



# Hearing Statement – Matter 1: Housing Requirement

**Mid Sussex District Council – Examination in Public**

**Prepared on behalf of Miller Homes Ltd**

Prepared by:

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## 1.0 Introduction

- 1.1 This statement has been prepared by SLR Consulting Ltd on behalf of Miller Homes Ltd in respect of the Mid Sussex District Plan (2021 – 2039) Examination in Public. The Statement focuses on questions raised by the Inspector in their MIQs in relation to Matter 1: The Housing Requirement.
- 1.2 By way of background, Miller Homes has an interest in land at Colwell Farm ('the site'), which is located on the eastern edge of Haywards Heath and has capacity to deliver up to 80 new homes on the edge of one of the district's most sustainable settlements. The location of the site is shown in Appendix 1. In addition, and supplementing this statement, the Counsel Opinion of Christopher Young KC is included at Appendix 2 with specific reference to the Duty to Cooperate and unmet housing need.



## 2.0 Housing Requirement

2.1. Matter 1 of the Inspector’s MIQs seeks to establish whether the plan’s housing requirement makes sufficient provision for new homes. Specifically, the Inspector sets out four sub-topics:

- a) Local housing need
- b) Unmet need from neighbouring authorities and its effect on the plan’s housing requirement
- c) Whether the housing requirement needs to be uplifted to meet any other need such as that for affordable housing
- d) Whether a stepped requirement is appropriate

2.2. This statement addresses matters relevant to all four topic areas:

### Topic a) Local housing need

- 2.3. Of primacy, it is accepted that the country has an acute national housing crisis. The Government’s objective, as set out throughout the NPPF, is to significantly boost the supply of homes . As we set out below, we do not believe this local plan is achieving this.
- 2.4. The proposed District Plan benefits from the transition arrangements set out in the 2024 NPPF. This means the District Plan is examined against the September 2023 NPPF and therefore the LHN at that time of 1,090 dwelling per annum (dpa), with a base date of 1<sup>st</sup> April 2023.
- 2.5. At paragraph 1.6 of MS-TP2, the council states that it has opted to use the updated LHN to reflect a base date of 1 April 2025, which the council states represent the most up-to-date starting point for LHN. The paper goes onto explain that the proposed housing requirement over the emerging Local Plan period 2021 to 2040 is 20,674 dwellings. This comprises of 18,981 dwellings to meet housing needs in Mid Sussex based on the local housing need calculated under the previous standard method of 999 dwellings per annum (i.e. 999 X 19 years = 18,981) and 1,693 dwellings towards meeting some of the unmet housing need in the Northern West Sussex HMA, predominantly at Crawley.
- 2.6. Being able to rely on the standard method for 2 years from the point of submission is fundamental to ensuring that the assessment of needs is fixed for the duration of the EiP to avoid updates and provide certainty for both the Council and other interested parties. In addition, the PPG states that changes should only be revised where appropriate. For the reason we set out, no case has been made by the council to support this approach
- 2.7. This LHN is lower than the 2023 figure by 91dpa at 999dpa and represents a near 10% reduction from the original submitted plan.
- 2.8. This is a significant reduction and represents 1,729 undelivered homes over the plan period.



