



National Planning Policy Framework 2026 – Appellant’s Response to Rule 6 Party Submissions

Colwell Farm, Haywards Heath

**Town and Country Planning Act 1990 Planning and
Compulsory Purchase Act 2004 Section 78 Appeal by**
Appellant: Miller Homes

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1.0 Introduction

- 1.1 This document has been prepared by the Appellant in response to the written submissions made by Mr Simon James Greaves (ID31) on behalf of the Rule 6 (R6) Party, with respect to the new National Planning Policy Framework (NPPF) published by the Government on 17th August 2026.
- 1.2 I shall focus on a number of submissions raised by Mr Greaves which are based on an incorrect interpretation of the relevant National Decision-Making Policies (NDMPs) or are not consistent with the evidence that was heard at inquiry, including several new points that have been raised without any evidential basis.
- 1.3 I do not seek to respond to or address every point made by Mr Greaves in his submissions on the new NPPF. The absence of a comment on a particular point or paragraph made by Mr Greaves does not imply in any way my agreement or otherwise with such points.
- 1.4 As a broad comment, Mr Greeves assertion that *'the position [the new NPPF] has significantly worsened for the Appellant'(ID31 [51])* is clearly wrong. As the Appellant's submissions (ID32) and also the Council's submissions make clear, the proposals accord with key NDMPs, including S3 and S5, and thus planning permission should be granted.
- 1.5 Mr Greaves' position is also not consistent with the fact that the new NPPF provides the strongest ever support for housing development in the modern planning policy era, including at sites which adjoin the settlement boundary. This is set out at Section 2 of the Appellant's earlier document ID32 and specifically paragraphs 2.1-2.8.
- 1.6 This rebuttal is structured in response to Mr Greave's four 'main issues':
 - The NPPF Housing Policies and Principle of Development;
 - Sustainability of the appeal Site's Location – Transport and Travel;
 - Sustainability of the appeal Site's Location – Ecology, Trees and Wooded Features, and Ancient Woodland
 - Emerging Local Plan – Allocations
- 1.7 This document should be read alongside my original submissions made on the new NPPF, which were submitted to the inspector on the 3rd September 2026 (ID32), the wider body of evidence provided by the Appellant, and the closing submissions of the Appellant (ID27 and ID28) and the Council (ID25).



2.0 The NPPF Housing Policies and Principle of Development

Mr Greaves' NPPF Submissions, [18-28, 54]: Weight that is applied to Local Plan Policies

- 2.1 Mr Greaves initially acknowledges that the revised NPPF has adopted a different approach to development plan policies adopted prior to the new NPPF, removing the older “out-of-date” test in NPPF 11d.
- 2.2 However Mr Greaves then makes no detailed reference to Annex A, paragraph 2, which requires that where policies (or parts of policies) have been examined against an earlier NPPF (as is the case with the adopted MSDP) and are materially inconsistent with the new NPPF, those policies should be given **very limited weight**.
- 2.3 Mr Greaves makes just one reference to local plan policies being consistent with new NPPF at his paragraph 28, where it is stated:

*“The Rule 6 Party previously addressed matters of consistency between Local and National Policy and concluded that as the Local Plan policy remained strongly consistent with National Policy, substantial weight should continue to be given to Local Policies. **This remains the case on an analysis of the new NPPF 2026 policy.**[my emphasis]”*

- 2.4 Mr Greaves repeatedly fails to acknowledge that several of the policies relied upon by the R6 party throughout the Inquiry to resist the principle of development are, in fact, materially inconsistent with the revised NPPF. He is wrong to say that they are therefore capable of being attributed anything other than “very limited weight” – which is what Annex A, paragraph 2 expressly requires. This includes the following policies of the Mid Sussex District Plan 2014-2031:
- **Policy DP6** - This policy adopts a highly restrictive approach to development insofar as it generally restricts development outside defined settlement boundaries unless the site is allocated or the proposal comprises fewer than 10 dwellings. Given the revised NPPF materially changes the approach to development outside settlement boundaries through Policy S5, which establishes a presumption in favour of certain forms of development that are outside, but physically well-related to, settlement boundaries unless the adverse impacts would substantially outweigh the benefits, Policy DP6 is materially consistent with the revised NPPF.
 - **Policies DP12 and DP15** - Both policies similarly adopt a restrictive approach to development in the countryside, which again is materially inconsistent with the approach set out in Policy S5.
- 2.5 Mr Greaves therefore fails to engage with NPPF Annex A and also fails to properly assess MSDP policies against the NPPF. There is material inconsistency between the NPPF and policies DP6, DP12 and DP15.
- 2.6 I have already explained in detail in Section 3 of my NPPF response (ID32) why policies DP6, DP12 and DP15 are all materially inconsistent with the NPPF and hence should be given **very limited weight**. In respect of DP12, the Council agree that it should be given **very limited weight** (ID30).¹ DP6 and DP15 are not referenced by the Council as they are not policies listed in the Council's original RfR.
- 2.7 Mr Greaves also incorrectly refers to the site's location within the ‘countryside’ at Paragraph 54 of his submissions as indicating conflict with the revised NPPF. That is the wrong

¹ They also consider policies DP20, DP21, DP34, DP35, DP37 and DP38 of the District Plan and E9 of the HHNP carry **very limited weight** by reference to Annex A, paragraph 2. I agree with this assessment.



approach to the new NPPF NDMPs and Annex A, paragraph 2. As set out above, Policy S5 represents a significant shift in national policy by expressly supporting identified forms of development outside settlement boundaries, which will inevitably be located within the countryside.

