apparent scale, as well as making better use of the foreground fields for appropriate mitigation planting in the long term.



- Four additional VVMs have been submitted (VVM 5-8) in addition to VVM 1-4. These have been submitted under Section 5.5 of the LVIA.
  - [Para 2.38] Viewpoint 8: We requested a VVM from Viewpoint 8 on the western boundary however this was not submitted, as clarified in Para 2.39.
  - [Para 2.43] Viewpoint 28: We requested a VVM from Viewpoint 28 (PRoW 65CR) on the eastern boundary however this was not submitted, as clarified in Para 2.43.
- [Para 2.48] VVM 5 (Viewpoint 13): We requested a VVM from Viewpoint 13 (B2036) to the north and this was submitted under VVM 5. We judge that this view would not be considered significant.
- [Para 2.45] VVM 6 (Viewpoint 23): We requested a VVM from Viewpoints 19, 33-26 (Copyhold Lane and PRoWs to the south-east. Fabrik correctly excluded VP19 owed to the sense of enclosure from this enclosure, and submitted VVM 6 from Viewpoint 23. Whilst we cannot find evidence of Viewpoint 23 being assessed under the Transient from PRoWs in Table V3.2.3 Visual Impact Table, this would not be assessed as being significant.
- [Para 2.44] VVM 7 (Viewpoint 32): An additional VVM was submitted following requests to submit VVMs from the PRoWs to the south-east corner of the site. VVM 4 was also referenced from the previous submission. The submitted VVM demonstrates that a new built form will be introduced into the largely undeveloped landscape where views from this location are currently of the countryside. We therefore judge that the low-negligible judgement for Year 1 is too low. Based on the submitted VVM for Year 15, we note there is no noticeable change in the view and therefore also judge that the significance of effect would not be reduced from minor adverse (Year 1) to minor adverse-negligible (Year 15). We would suggest that further mitigation is needed, either as reduction in the height and/or extent of built form or as woodland planting to the east of the proposals in order to reduce the negative effect of the built form on the wider countryside.
- VVM 8 (Viewpoint 52): We welcome the submission of VVM 8 which was conducted from the High Weald Landscape Trail to the north of the site. However, the Year 15 image demonstrates that there is the potential for residual negative impacts of development on rising ground at the centre of the site. The proposals should be further mitigated from this viewpoint by reduction of built development at the centre and/or creation of open space or green infrastructure in that area. As the High Weald Landscape Trail is a linear route, there is some likelihood that as the walker moves eastwards and southwards, further views of the scheme will become visible.

#### Review of Assessment of Visual Effects

- [Para 2.37] The magnitude of effect for Year 15 has been increased to medium-low, and the significance of effect for Year 1 has been increased to major-moderate adverse. There is still potential for these judgements to still be too low. We also still judge that the magnitude of change for Year 1 would be high-medium, considering the permanent alteration of the open countryside view.



- [Para 2.38] We note the response, however it is our judgement that an illustrative viewpoint at or near the main access point to the development is needed to demonstrate the likely significant change to the setting of the road (which adjoins the National Landscape to the North) over a distance of a probable 100m, due to the need for extensive visibility splays, and probable lighting, each side of the junction. Existing vegetation including trees are likely to be removed along this length.
  - The impacts on vegetation within the site are set out in the submitted AIA and appropriately assessed in the LVIA under the vegetation cover site landscape receptor. The LVIA is therefore considered to appropriately assess the visual impacts on transient receptors travelling along the A272 and on the vegetation cover within the site.
  - An AIA does not assess the effects of tree removal on landscape character and visual receptors.
- [Para 2.39] The resubmitted LVIA did not include a VVM for Viewpoint 8 on the immediate western boundary, adjacent to the High Weald National Landscape. We therefore cannot be certain on the scale of effects anticipated from this location. We continue to advise that a VVM be provided for Viewpoint 8.

Whilst the viewpoint forms part of a sequential assessment of receptors using the A272, we also note that some sections of this route will experience large changes to the view owed to the introduction of a new junction which will likely require the removal of trees and vegetation along this boundary, opening the site to public viewpoint receptors and to the National Landscape. There is also a footpath running along the A272 where receptors would experience views slowly and would be more impacted by the introduction of a junction which would urbanise the countryside road and create views of the development.

We disagree with the justification for not providing a VVM opposite the new junction on the A272.

We also note that the value for Viewpoint 8 (Transient from Transport Corridors) has not been updated in the submitted LVIA.

- [Para 2.40] Noted.
- [Para 2.41] Whilst the submitted response states that an adjustment has been made to VP41 to medium value, this has not been reflected within 'Table V3.2.3 Visual Impact Table: Transient From Transport Corridors'. The Significance of Effect remains moderate adverse in our judgement. This judgement still stands.
- [Para 2.42] We welcome the additional viewpoints submitted along PRoW 62CR.
- [Para 2.43] Based on the judgements in the revised LVIA, we still judge the visual impacts would be more severe from VP 28 than as judged in the LVIA i.e. moderate-minor Adverse at Construction and minor adverse at Year 15.

- [Para 2.44] Our comment should have said at the junction of the site boundary and PRoW 73CR. However, there will be closer and more impacted near views from close to or at internal viewpoints S34, S33 and S36 for instance. Additional assessments are needed from at least one of these closer viewpoints. The grassland retention represents landscape but not visual mitigation. Therefore, the assessment of effects presented within the LVIA is considered to be representative of the change experienced by receptors using these routes.
- [Para 2.44] We judge that additional assessments are still needed from at least one closer viewpoint in this area and a verified image.
- [Para 2.45] This viewpoint is also a long way east of any built elements of the development so does not demonstrate the effects of the built structures on the site or its immediate setting.
- [Para 2.46] We are sceptical about the potential growth effects of existing vegetation and consider impacts would remain significant after 15 years. We remain concerned about the long-distance impacts of this large-scale development especially during winter and at night-time.
- [Para 2.47] Noted.

#### Conclusion

Our conclusions remain that the development as proposed would result in the irreversible change to part of a landscape that is considered important at both a National and European level for its intimate, agricultural character, tranquillity and beauty. It adjoins and sits within the setting of a National Landscape. The effect would be significant adverse effects on the immediate Site and its setting and to create the perception of coalescence between Ansty and Cuckfield. The effects on the National Landscape and its setting are not yet fully assessed. Errors and omissions in the approach to the assessment underplay the effect on the landscape and its function. Mitigation of visual effects rely heavily on the intrinsic character and features of the unspoiled landscape which is currently maintained.

- [Para 2.49] The development cannot be considered an 'extension' to Ansty, this being a village of up to 640no. dwellings (across Ansty, Staplefield and Brook Street area, so will be lower) and the proposals being a development of 1450 residential units and associated infrastructure. The intervening agricultural landscape between Ansty and Cuckfield will be reduced from 1.5kms to 0.6kms, significantly reducing the perception that Cuckfield and Ansty are separate settlements. The retained vegetation and green corridor is likely compromised over at least 100m along the A272 by the need to provide lit vehicle access from a roundabout into the development in close proximity to the National Landscape. We disagree that there would be no actual or perceived coalescence between the two villages.
- [Para 2.49] Our understanding is that the strengthened duty in the Countryside and Rights of Way (CROW) Act 2000 (section 85) applies both to plan-making and decision-making and applies both when considering proposals within an AONB/National Landscape and also when it affects its setting.