- 2.9. As well as being a significant reduction both annually and overall, this figure does not reflect the base date of the plan. For example, by applying 999dpa across the plan period, this fails to acknowledge the higher LHN for years up to 2025. This ‘bakes in’ a shortfall from the outset.
- 2.10. Furthermore, by just quoting the revised LHA figure, this fails to recognise the higher delivery over the period 21/22-24/25. Over this period 1,081dpa were delivered on average, even when including a much-reduced figure of 837 homes in 24/25. This demonstrates that Mid Sussex can and does deliver a much higher annual level of homes.
- 2.11. Miller Homes does not accept that this is an oversupply and nor should it be considered so. The LHN over that period was 1,090dpa and the reduction in LHN closely matches the higher delivery. It is evident that these figures are symbiotic, acknowledged in the PPG, which states at paragraph 2a-011-20190220 that “The affordability adjustment is applied to take account of past under-delivery”. In fact, the same approach was proposed by Winchester City Council’s recent local plan, and the Inspector at the EiP said it was not an acceptable approach, which resulted in a Main Modification. If it is accepted that the later LHN figure can be used, then the plan period, including start date of the plan (and the date from which completions can contribute to the supply) should be brought forward also.
- 2.12. As such, we believe the council is conflating matters to paint a picture for a reduced housing delivery figure need in the proposed District Plan. The outcome of this is to artificially drive down the housing need figure.
- 2.13. It is clear from the evidence published by the council that the LHN should remain at 1,090dpa, which matches, almost precisely the delivery in the first five years of the plan. The reasons for this are fourfold:
- 2.13.1. Firstly, the submitted LHN is 1,090dpa, which the council was previously able to deliver. Nothing we are aware of, or that the council has set out, has changed.
  - 2.13.2. Secondly, whilst acknowledging that the 2024 NPPF method of calculating housing need is not relevant here, the government’s current method for calculating housing need produces a figure of 1,358 dpa. This plan will therefore seriously undermine the government’s ambition and need to significantly increase housing supply. Therefore, whilst not needing to meet this figure, it is clear that at least 1,090 homes should be the starting point.
  - 2.13.3. Thirdly, supporting the delivery of unmet needs of Crawley, and contributing to unmet needs arising from the southern authorities means MSDC should be seeking increase their housing need above the SM figure.
  - 2.13.4. Fourthly, delivering the highest number of affordable homes as possible, accepting that this is still below the actual need.
- 2.14. As an aside, the argument that the council makes at para 3.33 of Paper MS-TP02, that the revised housing figure will meet the 80% required in the 2024 NPPF, appears as a barely concealed attempt to further reduce housing delivery going forward by avoiding the application of a 20% buffer to 5YHLS tests, given this would potentially disapply the NPPF



2024 paragraph 78(c) requirement to apply a 20% buffer, where the Local Plan requirement is less than 80% of the new SM figure. In the context of the Government's clear aim to boost significantly the supply of housing, the Council's approach is not in line with Government aspirations.

- 2.15. This is never more evident when the council even sets out at para 1.10 of Paper MS-TP02 that the 1,087dpa figure is 80% of the new Standard Method, but then chooses to reduce it to 999dpa, and only then meets the 80% by the oversupply they apportion to the Northern West Sussex HMA.

### **Topic b) Unmet need from neighbouring authorities and its effect on the plan's housing requirement**

- 2.16. At this time, the Duty to Co-operate (DtC) remains in effect and, for the reasons set out in the Counsel Opinion provided at Appendix 2 of this statement, should continue to apply to the consideration of unmet needs.
- 2.17. In any case, NPPF paragraph 27 continues to require unmet needs to be met and cooperation between authorities to be continued. Even if the statutory DtC is revoked, the policy requirement to meet unmet needs remains.
- 2.18. Mid Sussex is bordered by Horsham, Crawley, Tandridge, Wealden, Lewes and Brighton & Hove. Mid Sussex falls in the Northern West Sussex HMA, which also includes Horsham and Crawley. However, it also adjoins Coastal West Sussex HMA (Adur & Worthing, Brighton and Hove, Lewes). For the purposes of these reps, we are excluding additional consideration of the latter two, given that the council is not even anywhere near meeting the needs of its own HMA, but we do wish to put down the marker that the assistance needed from Mid Sussex is even greater than the focussed comments below.
- 2.19. It is therefore important to note that in addition to Mid Sussex's eventual contribution to the Northern West Sussex HMA shortfall of 7,505 dwellings, there should be a contribution towards the Brighton and Hove/Coastal West Sussex significant unmet need (Brighton and Hove's unmet need is over 20,000 homes alone).
- 2.20. Crawley adopted its most recent plan in October 2024, where there is a shortfall of 7,505 homes over its plan period, with only Horsham and Mid Sussex Council in the HMA to pick up this shortfall. At this stage, it is unclear what contribution Horsham will provide towards this, following the pausing of Horsham's local plan examination and the subsequent withdrawal of the Natural England Water Neutrality Position Statement (2021) at the end of 2025. Mid Sussex has set out it will provide 1,693 homes towards Crawley's housing shortfall.
- 2.21. Crawley is extremely tightly constrained by its administrative boundary, which leaves very little space for expansion. In addition, Gatwick International Airport is within its administrative boundary, which further constrains where new housing can be delivered.
- 2.22. Horsham's and Mid Sussex's local plans have previously split picking up this shortfall about 50/50 between them and we believe this should be the starting point again. Whether this can be achieved or not can only be deduced once the further sieve of



SHELAA sites is undertaken, but the current approach has been to say what sites there are, not what the starting target is i.e. the approach is back-to-front.