- 2.8 Given the absence of any commentary on the specifics of the above development plan policies in the context of the revised NPPF, Mr Greaves' submission that these policies should continue to attract full weight is based on an incorrect interpretation of Annex A, paragraph 2. The absence of any assessment against Annex A, paragraph 2, is surprising, particularly given the weight attributed to these policies during the inquiry by the R6 party, despite the appellant and Council considering they attract lesser weight as a result of the housing land supply position in Mid Sussex.
- 2.9 Mr Greaves has presented no substantive evidence before the Inspector to demonstrate that Policies DP6, DP12 and DP15 remain consistent with the revised NPPF or should continue to attract significant weight, as suggested by Mr Greaves in Paragraph 54 of his submissions. To the contrary, as I set out in detail in ID32, DP6, DP12 and DP15 of the MSDP should be given **very limited weight**.

Mr Greaves' NPPF Submissions: Interpretation of Policy S5

- 2.10 Mr Greaves' interpretation of the revised NPPF, and in particular Policy S5, is wholly incorrect. He completely fails to acknowledge the positive implications that the national policy change has for the appeal scheme.
- 2.11 Firstly, Mr Greaves does not acknowledge the significant change to the wording of the tilted balance.
- 2.12 Whereas paragraph 11(d) of the NPPF 2024 required adverse impacts only to "significantly and demonstrably" outweigh the benefits, Policy S5 now provides support for development outside settlements unless the benefits are **"substantially outweighed"** by adverse effects. This is a materially stronger weighting in favour of development and is one of several reasons why Mr Greaves' assertion that the position has *"significantly worsened for the Appellant"* is incorrect.
- 2.13 Turning to the specifics of Policy S5, firstly, it is not entirely clear from Mr Greave's paragraph 32 and 33, whether he means to imply that all of the criteria of S5(1a-j) need to apply for a development to be considered acceptable. They do not all need to apply. As I explained in my Planning Rebuttal (CD9.10 [4.4]), the different types of "development" listed are individual. In other words, they do not all need to apply for a development to be in compliance with S5. This is self-evident from the separate criteria themselves, in referring to "development". The use of the word "and" between S5(1)(h) and (j) does not change the position. Chapter 1, paragraph 11 expressly notes:
- "11. "Where policies in this Framework set out lists in the form of sub-paragraphs, all of those sub-paragraphs apply unless the text indicates otherwise (such as through the use of 'or' at the end of one or more sub-paragraphs)."*
- 2.14 S5's context clearly makes very clear that these are separate forms/categories of development. A scheme can qualify under S5(1)(j) regardless of S5(1)(h).
- 2.15 Mr Greaves discusses at paragraphs 36-37 of his submissions criterion (j), which supports:
- "Development which would address an evidenced unmet need (including, but not limited to, development proposals involving the provision of housing where the local planning authority cannot demonstrate a five year supply of deliverable housing sites or scores below 75% in the most recent Housing Delivery Test²⁷), and where the development would:*



- *i. Be physically well-related to an existing settlement²⁸ (unless the nature of the development would make this inappropriate) and be of a scale which can be accommodated taking into account the existing or proposed availability of infrastructure.”*

- 2.16 Mr Greaves' assertion is correct that the appeal scheme satisfies the first limb of Policy S5(j)(i) by virtue of being physically well-related to the existing Haywards Heath settlement.
- 2.17 However, his interpretation of the second limb of the policy, namely whether the development is of a scale that can be accommodated taking into account the existing or proposed availability of infrastructure, does not reflect the evidence in this case and is based on an overly narrow approach to that term. Mr Greaves concludes that the development cannot be accommodated on the basis of what he describes as “shortcomings” in the footpath and cycle network and a “lack of access to a bus service within a reasonable distance”.
- 2.18 There are no such shortcomings and the bus service access is entirely appropriate and acceptable (as explained in the Appellant's evidence). The Appeal Proposal is also in full compliance with NDMP T3, as set out in Section 3 of this document.
- 2.19 However Mr Greaves' submission also represents an incorrect interpretation of the S5 policy and the term “infrastructure”. Policy S5(j)(i) does not define “infrastructure” solely by reference to footpaths, cycle routes and bus services, nor does it require every aspect of the existing infrastructure network to be available to any particular standard. Put simply, S5(1j) does not include any specific requirement relating to accessibility, beyond a requirement to be physically well-related to an existing settlement, which all parties agree is the case.
- 2.20 Whilst the Appellant does not accept Mr Greaves' characterisation of the accessibility credentials of the site, the relevant question is whether the scale of development can be accommodated taking account of the existing and proposed infrastructure available to serve it.
- 2.21 In respect specifically of transport infrastructure, the transport evidence demonstrates that the site is fully capable of being accommodated. As set out by Mr Neil Marshall, both in the Appellant's original submissions on the revised NPPF and through oral evidence given at the Inquiry, the Transport and Highways Statement of Common Ground (CD8.5) records agreement with West Sussex County Council in relation to a number of improvements to existing infrastructure. These include the resurfacing of Public Footpath 29CU to facilitate all-weather use, together with dropped kerb and footway improvements connecting the site to services and facilities along the A272 Lewes Road.
- 2.22 The suggestion that there are insufficient amenities in the area to accommodate the development is plainly wrong given that the development adjoins a category 1 settlement with the highest range of facilities and services in the District.
- 2.23 In terms of other types of infrastructure (schools, libraries, health etc), it is agreed between all main parties of this appeal that sufficient infrastructure exists, which will also be supported via contributions arising from the Appeal scheme. No case has been made to the contrary by the R6 party.
- 2.24 The evidence therefore demonstrates not only that the necessary infrastructure exists to accommodate the development, but that additional measures will further *enhance* accessibility and connectivity.
- 2.25 Accordingly, Mr Greaves is not correct to suggest that the appeal scheme fails the infrastructure requirements of Policy S5(j)(i) nor that the proposed development would be of a scale that could not be accommodated by the existing and proposed infrastructure available to serve the site. Rather, his conclusion relies upon an unduly narrow interpretation of what constitutes relevant infrastructure for the purposes of the new national policy.