## Appendix 2

East Sussex TN5 7PR

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Email: [info@highweald.org](mailto:info@highweald.org)

**High Weald  
National  
Landscape**

[www.highweald.org](http://www.highweald.org)

### *Working together to care for an Area of Outstanding Natural Beauty*

Mid-Sussex District Council  
Emailed to [steve.ashdown@midsussex.gov.uk](mailto:steve.ashdown@midsussex.gov.uk)  
4<sup>th</sup> August 2025

Dear Mr Ashdown

**DM/23/2866 Outline planning application (All matters reserved except for access) for the redevelopment of land to the east of Ansty to create a new Garden Community, comprising of the erection of up to 1,450 homes (including 30% affordable housing), up to 90 residential care units (C2 class), a primary school, a SEND school, health hub, sports facilities including all weather hockey pitches and tennis centre, allotments, retail, community and employment uses together with ancillary and associated development including new and enhanced pedestrian/cycle routes, open spaces, and landscaping**  
**Land East Of Ansty Way Cuckfield Bypass Cuckfield West Sussex**

Thank you for consulting us on the above application.

In summary, the High Weald National Landscape Unit objects to this proposal on the following grounds:

- The proposed development, by virtue of its very large scale and its proximity to the High Weald National Landscape (HWNL), would result in a significant and discernible extension of built development into the surrounding countryside, creating a large new urbanisation adjacent to and abutting the HWNL, and would introduce an abrupt change of landscape character in close proximity to the HWNL, and a loss of natural landscape contiguous with the HWNL. Further, it would adversely impact on perceptual qualities of the HWNL of tranquillity and rurality, due to the level of noise, activity and lighting that would inevitably be associated with a development of such large scale, in such close proximity to the HWNL. The proposal would thereby harm the setting of the HWNL, being contrary to objectives S1, S2, W2, DS1, DS2 and PQ2 of the High Weald AONB Management Plan.
- For these reasons, the proposed development would not be sensitively located so as to avoid or minimise adverse impacts on the HWNL, would fail to conserve and enhance the natural beauty of the HWNL and would therefore be contrary to NPPF 189.

It is the responsibility of the Local Planning Authority to decide whether the application meets legislative and policy requirements in respect of National Landscapes (AONBs). Section 85 of the Countryside and Rights of Way Act 2000 requires local authorities to seek to further the purpose of conserving and enhancing the natural beauty of AONBs in making decisions that affect the designated area. It is important to recognise that the duty can therefore apply to development outside, but in the setting of, a National Landscape which affects it.

Conserving and enhancing the natural beauty of the High Weald National Landscape will normally mean avoiding harm, and conserving and enhancing the character components identified in the AONB Management Plan; supporting the Management Plan Objectives as set out for each of these; and following any Management Plan Actions set out for each.<sup>12</sup>

<sup>1</sup> [Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes - GOV.UK](#)

<sup>2</sup> [CROW-s.85-duty-guidance-for-LPAs\\_NLA-Briefing-Nov-24.pdf](#)

#### One of the National Landscapes family

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Dorset  
East Devon  
Forest of Bowland  
Howardian Hills  
High Weald  
Isle of Wight  
Isles of Scilly  
Kent Downs  
Lincolnshire Wolds  
Lyn  
Malvern Hills  
Mendip Hills  
Nidderdale  
Norfolk Coast  
North Devon  
North Pennines  
North Wessex Downs  
Northumberland Coast  
Quantock Hills  
Shropshire Hills  
Solway Coast  
South Devon  
Suffolk Coast and Heaths  
Surrey Hills  
Tamar Valley  
Wye Valley

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*towns, villages, hamlets and farmsteads, remove despoiling influences, and maintain the hinterlands and other relationships (including separation and green infrastructure) between settlements that contribute to local identity.*

#### **Impact on character of the setting of the HWNL**

The proposal is an outline application for a new Garden Community, comprising of the erection of up to 1,450 homes along with various educational, health and recreational amenities and infrastructure over some 247 acres of farmland and woodland to the east and north-east of the village of Ansty, and to the immediate east of, and abutting the boundary of, the High Weald National Landscape (HWNL), with the A272 forming the boundary between the site and the HWNL.

The proposed development would not relate well to the established pattern of development in the area; it would attach a large new 'community' of up to 1,450 houses, onto the small village of Ansty, around which the HWNL boundary skirts, subsuming and overwhelming the existing village, significantly altering its character and landscape setting, and creating a large new urbanisation adjacent to and abutting the HWNL, thereby conflicting with AONB Management Plan Objective S1, and that part of S2 that relates to scale.

There is a clear intervisibility between the site and the HWNL, and therefore, the site makes a positive contribution to the setting of the HWNL. The scale of development proposed would result in a significant and discernible extension of built development into the surrounding countryside and would introduce an abrupt change of landscape character in close proximity to the HWNL, and a loss of natural landscape contiguous with, and of similar character to, the HWNL, thereby causing harm to the character of the setting of the HWNL.

The submitted Design & Access Statement, p18, reflecting the LVIA, promotes that *"Within the wider landscape, views of the site are obscured due to the intervening woodland, trees and topography. As such, there is little to no inter-visibility between the site and the adjacent wider and elevated landscape of the High Weald AONB beyond its immediate eastern edge and setting (viewpoints 3 and 6)."* In disagreeing with this 'little to no inter-visibility', we would highlight that the submitted report itself contradicts this; viewpoints 3 and 6 are in fact described in that report as *'open views of part of the site occur from the road corridor of the A272, to the west and northwest of the site, which partly forms the edge of the High Weald AONB (viewpoint 3)'* and *'From the surrounding landscape, views from the PRoW network are limited to those in close proximity to the site boundaries (viewpoint 6)'* – this viewpoint is from a PRoW within the HWNL. That the views are 'limited to those in close proximity', or 'filtered' views through trees, or restricted to those from the eastern edge of the HWNL, in no way diminishes the importance of that intervisibility and the potential for harm to be caused to the natural beauty of the HWNL.

Despite the undeveloped landscape 'buffers' proposed on the illustrative masterplan material and the Green Infrastructure Parameters Plan, these areas are shown to include play areas/pitches to the school, and the areas are not shown to extend to the north-western edge of the northern parcel. Whilst they may in some locations minimise direct inter-visibility, overall, such buffers are not considered to address all the impacts on the HWNL outlined in these comments.

Also concerning is that the submitted Building Heights Parameter Plan proposes tall buildings of 3 storeys/15m ridge height in the area for the 'local centre', located only some 130m from the HWNL boundary. Such building heights are uncharacteristic of High Weald settlements, (see High Weald Housing Design Guide) and as such, would exacerbate the incongruity of the proposed new development in the landscape in the setting of the HWNL. Therefore, and without prejudice to our overall objections to the proposal, should the LPA be minded to grant permission, it is recommended that the parameter plans, are specifically excluded from the approved drawings, in order that these issues can be addressed in future parameter plans at reserved matters stage.

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### Tranquillity & Dark Skies

Meanwhile the scale of the proposed development would adversely impact on perceptual qualities of the HWNL of tranquillity and rurality due to the level of noise, activity and lighting that would inevitably be associated with a development of 1,450 new houses and the associated education, health and recreational infrastructure, in such close proximity to the HWNL, thereby conflicting with Objective PQ2 of the AONB Management Plan.

It is a concern that the submitted RPS Lighting Impact Assessment, whilst acknowledging the AONB Management Plan, and setting out, in para 5.1 the *Lighting Professionals (ILP) Guidance Note for the Reduction of Obtrusive Light*, and list of 'Environmental Zones', (for which AONBs fall into zone E1), the consultants go on to erroneously base their assessment on an environmental zone classification of E2. In fact, the ILP Guidance Note clarifies that where an area to be lit lies close to the boundary of two zones the obtrusive light limitation values used should be those applicable to the most rigorous zone – this means that where a rural site is outside of, but adjacent or very close to the AONB boundary, as is the case with this application, zone E1 should be used.