- 2.23. Of note, the 1,693 proposed by Mid Sussex towards Crawley’s shortfall does not even represent a quarter of this shortfall.
- 2.24. Mid Sussex offer no real explanation, other than they are constrained. Whilst the district is affected by the High Weald National Landscape (broadly a strip through the centre of the district), and South Downs National Park to the very south, there are still large parts of the district where new housing can be located and delivered, and we do not believe these have been exhausted, in particular, the key towns of Burgess Hill, Haywards Heath and East Grinstead. In addition to the three main towns, the district’s boundary with Crawley is almost completely ignored.
- 2.25. Burgess Hill is already in the process of being substantially increased, and an additional large allocation is proposed on the western boundary.
- 2.26. However, neither Haywards Heath nor East Grinstead is proposed to deliver any serious housing numbers. Both are sustainable towns with a large range of facilities and services and can accommodate further growth. Both have excellent train services of four services an hour each way, connecting with Gatwick (Crawley) and London to the north and Brighton to the south
- 2.27. As such, the council has nowhere near exhausted opportunities to deliver a much higher number of homes and also contribute 50% of Crawley’s shortfall (3,750 homes).

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

- 2.28. At paragraph 4.22 and 4.23 of paper MS-TP02, the council sets out the affordable housing need as 470 dpa for affordable rent and 434 dpa for affordable home ownership. This represents 90% of local housing needs and 83% of the proposed housing requirement and further demonstrates the severe housing problem in Mid Sussex.
- 2.29. Underpinning those high-level affordable housing need figures, the following detailed elements all point to the critical need to increase the housing delivery/supply in the local plan:
- 2.29.1. The number of households on the Council’s Housing Register as of 31 March 2025 was 2,468 households (MHCLG data). This represents a worsening position from the previous year where the number of households on the Housing Register stood at 2,097 (MHCLG) (17% increase between 2024 and 2025).
- 2.29.2. As of 31 March 2025, there 101 households living in temporary accommodation in Mid-Sussex, a 20% increase from 2024 (MHCLG). Of these households, 45 are households with children. Since 2022 the number of households living in temporary accommodation with children has increased by 67% (MHCLG). Overall, in 2024 Mid-Sussex spent £2,510,000 on temporary accommodation.



- 2.29.3. Both the median and lower quartile affordability ratios for Mid-Sussex (standing at 11.35 and 11.69 respectively) are significantly higher than the national average (7.71 and 6.79) (ONS data).
- 2.29.4. Median house prices in Mid-Sussex reached £435,000 in 2025, almost double the 2006 level and for the MSOA (Middle Super Output Area) where the site is located (Mid-Sussex 008) there has been an even greater increase of 105% since 2006. The median house price for Mid-Sussex MSOA 008 is now £517,500.
- 2.29.5. There has been a similar level of increase in lower quartile house prices. These have increased by 95% since 2006 now standing at £340,000 and for the MSOA are currently £397,000 (92% increase since 2006).
- 2.30. It is therefore clear from the above that Mid Sussex is facing a worsening in the overall and specific affordability of homes and that an increase in supply is urgently required.
- 2.31. It is clear that affordable housing and affordability are serious problems in Mid Sussex and something the council should be striving to resolve to the best of its ability.
- 2.32. It is somewhat perverse that the council has set out to use the reduced affordability ratio calculation to support their reduced housing numbers in this reviewed plan. This will have the effect of reducing the number of affordable homes that will be delivered.
- 2.33. The viability testing of the plan clearly sets out that increasing the level/percentage of AH will not be possible, so in order to increase the AH overall to get closer to the established need, this will require a higher overall housing figure.
- 2.34. Miller Homes therefore believes more should be done to set and deliver a higher housing number.