- 2.26 Consequently, Mr Greaves is plainly wrong to assert the development does not accord with S5(1j) – it does. This is also a position agreed by the Council. The suggestion in Mr Greaves' paragraph 51 that, 'exceptional circumstances' are required is irrelevant as S5(4) does not apply here.
- 2.27 Furthermore, Mr Greaves' suggestion in paragraphs 49 and 50 that there is no change between the 'old' tilted balance and the 'new' tilted balance at S5 is simply wrong. There has been a key change with S5(1) now directing that the benefits must be **substantially** outweighed by the harms, requiring a greater weight of harms than the previous 11(d) balance, requiring a *significant* level of harm. I have already explained this important distinction in detail at paragraphs 2.23 – 2.33 of ID32.
- 2.28 S5(1) directs that development should only be refused where the benefits are **substantially** outweighed by the harms. Based on all the evidence, there plainly is not a substantial level of harm arising from the development to outweigh the substantial benefits arising from the scheme.
- 2.29 The suggestion in Mr Greaves' [51] that the position for the Appellant has 'significantly worsened' is hence simply wrong, on a proper interpretation of the NPPF, and specifically NDMP S3 and S5. In short:
- 1 The appeal scheme is in full compliance with NPPF NDMP S5(1), specifically via criteria (j). Consequently, S5(4) is irrelevant.
 - 2 The S5(1) 'tilted balance' applies, which has been strengthened in favour of development where the benefits must now be **substantially** outweighed by the harms.
 - 3 As acknowledged by Mr Greaves, the 'tilted balance' is not dis-applied.²
 - 4 The level of harm identified arising from the appeal scheme falls far short of representing a substantial level of harm.
 - 5 Consequently, S5(1) and S3 direct that permission should be granted.

Mr Greaves' NPPF Submissions: Plan-Led Approach to Planning

- 2.30 At [14] of his submission, Mr Greaves suggests that the revised NPPF places greater emphasis on a plan-led approach and that the inability to demonstrate a five-year housing land supply merely creates an "evidenced unmet need" which influences the application of Policies S4 and S5.
- 2.31 This understates the significance of those policies. Policies S4 and S5 are now published national policy and form a central part of the decision-making framework within the revised NPPF. As such, they are not merely policies engaged by unmet housing need, but the principal policy mechanisms through which that need is intended to be addressed.
- 2.32 In particular, as discussed above, Policy S5 provides express policy support for certain forms of development outside settlement boundaries where an evidenced unmet need exists, as it plainly does in MSDC. The policy, therefore, represents a material shift in national policy and must be applied as written, irrespective of the current status of the local plan, especially where that plan, as is the case here, has been prepared on the basis of an earlier NPPF.
- 2.33 As already highlighted in my original submissions on the revised NPPF, adopting Mr Greaves' interpretation would significantly constrain the ability of Policy S5(j) to address

² This is irrespective of the finding on Ancient Woodland.



evidenced unmet housing need, which is plainly one of the principal objectives of the NDMP and the NPPF as a whole.

- 2.34 Indeed, the Council acknowledged during the Inquiry and in Closing Submissions that it would be unable to meet its housing requirement if sites such as the appeal site were to be treated as inherently unsustainable.
- 2.35 Mr Greaves' interpretation would therefore substantially diminish the practical effect of Policy S5(1)(j) and is inconsistent with both the purpose of the policy, the approach of the NPPF overall and the Government's objective of significantly boosting housing delivery.



3.0 Sustainability of the Appeal Site's Location – Transport and Travel

Policy TR3

- 3.1 Mr Greaves contends that the appeal scheme conflicts with Policy TR3 because it provides "no meaningful improvements" to infrastructure or services, including in relation to cycling infrastructure, bus services and the footpath network. However, this is a misinterpretation of the policy.
- 3.2 Policy TR3 does not prescribe specific infrastructure improvements that must be delivered, nor does it require developments to provide new bus services or cycling infrastructure. Rather, the policy requires development to be located in places that are sustainable, or which can be made sustainable, taking account of planned improvements, including those delivered as part of the development.
- 3.3 Mr Greaves' assertion that the proposal delivers no meaningful improvements is particularly surprising given the package of connectivity and accessibility measures secured through the development, which were agreed with and influenced by West Sussex County Council in its capacity as Highway Authority. These include:
- New crossing points on Lewes Road to improve pedestrian connectivity towards Haywards Heath town centre.
 - Improvements to footway provision along Lewes Road and Snowdrop Lane to enhance the pedestrian environment.
 - Reinstatement of the lay-by to footway on Lewes Road.
 - Facilitating delivery of reduced speed limit on Lewes Road via a Traffic Regulation Order.
 - A financial contribution towards the resurfacing of Public Footpath 29CU to facilitate year-round use and improve pedestrian access to local facilities and the primary school,
- [All secured through the Section 106 Agreement and agreed through the Transport and Highways Statement of Common Ground.]
- 3.4 To suggest that these measures do not constitute meaningful improvements is wrong.
- 3.5 Collectively, they will improve pedestrian connectivity to existing services, facilities and bus stops, enhance accessibility to Haywards Heath town centre, and improve the local walking environment. Importantly, these measures will assist in limiting the need to travel, particularly by private car, and were agreed with and influenced by West Sussex County Council in its capacity as Highway Authority, which was satisfied that the site could be appropriately served by the surrounding transport network.
- 3.6 As such, Mr Greaves' attempt to disregard these measures is unjustified. The improvements will be secured through the development and were considered necessary and appropriate by WSCC as Highway Authority.
- 3.7 Furthermore, Policy TR3 does not require a proposal to deliver improvements to every aspect of the transport network identified by Mr Greaves, nor does it require development to remedy all perceived shortcomings in accessibility. Rather, the policy requires development to be located in places that are sustainable, or can be made sustainable through planned improvements, including those secured as part of the proposal. Mr Greaves therefore applies a more onerous test than that contained within the text of the new NPPF itself.