The lighting assessment, whilst being carried out for an outline proposal only, suggests that streetlighting would be proposed in the development (paras 7.2 and 8.1). However, the HWNL is characterised by villages with little or no streetlighting, and the adverse urbanising effects of street lighting are set out in the AONB Management Plan, and this is expanded in the HWNL Dark Skies Planning Advice Note (2024). Ansty village currently has no streetlighting, and to introduce such uncharacteristic street lighting into the proposed new development would exacerbate its adverse impact on the setting of the HWNL.

### Impacts on Ancient Woodland

The site includes a number of areas of designated ancient woodland (ASNW) including Highbridge Mill Shaw. In this regard, and whilst acknowledging this is an outline application, a number of layout aspects of the indicative Concept Masterplan and Parameter Plans are concerning – for example, the proposed locating of the 'local centre' – a high activity area – in close proximity to the ASNW of Highbridge Mill Shaw, with resulting indirect impacts on the ASNW, the proposed routing of a main internal access road again in close proximity to that same ASNW, and the inclusion of a somewhat isolated double parcel of development proposed north of Highbridge Mill Shaw ASNW, between it and other existing woodland to the north and north-east (priority habitat deciduous woodland and Highbridge Mill ASNW), fragmenting and reducing the functional inter-connectivity of these important habitats. Those habitats will also have functionally inter-connectivity through to similar just over the boundary within the HWNL. Therefore, and without prejudice to our overall objections to the proposal, should the LPA be minded to grant permission, it is recommended that the parameter plans, Concept Masterplan as well as all other indicative masterplans, are specifically excluded from the approved drawings, in order that these strategic layout issues can be addressed in future parameter plans/masterplans.

### Toucan Crossing

Lastly, the indicative masterplan also proposes taking cycle paths up the north-western part of the site, to cross the A272 with a Toucan crossing, details for which have also been submitted. Such a traffic light controlled system would introduce intrusive lighting and urbanising highways infrastructure, along with increased activity and disturbance, in a highly rural stretch of the A272 bordering the HWNL, and crossing into the HWNL in an area of Priority Habitat Deciduous Woodland. The purpose of the crossing is purely for connecting the proposed development with an area of 'Parkland Reserve' on the west side of the A272, (separate planning application ref 23/2867). The infrastructure associated with the crossing would exacerbate the impact of the residential development in the setting of the HWNL, bringing intrusion right up to the HWNL. As such, this part of the proposal would not conserve and enhance the HWNL, and would be contrary to Management Plan Objective PQ2 and associated Action 'i'.

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We have already submitted objections to the application for the 'Parkland Reserve', which itself appears to be unnecessary to provide green space and recreational access for the new 'Garden Community', since the residential scheme itself proposes extensive, significant green infrastructure within its own site boundary to the east of the A272, including ancient woodland, other retained woodland, 'community growing areas', 'wild open spaces to connect with nature', 'multi-functional public open space', sports facilities and a range of other green open spaces as shown on the illustrative masterplan material. In view of the additional urbanising highways infrastructure in this application, intrusive and uncharacteristic to this rural location, and which only serves to connect the development to an area of countryside unnecessary for the development, we request that should the LPA be minded to grant permission for the housing application, this crossing be excluded from the approved drawings.

#### Design

As this is an outline application, with all matters apart from access reserved, the submitted Design Code has not been assessed in the preparation of these comments. However, it is noted that the Design Code contains substantial detail, much of it pertaining to the layout approach. In view of our above comments, regarding potential layout impacts on the setting of the HWNL, it is recommended that should the LPA be minded to grant permission for the housing application, the Design Code be specifically excluded from the approved drawings, in order that these issues can be addressed in future parameter plans/masterplans/Design Codes at Reserved Matters stage.

#### Summary

It is considered that the proposed development, by virtue of the scale of development and its proximity to the HWNL, would harm the setting of the HWNL. It would result in a significant and discernible extension of built development into the surrounding countryside, creating a large new urbanisation adjacent to and abutting the HWNL, and would introduce an abrupt change of landscape character in close proximity to the HWNL, and a loss of natural landscape contiguous with the HWNL. It would also adversely impact on perceptual qualities of the HWNL of tranquillity and rurality due to the level of noise, activity and lighting that would inevitably be associated with a development of such large scale, in such close proximity to the HWNL. The proposal would thereby be contrary to objectives S1, S2, W2, DS1, DS2 and PQ2 of the High Weald AONB Management Plan, would conflict with para 189 of the NPPF which seeks to ensure that development within the setting of the National Landscape avoids or minimises adverse impacts on it, and would fail to conserve and enhance the landscape character and natural beauty of the HWNL.

For various reasons set out in these comments, and without prejudice to our overall objections to the proposal, should the LPA be minded to grant permission, it is recommended that the Parameter Plans, the Concept Masterplan, as well as all other indicative masterplans, and the Design Code, are specifically excluded from the approved drawings, in order to seek to address the various strategic layout issues in future parameter plans/masterplans at the reserved matters stage.

The above comments are advisory and are the professional views of the HWNL Unit's Planning and Design Advisor on the potential impacts on the High Weald landscape. They are not necessarily the views of the HWNL Joint Advisory Committee.

Yours sincerely,

Diane Russell BSc Hons Dip Arch PgDip Arch Cons  
Planning & Design Advisor, High Weald AONB Unit

*Advising on an outstanding medieval landscape; connecting people, protecting beauty, restoring soils and nature.*

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## Appeal Decision

Inquiry held between 15 – 22 August 2023

Accompanied site visit made on 24 August 2023

**by Dr Rachael A Bust** BSc (Hons) MA MSc LLM PhD MIOl MCMI MIEEnvSci MRTPI

an Inspector appointed by the Secretary of State

**Decision date: 5<sup>th</sup> October 2023**

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**Appeal Ref: APP/D3830/W/23/3319542**

**Land south of Henfield Road, Albourne (Easting 526300: Northing 116837)**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Croudace Homes Ltd against the decision of Mid Sussex District Council.
  - The application Ref DM/22/2416, dated 28/07/2022, was refused by notice dated 25 November 2022.
  - The development proposed is the erection of up to 120 residential dwellings including 30% affordable housing, public open space and community facilities. All matters are reserved except for access.
- 

### Decision

1. The appeal is dismissed.

### Preliminary and Procedural Matters

2. The Case Management Conference call was held on 19 June 2023. During the Inquiry there was formal presentation of evidence with cross examination of the matters of landscape, heritage and planning. Round table sessions were used to examine the five-housing land supply evidence, planning conditions and obligations.
3. In addition to the accompanied site visit which included a walking route agreed by the parties, I also carried out two unaccompanied visits to the site and Albourne using public footpaths. The first on 14 August the day before the Inquiry opened, and the second on 18 August having heard the evidence in relation to landscape and heritage.
4. The application was made in outline with access as the only matter to be considered at this stage. The Planning Statement of Common Ground (SoCG) set out the agreed plans which form the appeal scheme together with a list of the supporting plans, including parameter plans. Despite the outline nature of the scheme during the Inquiry frequent references were made by witnesses from both parties to the Land Use Plan (drawing reference 3117/A/1201/PR/C); such that by the Inquiry session on planning conditions, the main parties agreed that this plan should be elevated from being a supporting and parameter plan in the original submission to become an approved scheme plan in the event that the appeal were to be allowed. Having regard to the *Wheatcroft* principles<sup>1</sup>, as the Land Use Plan was part of the full suite of

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<sup>1</sup> *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

documents and consulted upon, I am satisfied that no prejudice would arise to any party from the change of status of this Plan. Accordingly, I have determined the appeal on the basis of the original scheme plans together with the Land Use Plan. All other supporting and parameter plans are for indicative and illustrative purposes only and I have therefore considered them accordingly.