#### **Topic d) Whether a stepped requirement is appropriate**

- 2.35. The council sets out at paragraph 4.5 of paper MS-TP02 that a stepped trajectory is to now be used, where it was not originally. The council states that this is because “The Council and site promoters had anticipated the District Plan to be adopted in 2025 and had worked on this basis when calculating lead-in times for applications and consequent anticipated completions”.
- 2.36. This is not a reason to introduce a stepped requirement.
- 2.37. Firstly, by resetting the base date, the new proposed LHN figure already takes account of past over-delivery. Applying a stepped trajectory allows the Council to artificially benefit twice from the previous over-supply.
- 2.38. Secondly, the NPPG (paragraph 68-021-20190722) is clear that a stepped housing requirement should only be used where there is a significant change in the level of housing between the emerging and previous policies. This is not the case in MSDC’s case, where the current adopted housing requirement of 964 dwellings per annum is 89% of the proposed annual average requirement in the new Local Plan of 1,088 dwellings per annum.
- 2.39. For these reasons, a stepped trajectory is not appropriate.



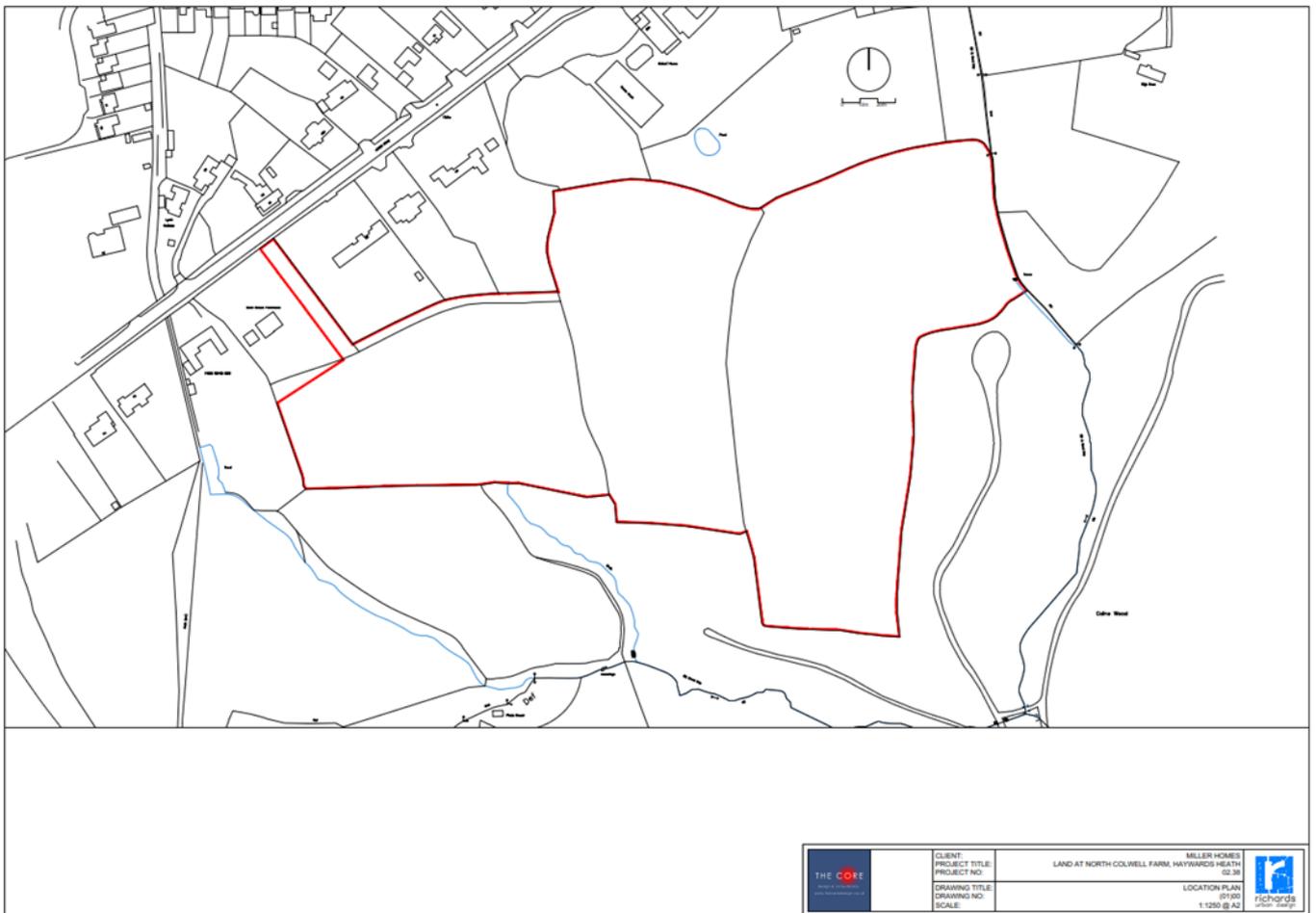
## 3.0 Conclusion

- 3.1. We recommend the following modifications in order for the Plan to meet NPPF soundness tests:
- 3.2. **MM1** – Retain the LHN of 1,090 dwelling per annum as the housing need for the plan or amend the plan period to match the date from which the later LHN figure is used (both of which will result in an increase in the housing requirement)
- 3.3. **MM2** - Include a genuine commitment to meeting a higher proportion of unmet need arising from the North Sussex Housing Market Area, and especially to help meet Crawley’s acknowledged unmet housing need, in accordance with paragraph
- 3.4. **MM3** – Remove the stepped trajectory, which is not justified and would only delay meeting the (modest) level of unmet needs MSDC have committed to meeting.
- 3.5. **MM4** – Undertake a thorough review of sites that reached stage 3 to ensure all site capable of being delivered are included to better meet housing needs. This is clearly not currently the case, with our client’s site at Land at Colwell Farm as just one example, which is within the group of reasonable alternative sites and can and should be used to meet the housing need.



# Appendix A Colwell Farm, Haywards Heath: Site Location Plan

## Hearing Statement – Matter 1: Housing Requirement





**Appendix B Counsel Opinion of  
Christopher Young KC in  
respect of the Duty to Co-  
Operate**

**IN THE MATTER OF**

**DRAFT MID SUSSEX LOCAL PLAN**

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**OPINION**

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## Introduction

1. In this matter I am instructed by SLR Consulting on behalf of Miller Homes (hereinafter “the Client”) in respect of the draft Mid Sussex Local Plan (hereinafter “the Draft Plan”).