Electric Vehicles

- 3.8 In Paragraph 63, Mr Greaves contends that electric vehicles are no longer supported by virtue of the revised NPPF's definition of sustainable transport. The glossary defines sustainable transport modes as:
- “Any efficient, safe and accessible means of transport with overall low impact on the environment, including walking, wheeling, cycling and public transport” [my emphasis].***
- 3.9 The Appeal scheme is entirely sustainable having regard to all the named modes, so little turns on the absence of reference to electric vehicles in any event. However, this definition does not provide an exhaustive list of all forms of transport that may contribute towards sustainable travel. Rather, it establishes a broader principle that sustainable transport modes are those which are efficient, safe, accessible and have a low environmental impact. The use of the word "including" clearly indicates that the examples provided are illustrative rather than exhaustive. As such, Mr Greaves adopts an unduly narrow interpretation of the definition.
- 3.10 Furthermore, the revised NPPF continues to support measures which facilitate the transition to lower-emission forms of transport. For example, Policy TR2 requires parking standards to support the use of sustainable transport modes and includes provision for electric vehicle charging infrastructure. This demonstrates that the Framework continues to recognise the role of electric vehicles within the wider objective of reducing transport-related emissions.
- 3.11 Accordingly, the revised NPPF still supports electric vehicles in the context of locational sustainability. They have not ceased to form part of the transport measures capable of improving the sustainability of a development. Mr Greaves therefore adopts an overly restrictive interpretation which is not supported by either the wording of the definition or the wider transport policies of the Framework. Given the availability of walking, cycling and public transport from the Appeal Site, very little turns on this point.

800m Walking Distance within Policy S5

- 3.12 Turning back to Policy S5, Mr Greaves' conclusions on sustainability rely heavily upon his assertion that criteria h(i) and h(iii) are not satisfied [66]. In particular, he places considerable emphasis on the fact that the appeal site is not within a “reasonable walking distance” of a well-connected railway station, with reference to Mr Russell's evidence.
- 3.13 S5(1)(h) is a separate route to permission / compliance with S5 and has never formed any part of the Appellant's case. Mr Greaves' approach represents a clear misinterpretation of Policy S5. As set out in my original submissions on the revised NPPF, Policy S5 identifies a number of separate circumstances, set out in categories (a) to (j), in which development outside settlement boundaries should be supported. Where a proposal satisfies one of those categories, S5(1) confirms that development should be approved unless the benefits are significantly outweighed by the identified harms.
- 3.14 The NPPF Annex B is carefully worded in the way it applies the concept of ‘reasonable walking distance’, reserving the application of the 800m distance to specific circumstances, namely S5(1h), L3(2c) and GB7(1h) where they relate to land around well-connected stations. It does not apply to criterion (j), which is the relevant policy route in this appeal.
- 3.15 Both the Appellant and the Council have demonstrated that the appeal proposal satisfies criterion (j) of S5(1). That is because the term “reasonable walking distance” does not limit compliance with TR3.
- 3.16 Mr Greaves' submissions therefore place weight on a requirement that relates to an entirely separate limb of Policy S5. This is entirely the wrong approach. To read the reasonable walking distance test into criterion (j) would effectively import policy requirements that the Government has deliberately chosen not to include within that part of the policy. If they



wished it to apply to S5(j) they would have stated as such in the criteria or the Annex B reasonable walking distance definition.

- 3.17 Policy TR3 deals with locating development in sustainable locations and contains no requirement for development to be located within a reasonable walking distance of a railway station.
- 3.18 The railway station test is deliberately confined to S5(1)(h) and should not be applied more broadly across the Framework and cannot reasonably be treated as a universal test of sustainability. A walking distance over 800m therefore remains entirely appropriate, acceptable and policy-compliant.
- 3.19 Mr Greaves' assessment wrongly relies heavily upon a criterion that is not relevant to the policy route through which the appeal proposal is advanced. His conclusions, therefore, are misplaced and fail to recognise that criterion (j) was introduced specifically to support development that addresses evidenced unmet housing needs in locations outside settlement boundaries.