5. The application was refused planning permission for four reasons. These related to harm to the aspects of (i) landscape character, (ii) views from 2 public rights of way (Footpaths 12\_1A1 and 15\_1A1) and (iii) several designated heritage assets and (iv) the absence of infrastructure and affordable housing contributions. The Planning SoCG<sup>2</sup> confirms that the fourth reason for refusal would be addressed through the submission of a planning obligation under Section 106 of the Town and Country Planning Act 1990.
6. Two Section 106 planning obligations were submitted in draft and subsequently discussed at a round table session during the Inquiry. The signed and executed versions dated 29 August 2023 were submitted within the agreed timescale following the close of the Inquiry. Both deeds contain the mechanism (sometimes known as a 'blue pencil' clause) which provides that for any obligation(s) which I find does not pass the statutory tests such obligation(s) shall have no effect and consequently the owner and/or other covenanters shall not have liability for payment or performance of that obligation. I have had regard to both planning obligations and the Council's submitted Infrastructure Statement and will return to them later in the decision.
7. One planning obligation is made by way of an Agreement between the District Council, County Council, Appellant and Landowner. The Agreement provides for index linked financial contributions for formal sport, play space, kickabout, community buildings, local community infrastructure, police, health, primary and secondary education, libraries and transport. Associated administration/monitoring costs are also included. In addition, it secures the provision for on-site affordable housing. It also includes provision for the community orchard, locally equipped area of play (LEAP), public open space, and a community building to include a shop.
8. The second planning obligation by way of Unilateral Undertaking on the part of the Landowner and Appellant in favour of the County Council provides additional school land, woodland school land and school car park.
9. A revised National Planning Policy Framework (the Framework) was published on 5 September 2023 which replaces the version published in July 2021. However, the only revision relates to the Government's policy on onshore wind development within chapter 14. There is no onshore wind proposed as part of this appeal scheme. As such there was no need to seek the parties' views on the revision to the Framework.
10. From all I have read, heard and seen, the main issues are:
  - (i) The effect of the proposal on the landscape character including the public rights of way;

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<sup>2</sup> CDD.1 – Statement of Common Ground (25 July 2023)

(ii) The effect of the proposal on the significance of nearby designated heritage assets including the Albourne Conservation Area and Listed Buildings; and

(iii) Whether or not the Council can demonstrate a deliverable 5-year housing land supply.

### **Reasons**

11. For the purposes of this appeal the relevant part of the Development Plan comprises the *Mid Sussex District Plan 2014-2031* adopted in March 2018 (the DP); the *Mid Sussex Site Allocations Development Plan Document* (the DPD) adopted in June 2022 and the *Albourne Parish Council Neighbourhood Plan* made in September 2016 (the NP). The Council confirmed that no concerns were raised in relation to *West Sussex Joint Minerals Local Plan (2018)*, so I do not consider minerals any further.
12. The Council and the Appellant consider that the following policies, which are included in the reasons for refusal, should be considered most important for this scheme. These are Policies DP6, DP12 and DP15 of the DP together with Policies ALC1 and ALH1 of the NP. I see no reason to disagree. Consideration of the relevant policies and weight to be given to them is considered in the planning balance.
13. The appeal site is located outside of the defined built-up area boundary of Albourne and is therefore in the countryside for policy purposes. The proposal is not necessary for the purposes of agriculture or supported by a specific policy reference elsewhere in the overall development plan and therefore there is conflict with Policy DP12 of the DP.
14. Albourne is defined as a category 3 medium sized village which provides essential services for the needs of residents and immediate surrounding communities. It is not disputed that Albourne is a settlement which can receive some growth. However, Policy DP6 envisages any expansion outside of the built-up area to be contiguous and that un-allocated windfall sites would be for 10 dwellings or fewer. The appeal proposal is for up to 120 dwellings which is a significant scale in relation to this policy expectation and would represent a substantial increase on the number of existing households in the village based on the Census 2021<sup>3</sup>. In this respect the proposal would conflict with Policy DP6 of the DP.

### ***Landscape character***

15. The appeal site comprises approximately 11.54ha and is located to the south of Henfield Road, on the western side of Albourne. It is agreed that the appeal site is not covered by any national or local landscape designations. It is not considered to be a valued landscape in accordance with paragraph 174(a) of the Framework and the impact on the South Downs National Park is neutral. As such the appeal site is to be regarded as the countryside which should in any event be recognised and valued for its intrinsic character and beauty according to paragraph 174(b) of the Framework.

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<sup>3</sup> ID13 Census 2021 Profile for Albourne indicates that there are 270 households in Albourne rounded to the nearest 10 households.

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16. Several landscape character assessment documents have been put to me, including the relevant extract from the National Character Area<sup>4</sup>, a county-wide assessment<sup>5</sup> and a district-wide assessment<sup>6</sup>. Collectively, these provide a useful context and from them, and as confirmed by my site visit, the appeal site is located within an agricultural and pastoral rural landscape which has a largely dispersed settlement pattern of small hamlets, ancient farmsteads and farmstead clusters. The patchwork pattern of fields is generally enclosed by hedgerows and/or trees which form small woodlands. The topography is undulating with ridges and vales. Whilst these features are not rare, they are important to the rural landscape character of the countryside in this location.
17. The appeal site can be viewed as three portions, the northern part with a defined orchard area; the central and southern parts are divided east to west by one of the two Public Rights of Way (Footpath 15\_1A1) and a hedge line which is patchy in places. Consequently, there is a sense of openness and connection between adjacent fields. Footpath 12\_1A1 runs along the eastern boundary of the southern portion in a north-south direction. Individual and groups of trees are present in places around the site boundary. The undulating nature of the topography allows a wide variety of short, medium and longer views, including to the South Downs from the site and across the site.
18. I consider that the appeal site is typical of the landscape in this location and shares many of the characteristics established in the collection of landscape character assessment documents. Consequently, in my opinion, the appeal site integrates very well into the wider landscape.
19. The appeal proposal is in outline, with the layout and external appearance to be considered at a future reserved matters stage. However, the Land Use Plan and other supporting and parameter plans help to illustrate how the site could be developed. It was clear throughout the Inquiry that by following a landscape led approach, the housing and built development would be focussed on the central part of the site with the southern portion becoming a form of managed landscape public open space. The existing orchard area to the north end would be largely unchanged, however this is the minority portion of the overall appeal site.
20. It is acknowledged by both main parties that as an undeveloped site adjacent to an existing settlement there will be some landscape character harm. The appeal scheme would be seen as a significant extension to the side of the village. I am not entirely persuaded that due to the scale, siting and the provisions indicated on the Land Use Plan that it could be effectively integrated with Albourne.
21. I have had full regard to the intentions set out in the Design and Access Statement (CDA.3) and the evidence of Ms Ritson for a landscape-led and design-led approach. A Landscape and Visual Impact Assessment with addendum<sup>7</sup> was submitted as part of the planning application. There is no dispute regarding the methodology used, the disagreement relates to landscape sensitivity, landscape effects and visual effects. At the Inquiry the Appellant presented an agreed Revised Landscape and Visual Clarification Note<sup>8</sup>

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<sup>4</sup> CDG.10 – Natural England National Character Area NCA 121 The Low Weald

<sup>5</sup> CDG.11 – West Sussex County Council A Strategy for the West Sussex Landscape (October 2005)

<sup>6</sup> CDG.1 – A Landscape Character Assessment for Mid Sussex (November 2005)

<sup>7</sup> CDA.15 – Landscape and Visual Impact Assessment (July 2022) & CDA.16 – Addendum LVIA (September 2022)

<sup>8</sup> ID1 – Landscape and Visual Clarification Note, Revision A, Ms Ritson (August 2023)

which contained 3 tables to identify in summary form, the differences in the assessments of receptors and effects.