2. In October 2024 SLR Consulting on behalf of the Client appeared at the Examination in Public (hereinafter “EIP”) into the Draft Plan.
3. On 4<sup>th</sup> April 2025 the EIP Inspector Louise Nurser, wrote to the Policy Manager for the Plan, making clear that the Council had failed to Duty to Cooperate (or “DtC”). She did so setting out very detailed reasons about the Duty to Cooperate issue and in particular the unmet housing need.
4. On 22<sup>nd</sup> September 2025, the Council wrote to Inspector Nurser requesting an opportunity to further discuss the evidence and outcome.
5. On the 28<sup>th</sup> October 2025, Inspector Nurser wrote to the Local Plans Policy Manager with reference to a letter from the Minister of State, Matthew Pennycook MP, sent to PINS on the 9<sup>th</sup> October 2025. The letter refers to the need for **‘a degree of flexibility including by providing additional opportunities to clarify compliance with the Duty to Cooperate’**
6. On 3<sup>rd</sup> December 2025, PINS wrote to the Council to confirm a new inspector would be appointed to examine the new plan. The appointed Inspector is Jonathan Bore. The main reason for the change referenced in the letter was the change in context arising, from the Government’s **“intention to abolish the Duty to Cooperate early next year”** (i.e. 2026), as set out in the Minister’s letter to the PINS Chief Executive, dated 27 November 2025.
7. The letter refers to the Written Ministerial Statement (WMS) made by Matthew Pennycook MP, Minister of State for Housing and Planning dated 27 November 2025. The WMS says the Duty to Cooperate requirement will be removed from plans in the current system. It also says examining Inspectors may wish to begin any necessary dialogue with Local Planning Authorities in advance of the Regulations coming into effect.

8. The Inspector Bore's first letter to MSDC, dated 17<sup>th</sup> December 2025, states:

*"In the Written Ministerial Statement of 27 November 2025, the Minister of State for Housing and Planning stated that the regulations for the new plan-making system would not save the Duty to Co-operate, and that this requirement would be removed for emerging plans coming forward under the current system.*

*The examination of the Mid Sussex District Plan Review will now take place under these changed circumstances, and in the interests of fairness it will be necessary to make a fresh start. I shall not have regard to any previous correspondence or any of the previous Inspector's notes, conclusions or rulings."*

9. Annex 3 of Inspector Bore's letter sets out his initial comments on the housing requirement and supply headroom, with reference to the need to modify the position in respect of unmet housing needs allowance and the supply headroom. The Annex makes no reference to the DtC but does demonstrate a need for unmet needs to still be considered.