Connectivity Tool

- 3.20 In paragraphs 74-78 of his submissions, Mr Greaves places considerable reliance on the Connectivity Tool and treats it as a determinative assessment of whether a site is sustainable. However, as demonstrated by Mr Marshall during the Inquiry, this is not the test, nor what the revised NPPF says. The Connectivity Tool is one of a number of tools available to assist in assessing the sustainability and connectivity of a site and is expressly required to be considered alongside other quantitative and qualitative evidence. The NPPF does not change this.
- 3.21 The revised NPPF is clear on this point. References to the Connectivity Tool consistently state that it should be used alongside other relevant quantitative or qualitative evidence, including:
- *Policy TR1, which states that the Connectivity Tool should be used to inform the assessment and selection of sites for development **alongside other relevant quantitative or qualitative evidence** [my **emphasis**];*
 - *Policy TR3, which states that the Connectivity Tool should be used **alongside other relevant quantitative or qualitative evidence** in assessing the connectivity of locations proposed for development" [my **emphasis**]; and*
 - *The wider references within the Framework which similarly identify the tool as an input into the assessment process rather than a standalone or determinative assessment.*
- 3.22 To be clear, TR1 is a plan-making policy and cannot be used for decision-making. The reference here simply illustrates the overall policy intention is not to restrict assessment only to the Connectivity Tool, even at the plan-making stage.
- 3.23 Accordingly, the revised NPPF does not elevate the Connectivity Tool above all other evidence, nor does it suggest that the outputs of the tool should be treated as determinative of whether a site is sustainable. Had this been the Government's intention, the repeated reference to considering the tool alongside other evidence would not have been included.
- 3.24 In addition, Mr Greaves states at paragraph 76 that national policy confirms a "high degree of emphasis" should be placed on the Connectivity Tool. Whilst the tool is a material consideration, this is not what the policy wording actually says. Rather, the NPPF recognises the Connectivity Tool as just one means of determining the degree to which a location provides access to jobs, services, and facilities by sustainable transport modes, as part of a



wider assessment exercise, drawing together both quantitative and qualitative evidence in order to reach an overall planning judgment.

- 3.25 Mr Marshall's approach is therefore entirely consistent with national policy by considering the Tool alongside the extensive evidence before the Inquiry. The relevant question as explored by Mr Marshall is therefore not whether the Connectivity Tool produces a particular score, but what conclusions can reasonably be drawn when its outputs are considered in the round alongside the wider evidence base. This is precisely the approach advocated by the revised NPPF and adopted within Mr Marshall's Proof of Evidence (CD9.2).

Footpath and Safety - Routes from the Site

- 3.26 Mr Greaves claims that the footpath leading away from Lewes Road is unsuitable because in his assertion: (a) it is not overlooked, (b) it is overgrown and (c) it is unlit. That does not reflect the full evidence before the Inquiry. Mr Marshall demonstrated that this is a relatively short section of footpath, which is straight and has good visibility looking ahead. The sections of the route are overlooked by adjacent development, including a number of houses' windows at first-floor level. In any event, the route forms part of the existing public rights of way network, and is already well-used by the public.
- 3.27 The concerns regarding vegetation growth are wrong given that the route will be maintained and, following the proposed resurfacing works, the frequency of maintenance required would be reduced, because of the surfacing. The resurfacing itself was specifically requested by the Highway Authority and is intended to facilitate all-weather use of the route. The new surfacing will expressly prevent overgrowth and therefore amount to a clear improvement in its usability.
- 3.28 In relation to lighting, no improvements were required by West Sussex County Council in its capacity as Highway Authority.
- 3.29 During cross-examination Mr Russell accepted that the majority of trips to key day-to-day destinations, including the primary school, GP surgery, pharmacy and Tesco, would occur during daylight hours. Mr Marshall emphasised that in his view it would be the vast majority of such trips. As such, the concerns raised by Mr Greaves place undue emphasis on a matter which (a) neither the Highway Authority considered necessary to address nor (b) which would materially affect the ability of future residents, including women and girls, to access day-to-day services and facilities.
- 3.30 Mr Greaves' reliance on Policy DP3 in relation to the safety of specific groups is also unsupported by the evidence. No evidence has been submitted by the Rule 6 Party to demonstrate that the short section of public footpath in question is unsafe, gives rise to any actual crime or personal safety concerns, or would deter its use by future residents, particularly when the vast majority of trips will be during daylight hours.
- 3.31 Policy DP3 does not require every pedestrian route to be lit in order to be considered safe, secure and accessible, noting that the majority of trips will in any case be undertaken in daylight hours. Rather, the policy requires an overall assessment of whether development provides safe and inclusive movement opportunities for all users. In this case, the evidence demonstrates that the route will remain available, maintained and enhanced through the proposed mitigation measures and wider pedestrian improvements secured through the development.
- 3.32 Mr Greaves paragraph 81 tacitly appears to agree that Mr Russell's concern was that the path's quality (as Mr Russell saw it) would only '*...deter **some** users from walking along this path, **particular** [sic] **at dusk, dawn and nighttime***'. Mr Russell confirmed in cross-examination that the majority of use would be during daylight hours, including those accessing the primary school.



3.33 As such, Mr Greaves has not demonstrated that the route would be unsafe or inaccessible, nor that the appeal proposal would conflict with Policy DP3. Rather, his conclusions rely upon concerns that are either addressed through the mitigation package secured by the development or unsupported by the evidence before the Inquiry.

3.34 Furthermore, Mr Greaves has not recognised the improvements to the PRow that would come about directly as a result of the proposed development. NDMP TR8 confirms that

'Development proposals should... take opportunities to... improve the quality of existing routes where this enables...the provision of accessible, safe and convenient links to services and facilities and improved connections with public transport stops.'

The proposed development does precisely that through improvements to the surfacing of the PRow footpath secured through the agreed S106, which will enhance the route's year-round accessibility.