22. During my various visits to the area, I saw all of the agreed visual receptors<sup>9</sup>, some of which were from the closest point of public land. In my opinion the visual receptors where the impact of the proposal would be the greatest are those which are closest to the appeal site and include both footpaths 15\_1A1 and 12\_1A1, the Millennium Garden, the Primary School, Henfield Road near Inholmes Farmhouse and Church Lane.
23. Footpaths 12\_1A1 and 15\_1A1 were specifically identified in the second reason for refusal. These public footpaths appear to be well used and as Mr Zeidler explained to the Inquiry, they offer some more level walking and are less prone to mud than other footpaths. In addition to the accompanied site visit I walked the paths at other times and was passed by walkers and dog walkers.
24. It is important to remember that from the footpaths the experience will be kinetic, since there will be continuing change as a receptor moves along the footpath in countryside. With the exception of the section of Footpath 12\_1A1 which is narrow and enclosed with vegetation alongside the primary school, both footpaths provide attractive routes that link up with a wider network of paths for informal recreation. At present users of these footpaths have an immediate experience of rural and traditional agricultural open fields and all-round views despite some more recent planting, including the attractive views of the South Downs escarpment and Wolstonbury Hill when leaving the edge of Albourne. Walkers are likely to particularly value the rural nature of these paths and are likely to be attuned to the environment through which they pass and thus highly sensitive to change.
25. I heard at the Inquiry that the southern portion of the site would be an area of managed landscaped open space with a variety of paths and interpretation boards. Whilst the precise treatment of the southern portion and other aspects of detail would be assessed by the Council in a future reserved matters application, at this stage the principle of development and therefore change is examined. The change would diminish the current rural and traditional agricultural experience of the users of the sections of Footpaths 12\_1A1 and 15\_1A1 that run alongside and through the appeal site. Consequently, people would need to walk much further west from Albourne beyond the appeal site to gain a similar experience to what is experienced at present. The addition of a specific viewpoint, as fine as it is, would not overcome the harm arising from the change in the southern field as a whole.
26. I concur with the Appellant's description of the Millennium Garden that it is a small, reflective space. From my site visits and spending time in this community space I found it to be very peaceful, tranquil and from the northern bench, it provides an opportunity to enjoy a variety of short, medium and longer views of the wider countryside. The appeal scheme would introduce a permanent change. Future users of the Millennium Garden would see the car parking area and potentially a community building in short views followed by medium views of new housing. Even if the housing layout was designed to enable some longer views of the countryside, this would not be sufficient to mitigate the significant adverse impact that would arise.

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<sup>9</sup> CDD.2 – Landscape Statement of Common Ground, Table 1 (17 July 2023)



27. The primary school is a sensitive receptor as it would share a boundary with the central section of the appeal site. Even with boundary vegetation the sense of change that would be experienced in this location from rural traditional agricultural field to built development would be a significant adverse change.
28. Church Lane is a rural lane bounded by a vegetated bank opposite the row of dwellings. The lane is at a lower level than the southern portion of the appeal site. From the proposed appeal site access, the roofline of dwellings on Church Lane to the south can be seen nestling and positively contributing to the rural landscape. Despite intervening field boundary vegetation from various points walking along Church Lane there is a strong sense of openness arising from the rural agricultural field and vistas across it. The topography of the southern field adds to the rural character and has a steep slope from northwest to southeast together with a more gentle valley slope in approximately half of the eastern side of the southern field which is the lowest point where it meets Church Lane. Although the appeal scheme would not aim to introduce built development into this southern field, the proposed change to a managed landscape would be significant and adverse.
29. From the mid-point of Church Lane, it is my opinion that the edge of the proposed built development on the central field would be likely to be perceptible between intervening vegetation when in leaf and more so during autumn/winter seasons or when vegetation has had pruning maintenance. From this section the primary school can be seen in the medium distance views and also the roofline of Inholmes Farmhouse outside the northern boundary of the appeal site in the longer views. From parts of Church Lane, new rooflines would be likely to appear as skyline development and would result in a harmful change to the character of the landscape.
30. Inholmes Farmhouse is an attractive large three storey dwelling which occupies a prominent position on Henfield Road. It currently acts a local focal point due to its siting and height. From the public highway outside Inholmes Farmhouse with some intervening vegetation the appeal site can be seen in wide open landscape scale views. From Henfield Road longer range views across the site to the South Downs can be seen. Residential development in the central section of the appeal site as proposed would completely obscure these longer-range views.
31. Allowing greater public access to the countryside in addition to the 2 footpaths is positive. My accompanied site visit enabled me to stand in a localised high point of the southern field which is not presently available to the public and experience the particularly fine views of Wolstonbury Hill and the South Downs ridgeline. Notwithstanding this particularly fine viewpoint spot that could become available, this opportunity must be balanced against the change in the experience that would arise from the appeal proposal as a whole.

#### *Landscape Character Conclusion*

32. Despite the outline form of the proposal and all of the Appellant's intentions that I have read and heard about producing a landscape led scheme, the current landscape is already attractive which does not require improvement. The change that would arise to the landscape character from the appeal proposal would be considerable, with the exception of the orchard which would remain largely unchanged. The adverse impact would be the greatest for

visual receptors which are closest to the appeal site. Although predominantly localised, other receptors would still experience change but to a lower level of significance and effect. The walkers near Albourne Place and near Lanehurst would experience a neutral change and similarly from the long-range receptors, the views from Wolstonbury Hill and Devil's Dyke, the change would also be neutral since the site is imperceptible without binoculars.

33. Even with landscaping measures to be submitted at the reserved matters stage, I am not satisfied that at year 15<sup>10</sup> they could overcome the harm I find from the principle of the proposal in relation to the landscape character and the experience for users of both Footpaths 12\_1A1 and 15\_1A1 and the Millennium Garden.
34. Accordingly, the proposal conflicts with Policies DP6, DP12 and DP15 of the DP. As spatial policies which define the circumstances in which development will be permitted beyond the built-up area boundary, there is no dispute that the appeal scheme is contrary to all 3 policies. There would also be conflict with Policies ALC1 and ALH1 of the NP. Policy ALC1 seeks to conserve and enhance the character of the countryside and maintains or enhances the quality of the rural and landscape character. Policy ALH1 indicates that housing development would be supported immediately adjoining the built-up area where, amongst other things, the development is appropriate to a village setting in terms of scale, makes use of a brownfield site or infill and surrounded by existing development. The appeal proposal fails to comply with these criteria. In addition, the appeal proposal would not be supported by paragraph 174 (b) of the Framework.