10. On the 13<sup>th</sup> January 2026, Inspector Bore confirmed the preliminary dates for restarted hearings and his main 'Matters and Issues for Examination' (hereinafter "MIE"). This includes Matter 1 on the housing requirement. On this matter, section b will seek discussion on:

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

11. On 26 January, MSDC published a series of three papers, which includes one on 'Updates since submission' (MS-TP1) and one on housing (MS-TP2). Neither discuss directly the implications of the November ministerial statement.

### **Opinion Sought**

12. I am asked to provide an opinion on the status of the Duty to Cooperate in the context of the Draft Plan.

## OPINION

13. The Duty to Cooperate is contained in Section 33A of the 2004 Act. It remains on the statute book. It has not been repealed and there is no stated date for its repeal.
14. The WMS and the letter from the Minister to Paul Morrison both refer to new Regulations coming into force early next year. These Regulations have not been published at all yet, not even in draft form. It is also uncertain when they will be published. The suggestion is they will be published early in the year. But changes to the PPG in respect of surface water flood risk were proposed to be published for around February/March 2025, but were not published until September 2025, some 6 months later.
15. Furthermore, the content of these Regulations is completely unknown. The suggestion from the Minister is that they will remove the DtC. But until the Regulations are published there is no way of knowing whether the DtC will be abandoned.
16. Moreover, even if the new Regulations do come into force and they do seek to remove the DtC there is no way of knowing at this stage whether they actually will apply to plans presently being examined.
17. Moreover again, there is no way of knowing at this stage whether the Regulations will be applied retrospectively, such that plans which have already been found to fail the DtC might be somehow resurrected.
18. As a consequence, there is a huge amount of uncertainty over when, where and how these Regulations will apply. Inspector Bore is therefore duty bound to uphold the Duty to Cooperate until such time as the legislation removes this statutory provision.
19. For Inspector Bore to now proceed to examine the Draft Plan on the basis of an assumption that the Duty to Cooperate will be removed when it has not yet happened and there is no detail about how it will apply in this case seems like pure folly.
20. Added to which there are, of course, very compelling reasons why the DtC may not be removed in the Regulations, and why any change may not apply immediately, may

not apply to local plans which are being examined, and may not be designed to apply retrospectively to plans where inspectors have already concluded the DtC has not been met. I set out briefly what these reasons are below.

21. Firstly, the Government is introducing a new form of development plan called a Strategic Development Strategy (hereinafter “SDS”). These will sit above local plans and will operate at the county or sub-regional level. An SDS will obviate the need for the Duty to Cooperate to exist. It will replace the DtC with a much more effective mechanism. As such, it is genuinely difficult to comprehend how the Duty to Cooperate could be sensibly removed from the responsibilities of local authorities until an SDS is in place.
22. Moreover, the new Labour Government is seeking to deliver 1.5 million homes in this Parliament. Even if that 1.5 million new homes target now looks unlikely, Ministers will most definitely want to see an upturn in the number of planning applications submitted. That is especially true given the current, very troubling downwards trajectory in planning permissions. To reverse this trend in new applications would run counter to all that the Government is seeking to achieve.
23. Secondly, even if the statutory DtC were to be removed in the aforementioned Regulations, the DtC remains a policy objective and consideration in national policy. All versions of the NPPF contain this policy objective, including the 2023 version under which the Draft Plan is being examined. It is inconceivable that Inspector Bore will now act contrary to national policy, especially as the previous Inspector found that the DtC had not been met and to have explained carefully why that is the case.
24. Thirdly, the Government has just published a new revised draft of the NPPF. This contains an express requirement in Policy HO1 that in assessing housing needs for an area both SDSs and local plan should demonstrate an understanding of any accommodation needs that cannot be met within neighbouring areas. Far from there being a retreat from Duty to Cooperate this obligation appears to be more onerous than the DtC. This policy will apply to local plans if an SDS is not yet in place.
25. It is therefore pellucidly clear that not only should Inspector Bore not examine the Draft Plan until there is clarity over the Duty to Cooperate. But that it is difficult to see how he can revisit the previous Inspectors conclusions on the DtC given effective planning making and cooperation will remain part of national policy in the NPPF until next summer and may well become a more onerous policy obligation in the new version of the NPPF.