The View of the Highways Authority

3.35 Mr Greaves finally attempts to suggest the Highway Authority may have reached a different recommendation had the appeal scheme been assessed against the revised NPPF 2026. This is entirely speculative and unsupported by any evidence before the Inquiry. Indeed, it is flatly contrary to the Local Highway Authority's detailed consideration of the scheme, as evidenced in multiple consultation responses and the Transport and Highways Statement of Common Ground .

3.36 Mr Greaves places emphasis on the removal of the former NPPF paragraph 116 wording that development should "only be refused" on highways grounds in certain circumstances. He fails to acknowledge that the Highway Authority assessed the proposal against the wider transport policy framework and also agreed the Statement of Common Ground, including the sustainability credentials of the site's location, agreed routes and distances to local facilities, and a package of transport improvements to be secured through the development.

3.37 Furthermore, Policy TR3 does not impose a new prohibition on development in locations such as the appeal site. Rather, it requires development to be located in places that are sustainable, or can be made sustainable through planned improvements, including those delivered as part of the development itself. The only relevant evidence before the Inspector from the statutory highways consultee is that the development is acceptable subject to the agreed mitigation. There is nothing in the NPPF or otherwise to suggest they would now reach a different view.



4.0 Sustainability of the Appeal Site's Location – Ecology, Trees and Wooded Features, and Ancient Woodland

Ecology and Trees

- 4.1 Mr Greaves claims that the appeal scheme is contrary to Policy DP3(2)(c) on four different grounds in paragraph 100 of his response. A rebuttal to each point is discussed below.

Weakening of Habitats

- 4.2 Mr Greaves' assertion that habitats will not be strengthened, but instead "weakened" as a result of breaches within wooded features, is unsupported by the evidence before the Inquiry.
- 4.3 Mrs Barratt's evidence demonstrated that the proposals accord with the mitigation hierarchy and provide appropriate avoidance, mitigation and enhancement measures for relevant ecological receptors, including protected species, whilst no statutory consultee has raised an objection to the proposals on ecological grounds including Place Services.
- 4.4 Furthermore, the evidence of both Mr Cook and Mrs Barratt demonstrates that the proposals retain existing planting wherever feasible, provide substantial new planting and deliver approximately 1.31ha of Natural Green Space, significantly in excess of the identified requirement of 0.019ha.
- 4.5 Given these enhancements, together with the absence of any ecological objection from either the Council or statutory consultees, there is no evidential basis for concluding that the proposals would weaken habitats or conflict with Policy DP3(2).

Limited recreation opportunities

- 4.6 The Rule 6 Party submission that the appeal scheme would fail to provide adequate on-site recreation opportunities is wrong. The appeal scheme includes on-site open space provision, a LEAP, financial contributions towards formal sports facilities, and a network of pedestrian routes and landscaped areas designed to encourage walking and recreation. Accordingly, there is no basis for concluding that the proposal conflicts with Policy DP3(2)(c) in this regard.
- 4.7 Mr Greaves' interpretation of Policy DP3(2)(c) is also based on an incomplete reference to the NPPF text. The policy does not require recreation opportunities to be provided exclusively on-site, but instead states that development should *"incorporate and/or connect to a network of high-quality, accessible, multifunctional green infrastructure to provide opportunities for recreation and healthy living"*.
- 4.8 The Appeal Site provides clear opportunities to connect to existing recreation facilities and green infrastructure networks, including pedestrian links towards Walnut Park directly opposite the site and within walking distance via the PRoW.
- 4.9 The Rule 6 Party have never advanced any such case regarding on-site recreation before. Requirements relating to recreation and healthy living were also contained within the previous NPPF and, despite extensive evidence being presented throughout the Inquiry, no evidence was submitted by the Rule 6 Party to suggest that opportunities for recreation would not be achieved. Given the similarity between the previous and revised policy position, it is not reasonable for the Rule 6 Party to seek to introduce a new criticism through its NPPF submissions at this late stage. This submission is therefore not supported by any evidence.



Tree Cover

- 4.10 Mr Greaves considers that the loss of tree cover places the appeal scheme in conflict with Policy DP3(2)(c). That is also wrong. Policy N3, to which DP3(2)(c) expressly refers and Policy N2 do not place a bar on the loss of trees. Rather, NDMP N2 requires development proposals to:

*"conserve and enhance existing natural features of visual, historic or nature conservation value (such as established trees and hedgerows) **where possible** [my emphasis]"*.

- 4.11 The appeal proposals have sought to retain and enhance trees wherever possible, with only those required to facilitate access being proposed for removal. The vast majority of trees and hedgerows are retained, including all high-quality trees, and the scheme will deliver a net gain in tree planting overall. Accordingly, the proposal is consistent with the requirements of Policies N2 and N3 and there is no basis for concluding that it conflicts with Policy DP3(2)(c) simply because a limited number of trees are proposed for removal.

Water Quality Improvement

- 4.12 Mr Greaves finally attempts to make a wholly new submission on water quality without any evidence. He states that it is unclear how water quality associated with the development would be improved. Again, requirements relating to water quality are not new and were similarly reflected within the NPPF 2024.
- 4.13 The R6 Party made no case throughout the Inquiry to suggest that the proposed development would fail to achieve appropriate water quality outcomes, and have provided no evidence to substantiate that claim. Again, it is therefore inappropriate to seek to introduce a new criticism through submissions on the revised NPPF at this late stage.
- 4.14 In any event, no objection has been raised by any statutory consultee in relation to water quality, including the Local Lead Flood Authority (CD4.15). Furthermore, appropriate water quality measures will be secured through planning conditions, including draft Condition 5 currently before the Inspector. In the absence of any technical evidence or statutory consultee objection to the contrary, there is no basis for concluding that the proposal conflicts with Policy DP3(2)(c) in this regard.