#### ***Designated heritage assets***

35. The appeal site lies adjacent or near to several designated heritage assets which would be affected by the proposal including the Albourne Conservation Area (ACA). There are no listed buildings within the appeal site. However, the Council contends that the appeal site falls within the setting of six Grade II Listed Buildings, namely *Hunter's Cottage*, *Bounty Cottage*, *Finches* and *Souches* on The Street which lie to the east of the appeal site; *Spring Cottage* on Church Lane to the south of the appeal site and *Inholmes Cottage* on Henfield Road to the north-east of the appeal site.
36. In addition to viewing all these properties and ACA from the public realm, during the accompanied site visit I had the opportunity to view the appeal site from within the gardens of *Finches*, *Souches* and *Bounty Cottage* on the western side of The Street. Also at the request of a third party I visited the property known as *Nortons Cottage* on the eastern side of The Street within the ACA.
37. Specific statutory duties arise in relation to designated heritage assets. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard should be had to the desirability of preserving the setting of Listed Buildings. This means that considerable weight and importance must be given to any harm caused to the Listed Buildings or their setting. Similarly, section 72(1) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of any buildings or other land in a Conservation Area. Unlike the setting of the listed

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<sup>10</sup> ID2 – Agreed Revised Comparison of Year 15 Effects on Visual Effects (13 August 2023)

buildings, the setting of Conservation Area is not protected by statute. Nevertheless, the same considerations will apply as a matter of policy in terms of weighing harm to significance against benefits.

38. The special interest of a heritage asset derives not only from its physical presence and historic fabric but also from its setting which comprises the surroundings in which it is experienced. The setting of a heritage asset can therefore contribute to the significance of the designated heritage asset.
39. The Glossary of the Framework suggests that the setting of a heritage asset is the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. The word 'experienced' has a broad meaning, which is capable of extending beyond the purely visual, and could include, but is not limited to, economic, social and historical relationships, and considerations of noise and smell.
40. The Framework indicates that when considering the impact of a proposed development on the significance of the designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).
41. The Council and Appellant agree that the appeal proposal would cause less than substantial harm to the setting of the Listed Building of *Finches* and to the ACA. Whilst they have a different viewpoint on the magnitude of harm when using a spectrum approach, any harm should be given weight in the decision-making process. There is no common ground between the main parties regarding the effect on the other 5 Listed Buildings.

#### *Albourne Conservation Area*

42. The ACA abuts the appeal site boundary within the southern portion. The ACA is centred on the historic nucleus of development along the southern part of The Street and incorporating part of Church Lane. Historically, this area was known as Albourne Street and it contains a number of Listed Buildings. Although there is no Conservation Area Appraisal or equivalent, the Council's document 'Conservation Areas in Mid Sussex' (CDF.10) provides a high-level description which describes the character of The Street as an important feature. The Street is a sunken road in the core of the ACA which creates a sense of enclosure due to banks and retaining walls. The variety of vegetation provided a verdant appearance at the time of my site visit. The absence of a defined building line and pavement creates a rural meandering character and adds to the feeling of the ACA being informal.
43. It is common ground that the significance of the ACA lies in its status as a small, rural village which would have, historically, been surrounded by agricultural farmland. Furthermore, there is agreement that the surrounding landscape provided an agrarian based economy for the early development of the settlement which later diversified into dairy farming and market gardens. The siting, design and materials of a number of buildings within the ACA despite some alterations over time, still have an agricultural feel and therefore provide a historical link and relationship with the surrounding landscape.
44. The document 'Conservation Areas in Mid Sussex' (CDF.10) specifically identifies the attractive views to the west and south from ACA. As such it is common ground that the views to the west from the ACA includes the appeal

## Annex 4 Proposed Planning Conditions

1. Approval of the details of the siting, design, appearance and landscaping of the site (hereinafter called the "reserved matters") shall be obtained from the Local Planning Authority, prior to the commencement of development on site, and the development shall be carried out as approved.

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 5 years from the date of this permission.

The development hereby permitted shall be begun before the expiration of 2 year from the date of the approval of the last of the reserved matters to be approved.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990.

2. Prior to the submission of any Reserved Matters application, the following plans and documents will be submitted to and approved in writing with the Local Planning Authority;

- Land-Use Parameter Plan
- Green Infrastructure Plan
- Access and Movement Parameter Plan
- Building Height Parameter Plan
- Density Parameter Plan
- A Design Code

All submitted reserved matter applications shall be submitted in broad accordance with the approved plans/documents.

Reason: In order to ensure that the proposal provides for a high-quality development that is appropriate for its setting and to accord with policies DP16 and DP26 of the Mid Sussex District Plan 2014-2031.

3. Prior to the submission of any Reserved Matters application, a phasing plan shall be submitted to and approved in writing with the Local Planning Authority. The subsequent Reserved Matters, and condition discharged applications, shall be submitted having regard to the agreed phasing.

Reason: In order to ensure that the development is delivered in an organised fashion and to comply with Policy DP26 of the Mid Sussex District Plan 2014-2031.

4. Each reserved matters application shall be accompanied by a Design Principles Statement setting out how the design principles contained within the approved

Design Code have been applied within the reserved matters area to which the reserved matters application relates.

Reason: In order to ensure that development complies with the agreed principles within the Design Code to achieve a high-quality development and to accord with policy DP26 of the Mid Sussex District Plan 2014-2031.

5. No works shall commence on the site hereby permitted (including site clearance or preparation) until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority (who shall consult with National Highways). Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters,
- the anticipated number, frequency and types of vehicles used during construction,
  - the method of access and indicative routing of vehicles during construction,
  - the parking of vehicles by site operatives and visitors,
  - the loading and unloading of plant, materials and waste,
  - the storage of plant and materials used in construction of the development,
  - the erection and maintenance of security hoarding,
  - the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
  - details of public engagement both prior to and during construction works.
  - hours of construction work and construction delivery details;
  - measures to control noise affecting nearby residents;
  - dust control measures;
  - pollution incident control and site contact details in case of complaints.

Reason: In the interests of highway safety, including ensuring that the A23 Trunk Road continues to be an effective part of the national system, and the amenities of the area and to accord with policies DP21, DP26 and DP29 of the Mid Sussex District Plan 2014-2031.

6. No development shall take place until a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
- Risk assessment of potentially damaging construction activities.
  - Identification of “biodiversity protection zones”.
  - Practical measures (both physical measures and sensitive working practices) to avoid or
  - reduce impacts during construction (may be provided as a set of method statements).
  - The location and timing of sensitive works to avoid harm to biodiversity features.

- The times during construction when specialist ecologists need to be present on site to oversee works.
- Responsible persons and lines of communication.
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC.

7. Prior to the commencement of any phase of the development hereby permitted, the details of a scheme of mitigation measures to improve air quality relating to the development shall be submitted and approved in writing by the Local Planning Authority. The scheme be in accordance with, and to a value derived in accordance with, the Air quality and emissions mitigation guidance for Sussex which is current at the time of the reserved matters application. All works which form part of the approved scheme shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: To ensure an appropriate level of air quality mitigation is achieved and to comply with policy SA38 of the Site Allocations Development Plan Document 2022.

8. All mitigation measures and/or works shall be carried out in accordance with the details contained in the ecological assessments as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This includes the following documents:

- Dormouse Mitigation Statement (The Ecology Co-op, February 2024)
- Biodiversity Impact Calculation (The Ecology Co-op, October 2023) submitted November 2024 as a separate document. Already included in the ES Volume 4 Part 1 – 9 November 2023 Appendix G: Ecological Impact Assessment (Ecologic, October 2023)
- Volume 4 November 2023 Appendix G: Ecology and Biodiversity Ecological Impact Assessment (The Ecology Co-op, October 2023),
- Appendix G2: Bat trapping and Radiotracking Report (Temple Group Ltd., February 2023), • ES 3 (EcoLogic LLP (undated),
- Appendix 6 Proposed Management Action Plan (EcoLogic LLP (February 2023))
- Volume 2 Chapter 2: The Site (Temple Group Ltd., November 2023)

- Habitat & Ecological Restoration Management Plan Rev A, (Tadorna Consulting Ltd., March 2023)
- Biodiversity Impact Calculation - Habitat & Ecological Restoration Management Plan Rev A, (Tadorna Consulting Ltd., March 2023)
- Non-Technical Summary (Temple Group Ltd., November 2023)
- Volume 2 Chapter 11: Ecology and Biodiversity (Temple Group Ltd., November 2023)
- Volume 2: Main Text (Temple Group Ltd., November 2023)

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as amended) and to accord with policy DP38 of the Mid Sussex District Plan 2014-2031.