**February 2026**

**CHRISTOPHER YOUNG KC**

**No5 Chambers**

**Birmingham - Bristol - London**

**IN THE MATTER OF**

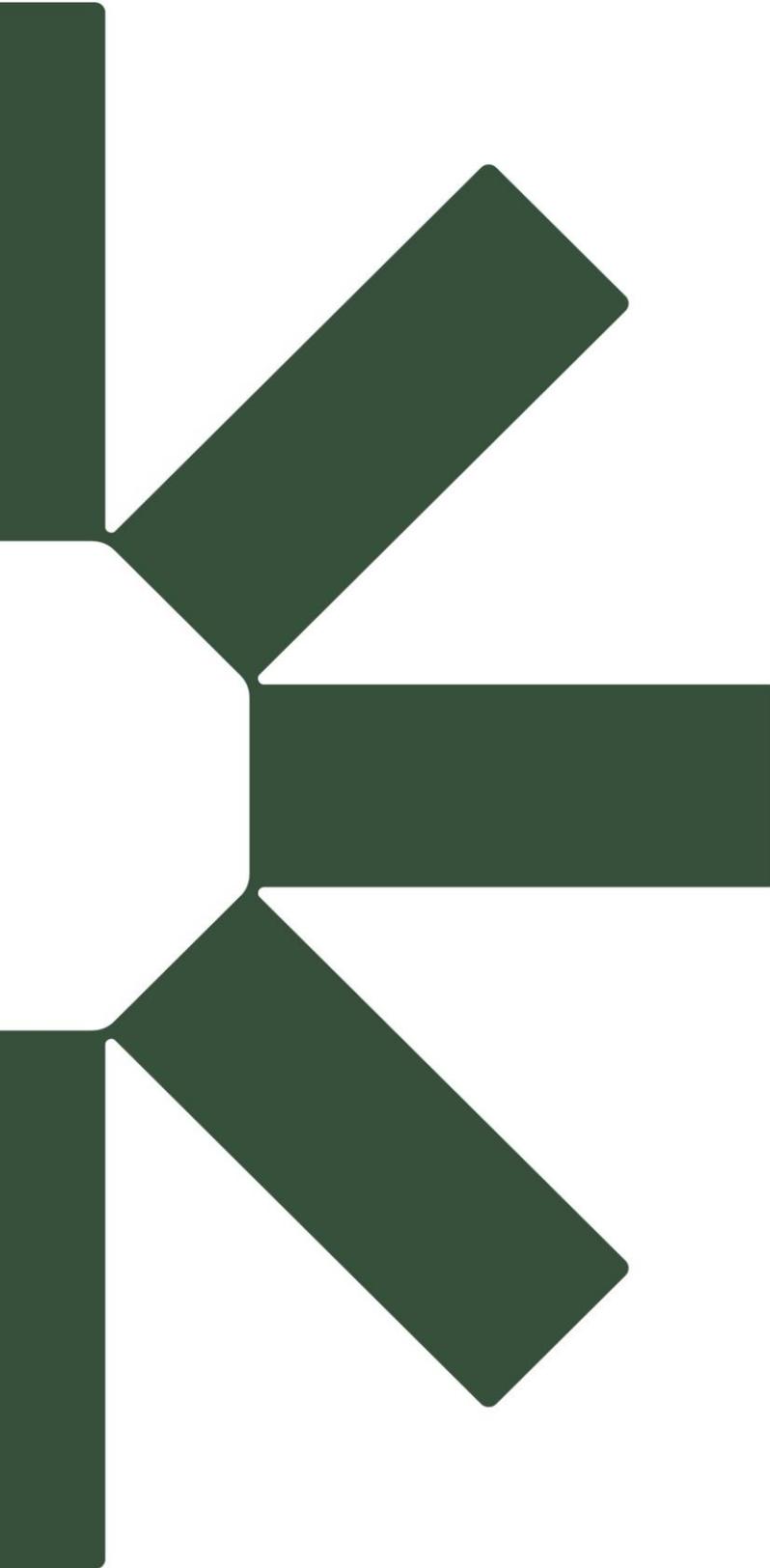
**DRAFT MID SUSSEX LOCAL PLAN**

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**OPINION**

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**Christopher Young KC**



Making Sustainability Happen