Ancient Woodland

- 4.15 There is no Ancient Woodland on site, based on the clear evidence presented, and agreed by the Council. The cartographic and aerial evidence presented does not indicate that the hedgerows running north-south through the site or the boundary features to the north-west of the site are Ancient Woodland.
- 4.16 At [105] and [106], Mr Greaves introduces for the first time, an unevidenced accusation that the proposals would "harm" the 'ghyll stream' to the south of the site within the designated Ancient Woodland.
- 4.17 The R6 party did not provide any evidence to support the submission that there would be any harm. To the contrary, both the LLFA and the Council's ecology consultee raised no objections. The Appellant also provided evidence from their own Drainage consultant to confirm that there would be no harm, given that the drainage arrangements would replicate the existing position (ID1). This was confirmed by Mr Forbes-Laird. Simply put, this is a new point for which the R6 present no evidence that there will any such harm.
- 4.18 At [107] Mr Greaves erroneously states that 'great weight' should be given to the 'likely' presence of Ancient Woodland, 'taking a precautionary approach'. Nowhere does the NPPF, past or present, suggest that either 'great weight' or a precautionary approach should be applied to Ancient Woodland. To apply such approaches would be an incorrect application of policy.



- 4.19 The correct approach, as the Appellant emphasised and as the Council has also confirmed in their closings (ID25 [12]), is that there needs to be a clear, positive conclusion that an area is ancient woodland. This decision is to be made on the basis of the normal civil standard of the 'balance of probabilities'. The new NPPF does nothing to change this. On the basis of the evidence, the overgrown hedgerows running north-south within the Site and the features at the north-eastern boundary are not Ancient Woodland areas when applying the above principles.
- 4.20 There is therefore no loss or deterioration to Ancient Woodland on or off site, or to the Ghyll stream associated with the offsite Ancient Woodland. The proposals therefore comply with NDMP N6.
- 4.21 In respect of NDMP N2, the proposals retain the majority of existing trees, and all important Category A trees, and do not result in the loss of ancient woodland. The drainage strategy will maintain the existing surface water flow rates and water quality leaving the site and therefore continue to conserve the nature conservation value of the ghyll stream. There is therefore no conflict with NDMP N2.
- 4.22 In respect of NDMP DP3(2c) the appeal proposals maintain a network of multifunction green infrastructure spaces, including hedgerows and open spaces enhanced to improve their ecological value. The drainage proposals also mimic existing surface water flow rates leaving the site and will incorporate measures to treat water quality. Drainage measures can be controlled in detail by condition 5 agreed between the Council and Appellant and not disputed by the R6 Party (ID23).
- 4.23 Overall, there is no conflict with NDMP N6, N1 or DP3(2)(c).



5.0 Main Matter 3: Draft Allocation

- 5.1 Notwithstanding Mr Greaves' suggestion that the revised NPPF advocates a more plan-led approach, he subsequently states that whilst the Appeal Site has been put forward for allocation, it cannot benefit from policy support because it is not yet formally allocated.
- 5.2 Mr Greaves' submission that the proposed allocation attracts no support, or indeed no weight whatsoever, is wrong.
- 5.3 The site has been subject to extensive assessment through both the Local Plan process and the appeal proceedings, and it is the Council's contention that the appeal site should be allocated.
- 5.4 Mr Greaves' assertion that the site will "very likely not be allocated" is entirely speculative and unsupported by any evidence. The site remains proposed for allocation by the Council and forms the largest of the four residential allocations proposed within the Haywards Heath Parish.
- 5.5 Furthermore, its inclusion follows Inspector Bore's request for the Council to identify an additional 3,928 dwellings in order to address the District's housing shortfall and enable the Plan to be found sound. As a site adjacent to Haywards Heath, a Category 1 settlement and one of the most sustainable locations within the District, it is precisely the type of site that national and local planning policy would ordinarily seek to direct growth towards. The fact that sites are being allocated in the national landscape demonstrates that land is at a premium in Mid Sussex and sites like that at Colwell Farm should be progressed.
- 5.6 The Council address this in their Closings (ID25):

'Although some of those [other proposed allocations] might have particular characteristics which make them more sustainable than the Appeal Site, most of them will not. If the Appeal Site is regarded as unsustainable, it is highly unlikely the Council will be able to meet Inspector Bore's request. [6]

- 5.7 Mr Greaves also contends [109] that the soundness of the Emerging Local Plan is not contingent upon the allocation of the appeal site due to the level of housing supply and headroom already identified.
- 5.8 Again, this conclusion is unsupported by evidence. Inspector Bore made clear during the examination process that headroom forms an important component of a sound Local Plan, helping to ensure resilience should the delivery of allocated sites fall behind expectations.
- 5.9 This is particularly important given that Mid Sussex has not previously been required to deliver housing at the level generated by the revised standard method and that a number of the larger allocations proposed in the Plan are likely to be delivered over longer timescales and may be subject to greater delivery risks.
- 5.10 This is also addressed by the Council in their closings (ID25):

'...the Council is of the clear view that there are a number of sites which would have a better claim to removal than the Appeal Site. [25].