9. Any works, within any phase, which will impact the breeding / resting place of Hazel Dormouse, shall not in in any circumstances commence unless the local planning authority has been provided with either:

a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or

b) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.”

Reason: To conserve protected species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s17 Crime & Disorder Act 1998 and to comply with policy DP38 of the Mid Sussex District Plan 2014-2031.

10. In support of each and every Reserved Matters application, a Biodiversity Enhancement Strategy for protected, Priority and threatened species, shall be prepared by a suitably qualified ecologist in line with the recommendations of Volume 4 November 2023 Appendix G: Ecology and Biodiversity Ecological Impact Assessment (The Ecology Co-op, October 2023), shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

a) Purpose and conservation objectives for the proposed enhancement measures;

b) detailed designs or product descriptions to achieve stated objectives;

c) locations of proposed enhancement measures by appropriate maps and plans (where relevant);

d) persons responsible for implementing the enhancement measures; and e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To enhance protected, Priority and threatened species and allow the LPA to discharge its duties under paragraph 187d of NPPF 2024 and s40 of the NERC Act 2006 (as amended) and to accord with policy DP38 of the Mid Sussex District Plan 2014-2031.

11. Prior to occupation within any phase, a “lighting design strategy for biodiversity” in accordance with Guidance Note 08/23 (Institute of Lighting Professionals) shall be submitted to and approved in writing by the local planning authority. The strategy shall:

a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and

b) show how and where external lighting will be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.”

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as amended) and to accord with policy DP38 of the Mid Sussex District Plan 2014-2031.

12. In support of any Reserved Matters application, further supplementary ecological surveys for roosting bats in trees and Hazel Dormouse shall be undertaken to inform the ecological measures. The supplementary surveys shall be of an appropriate type for the above species and survey methods shall follow national good practice guidelines.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.”

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife &

Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as amended) and to accord with policy DP38 of the Mid Sussex District Plan 2014-2031.

13. Prior to the commencement of development, a Biodiversity Net Gain Plan evidencing that a measurable biodiversity net gain can be achieved for the development, shall be submitted to and approved in writing by the local planning authority. T

The content of the Biodiversity Net Gain Plan should include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures.
- b) The completed biodiversity metric – calculation tool and condition assessments.
- c) The habitat maps for the pre and post development values.
- d) Details of the management and monitoring proposals to achieve condition targets.
- e) Details of any off-site provision to be secured by a planning obligation.

The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reasons: In order to demonstrate measurable biodiversity net gains and allow the LPA to discharge its duties under the NPPF 2024 and to accord with Policy DP38 of the Mid Sussex District Plan 2014-2031.

14. In support of any Reserved Matters application that include the provision of outdoor sports facilities/pitches, details of proposed external lighting, which should be in accord with the lighting report submitted by MEC Consulting Group report ref: 29283-LIGH-0401 (dated December 2024), shall be submitted to and approved in writing with the Local Planning Authority.

The scheme shall only be implemented in accordance with the approved details and retained as such thereafter.

Reason: To protect residential amenity from light pollution and to accord with policies DP26 and DP29 of the Mid Sussex District Plan.

15. The development hereby permitted shall not be occupied/brought into use until the following components of a scheme to deal with the risks associated with contamination of the site, including the identification and removal of asbestos containing materials, have each been submitted to and approved, in writing, by the local planning authority:

- a) A site investigation scheme, based on Geo environmental and Geo technical desktop study by Campbell Reith consulting engineers, reference 13694, dated October 2023, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;

And, unless otherwise agreed in writing by Local Planning Authority,

- b) Based on the site investigation results and the detailed risk assessment  
(a) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and to accord with policy DP26 of the Mid Sussex District Plan 2014-2031.

- 16. The development, in any phase, hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority a verification plan by a competent person showing that the remediation scheme required and approved has been implemented fully and in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation), for that phase. Any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action shall be identified within the report and thereafter maintained.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and to accord with policy DP26 of the Mid Sussex District Plan 2014-2031.

- 17. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the Local Planning Authority. The remediation measures shall be carried out as approved and in accordance with the approved programme. If no unexpected contamination is encountered during development works, on completion of works and prior to occupation a letter confirming this should be submitted to the Local Planning Authority. If unexpected contamination is encountered during development works, on completion of works and prior to occupation, the agreed information, results of investigation and details of any remediation undertaken will be produced to the satisfaction of and approved in writing by the Local Planning Authority.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and to accord with policy DP26 of the Mid Sussex District Plan 2014-2031.

- 18. No development shall take place, within any phase, unless and until details of the existing and proposed site levels, of that particular phase, have been

submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: For the avoidance of doubt and to ensure that the development does not prejudice the appearance of the locality and to accord with Policy DP26 of the Mid Sussex District Plan 2014-2031.

19. Prior to the commencement of any residential phase of the development hereby permitted, the details of a scheme of mitigation measures to improve air quality relating to the development shall be submitted and approved in writing by the Local Planning Authority. The scheme be in accordance with, and to a value derived in accordance with, the Air quality and emissions mitigation guidance for Sussex which is current at the time of the reserved matters application. All works which form part of the approved scheme shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: To ensure an appropriate level of air quality mitigation is achieved and to comply with policy SA38 of the Site Allocations Development Plan Document 2022.

20. To support any residential reserved matters application(s), a scheme that addresses the issues of acoustics, ventilation and overheating (AVO) shall be submitted to the Local Planning Authority to demonstrate how the proposals meet the following requirements;

Good acoustic design shall be fully integrated into the scheme. The hierarchy of good acoustic design (GAD) outlined below shall be applied in descending order and the methods utilised shall be clearly outlined in an Acoustic Design Statement (ADS):

- i. Maximising the spatial separation of noise source(s) and receptor(s).
- ii. Investigating the necessity and feasibility of reducing existing noise levels and relocating existing noise sources
- iii. Using existing topography and existing structures (that are likely to last the expected life of the noise-sensitive scheme) to screen the proposed development site from significant sources of noise
- iv. Incorporating noise barriers as part of the scheme to screen the proposed development site from significant sources of noise
- v. Using the layout of the scheme to reduce noise propagation across the site
- vi. Using the orientation of buildings to reduce the noise exposure of noise sensitive rooms
- vii. Using façade design e.g. façade barriers, balconies and winter gardens to minimise exposure to noise
- viii. Using the building envelope to mitigate noise to acceptable levels

The scheme shall;

- a) outline the level of noise exposure for each property and how the noise level within any domestic living room or bedroom, with windows open for normal ventilation, shall comply with the desirable internal noise levels as outlined in Table 2.1 of BS8233:2014 and;

b) outline how the noise level within any domestic bedroom, with windows open, shall not normally exceed 42 dB(A) LAFmax between 23:00 and 07:00, in line with WHO NNGL 2007.

Where the standards in (a) or (b) above cannot be achieved following GAD and with windows open, only then shall the scheme show how those standards will be met with windows closed and how adequate ventilation and cooling will be provided.