'Although the Rule 6 Party argues that it would be better for the Appeal Site to come forward as an allocation, at this point in the process that is essentially an argument based on prematurity, in circumstances where – as we observed in opening – the Appeal Scheme is simply not big enough to justify refusal on that ground. Having agreed that the Appeal Site should come forward for development, the Council can see no good reason in delaying that outcome. [26d]



- 5.11 In these circumstances, it is entirely prudent for the Council to maintain an appropriate buffer of deliverable sites. The appeal site is particularly well placed in this regard, having already been subject to extensive assessment through both the planning application and appeal processes and being capable of contributing towards housing delivery in the short to medium term. Mr Greaves therefore provides no substantive basis for his assertion that the site is unlikely to be allocated or that its allocation is unimportant to the soundness and delivery of the emerging plan.
- 5.12 Finally, Mr Greaves' submissions on the revised NPPF stray into making objections to the Emerging Local Plan. We dispute the points raised here again by Mr Greaves for reasons already addressed.
- 5.13 The soundness and content of the Emerging Local Plan are matters to be determined through the separate Local Plan examination process, where interested parties, including the Rule 6 Party, have the opportunity to make representations. The purpose of these submissions is to address the implications of the revised NPPF for the appeal proposal before the Inspector, not to re-open or pre-empt matters that properly fall to be considered through the Local Plan examination.



6.0 Summary

Main Issue 1: Status of and conflict with the development plan

- 6.1 Mr Greaves' paragraph [119] repeats the error previously made in failing to engage at all with Annex A, paragraph 2, in respect of the consistency of policies with the NPPF. Specifically, no reference is made to inconsistency between NDMP S5 and countryside policies DP6, DP12 and DP15 of the MSDP, to which I attach **very limited weight**, as directed by the NPPF.
- 6.2 It is also worth noting that Mr Greaves' [114] implies he has found an inconsistency between emerging policies and the NPPF, but does not elaborate on this further.

Main Issue 2: Sustainability of Location – Transport and Travel

- 6.3 Mr Greaves' [122] alleges conflict with NPPF TR1, TR3, TR4, S5, DP3 and P5.
- 6.4 The Appellant disagrees that there is any conflict with any elements of these policies.
- 6.5 Furthermore, TR1 is a plan-making policy, not a policy for consideration when making decisions on applications.
- 6.6 I have addressed the points raised at Mr Greaves' [123] at paragraph 3.1-3.19.
- 6.7 The application of the 'reasonable walking distance' definition by Mr Greaves is incorrect – being applied to policies to which the definition, as plainly written, does not apply.
- 6.8 The approach adopted by Mr Greaves to electric vehicles (EVs) is over-simplistic. National policy continues to support access to a site by EVs.
- 6.9 Mr Greaves' [126] has been addressed at paragraph 3.20 – 3.25. Mr Greaves' reliance on the Connectivity Tool is overstated and ignores the full text of TR3. Whilst acknowledging that it plays a part in the assessment of sites, this continues to be required 'alongside other relevant quantitative or qualitative evidence'.
- 6.10 Mr Greaves' [127] has been addressed at paragraphs 3.26 – 3.34. The routes from the site are and will feel safe for the majority of users at the majority of times, and will be made yet safer by the improvements delivered as part of the appeal scheme.
- 6.11 Overall, the R6 submissions on the sustainability of the site in relation to the NPPF are incorrect, overstated and not supported by the evidence, which shows that the site plainly is a sustainable location for development, well-related to the category 1 settlement of Haywards Heath, where S5(1) supports development.

Main issue 2: Sustainability of Location – Ecology, Trees and Ancient Woodland

- 6.12 Mr Greaves' allegations of conflict with DP3(2)(c), DP3(2)(f) and N2(1)(d) are all incorrect and/or made without any requisite evidence.
- 6.13 In respect of DP3(2)(f), no evidence has been presented to support this alleged conflict on the basis of public space and safety.
- 6.14 In respect of DP3(2)(c) and N2(1)(d), the Appellant's evidence, supported by the Council, has identified no conflict with these policies.



- 6.15 In respect of [131], and the allegation of 'good evidence' of Ancient Woodland or 'PAWS' on site, this is not supported by evidence. There is no Ancient Woodland or PAWS and this is confirmed by the Appellant's evidence and by the Council (ID25[13]).

Main Issue 3: Emerging Local Plan – Allocations

- 6.16 The matter of the status of the emerging allocation has been explored at section 5 above.
- 6.17 Put simply, the site has a draft allocation for exactly the same number of units, based on a very strong existing evidence base. There is no evidence that the allocation should be removed. The soundness of the allocation is a matter for the local plan examination inspector to consider.
- 6.18 The Appellant disputes and will continue to dispute as part of the examination the points made by the R6 party as to why they consider the site should not be allocated.
- 6.19 All the same, the Council have clearly set out why they consider the site is both appropriate for allocation and is required to make the site sound. They have been clear that they consider:
- 1 Other sites proposed for allocation are less sustainable than this site, and
 - 2 Without sites such as the appeal site, Inspector Bore's requirement for further housing needs to be met is unlikely to be satisfied.
- 6.20 The new NPPF does nothing to change either of these facts.

Conclusion

- 6.21 Having carefully and fully reviewed the NPPF, I maintain my position, as per my initial submission (ID32), that the NPPF fully supports the appeal scheme. Indeed it is precisely the type of development the appellant has brought forward that the changes to the NPPF, and specifically NDMP S5 are designed to support.
- 6.22 My position remains, therefore, that the appeal should be allowed based on the very strong support provided by the NPPF and its NDMPs as material considerations for the purposes of s38(6) PCPA 2004.





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