Where windows must remain closed to achieve acceptable internal noise levels, an overheating assessment must be undertaken with accordance with CIBSE. The cooling hierarchy below shall be applied to the scheme:

1. Minimise internal heat generation through energy efficient design
2. Reduce the amount of heat entering a building in summer through orientation, shading, albedo, fenestration, insulation and green roofs and walls
3. Design the properties to enable passive ventilation (e.g. cross ventilation)
4. Provide mechanical ventilation
5. Provide active cooling (ensuring they are the lowest carbon options).

The methods integrated into the design to prevent overheating shall be fully outlined in the AVO scheme and no dwelling hereby permitted shall be occupied until the approved scheme has been implemented in full for that dwelling.

If as a last resort mechanical ventilation is to be used, it must be demonstrated that it still complies with internal noise levels while providing sufficient ventilation.

Any amendments to the scheme or alterations to it must be agreed in writing with the Local Planning Authority in advance.

All acoustic reports submitted in relation to the scheme shall include characterisation of uncertainty and shall demonstrate the adoption of good practice to minimise uncertainty.

Reason: To ensure that the layout of the site and the design of the proposed buildings provide a high-quality environment for future residents and to accord with policy DP26 of the Mid Sussex District Plan 2014-2031.

21. To support any Reserved Matters application containing sport pitches/courts a suitable noise management plan (NMP) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented and operated in accordance with the approved NMP unless otherwise agreed with the Local Planning Authority.

Reason: To protect against noise pollution and to accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014-2031.

22. Prior to the installation of any external lighting, within any given phase, details of lux levels and times of use together with a report to demonstrate its effect on nearby residential properties shall be submitted to and approved in writing by the Local Planning authority. It is recommended that the information be provided

in a format that demonstrates compliance on the ILP Guidance Notes for the Reduction of Obtrusive Light.

The information shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect residential amenities and to accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014-2031.

23. To support the submission of the relevant Reserved Matters application a scheme shall be submitted to and approved in writing by the Local Planning Authority demonstrating what mitigation will be put in place to protect proposed residents from noise from the existing sewage treatment works. The approved measures shall be implemented before the development is brought into use and thereafter be maintained in accordance with the approved details.

Reason: To protect residential amenity and to accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014-2031.

24. Prior to occupation/first use of any building containing plant, a scheme shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the noise rating level (L<sub>A</sub>r,Tr) of plant and machinery within the relevant part of the build shall meet with levels outlined in Table 9.17 in the Environmental Statement. All measurements shall be defined and derived in accordance with BS4142: 2014+A1:2019. The assessment shall be carried out with the plant/machinery operating at its maximum setting.

The approved measures shall be implemented before the relevant part of the development is brought into use and thereafter be maintained in accordance with the approved details.

Reason: To protect residential amenity and to accord with policies DP26 and DP29 of the Mid Sussex District Plan.

25. (i) No development or preliminary groundworks of any kind shall take place until a programme of geophysical survey has been secured in accordance with a Written Scheme of Investigation which has been submitted by the applicant, and approved in writing by the local planning authority.

(ii) No development or preliminary groundworks of any kind shall take place until the completion of the programme of geophysical survey identified in the Written Scheme of Investigation defined in Part (i) and confirmed by the local authority archaeological advisors.

(iii) The applicant will submit to the local planning authority a report detailing the results of the geophysical survey, which will be used to inform a programme of archaeological evaluation.

Reason: To protect the archaeological value of the site and to accord with policy DP35 of the Mid Sussex District Plan 2014-2031.

26. (i) No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance

with a Written Scheme of Investigation which has been submitted by the applicant and approved in writing by the local planning authority.

- (iii) No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological evaluation identified in the Written Scheme of Investigation defined in Part 1 and confirmed by the local authority archaeological advisors.
- (iii) A mitigation strategy detailing the excavation / preservation strategy shall be submitted to the local planning authority following the completion of the archaeological evaluation.
- (iv) No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.
- (v) The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: To protect the archaeological value of the site and to accord with policy DP35 of the Mid Sussex District Plan 2014-2031.

27. Prior to the commencement of development, details showing how the phasing and implementation of the development will align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate wastewater network capacity is available to adequately drain the development, shall be submitted to and approved in writing with the Local Planning Authority.

The development shall be occupied in accordance with the approved details.

Reason: To ensure that there is adequate wastewater capacity exists to adequately drain the development and to accord with policy DP41 of the Mid Sussex District Plan 2014-2031.

28. The development shall be carried out in accordance with the submitted flood risk assessment (Environmental Statement Volume 4, dated November 2023) and the following mitigation measures it details:

- All properties shall be located in Flood Zone 1.
- Details of the crossing of the Copyhold Gill shall be submitted for approval to the Local Planning Authority (in consultation with the Environment Agency).
- No net loss of flood plain compensation shall occur as a result of the development of the Copyhold Gill crossing. Information on flood plain compensation shall be provided for approval to the Local Planning Authority (in consultation with the Environment Agency).

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To ensure adequate flood protect and to accord with policy DP41 of the Mid Sussex District Plan 2014-2031.

29. The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".

Reason: For the avoidance of doubt and in the interest of proper planning.

site. Accordingly, the appeal site provides one of the last substantive views to the west from the ACA of the agricultural landscape. This agricultural landscape in my judgement forms a fundamental part of the setting of the ACA which is integral to its significance.

45. The Appellant's stated intention would be to redevelop the southern portion of appeal site for a managed parkland area with defined planting, paths and potentially interpretation display boards. As public open space it could open up the whole area through the provision of a network of paths in addition to the retention of the existing rights of way.
46. Notwithstanding the outline nature of the application the appeal proposal would change the use and visual appearance of the land from agriculture to a more managed parkland open space and housing. This would represent a change in character and would result in the loss of the agricultural nature of the appeal site. As I have identified this agricultural character makes a substantial contribution to the setting of the ACA and it would therefore harm the significance of the ACA. Having regard to the Framework the harm would be less than substantial.
47. As indicated earlier, on my site visit I went to the property known as *Nortons Cottage* which lies within the ACA, but located on the eastern side of The Street and as such is slightly further away from the appeal site. In common with other properties within the ACA, *Nortons Cottage* occupies an elevated position in relation to the sunken road of The Street. From the front garden patio area, it was possible to see across to the appeal site, predominantly the southern portion. However, as a more glimpsed and corridor-style view in between *Finches* and its outbuildings on the western side of The Street, in my assessment the change arising from the appeal proposal would not directly impact on this property, although I have found harm to the ACA would arise.

#### *Listed Buildings on The Street and Church Lane*

48. In assessing the effect of the proposal on the Listed Buildings it would seem sensible to deal with them in groups where there are similarities to limit unnecessary repetition. As such *Hunter's Cottage*, *Bounty Cottage*, *Finches* and *Souches* are located side by side on the western side of The Street and in addition to their individual listing, in my view they also have a value as a collection of Listed Buildings. With the exception of *Hunter's Cottage*, all three have a similar plot depth and share a common boundary with the appeal site. The tithe map and apportionment schedule show there is some historic association between the appeal site and the dwellings on the west side of the Street. The Borrer family owned the land that comprises the appeal site at the time of the tithe survey for the parish in 1845. *Spring Cottage* lies to the south of the appeal site on Church Lane.

#### *Finches*

49. *Finches* is a Grade II Listed Building within the ACA. The significance derives principally from the historic and architectural interest of its physical fabric as a 17<sup>th</sup> century timber framed farmhouse, with 18<sup>th</sup> century alterations. It is recorded in the West Sussex Historic Farmsteads and Landscape Character Assessment as a historic farmstead of the post medieval period. A key part of *Finches'* significance lies in the degree of historic fabric in situ, its aesthetic value, and the way in which it illustrates the development of the traditional