

RE: LAND EAST OF ANSTY WAY
APPEAL UNDER S.78 OF THE TOWN AND COUNTRY PLANNING ACT 1990

CLOSING STATEMENT ON BEHALF OF ANSTY AND STAPLEFIELD PARISH
COUNCIL AND CUCKFIELD PARISH COUNCIL

1. Ansty and Staplefield Parish Council and Cuckfield Parish Council (“**the Parish Councils**”) strongly resist this appeal.
2. The Parish Councils’ argument is essentially, as follows:
 - (1) The appeal scheme is contrary to the adopted Development Plan, as agreed by all parties. The starting point¹ is therefore **refusal**.
 - (2) The development would cause harm to local landscape character and visual amenity, harm to the special qualities of the High Weald National Landscape and would lead to coalescence between Ansty and Cuckfield.
 - (3) The appeal scheme, even taking account of the mitigation proposed, is not sustainably located.
 - (4) There would be further substantial harm caused by reason of prematurity having regard to the plan-making process of MSDC’s emerging Local Plan.
 - (5) While there is a need for housing of different types within the district and the appeal proposals would deliver some benefits in that respect, those benefits are obviously outweighed in this case by the harms to which the development when considered in the context of paragraph 11(d)(i) or 11(d)(ii) of the NPPF.

Landscape character and visual amenity, the National Landscape and coalescence

3. The appeal site lies between the two villages of Ansty and Cuckfield, adjacent to the High Weald National Landscape. It provides an undulating arable farmland of ridges, valleys and streams. Large and small fields are interspersed with ancient woodland, ghyll woodland, deciduous and coniferous plantations. From the central ridgeline there are long views towards

¹ S.38(6) of the Planning and Compulsory Purchase Act 2004

the South Downs National Park to the south and to the Grade I listed Cuckfield Parish Church to the north. Despite its proximity to the settlement, it is perceived as an unspoilt rural landscape and has a feeling of remoteness.

4. The site is a 'valued landscape' for the purpose of paragraph 187(a) of the NPPF, applying the approach in the Landscape Institute Technical Guidance Note (LITGN) 02/211 Assessing Landscape Value Outside National Designations.² The evidence of Mrs Hooper identifies all those features which are relevant to the assessment in her Table 1. The site exhibits indicators of clear natural interest which contribute positively to the landscape and give it a sense of place, including ancient woodland typical of the High Wealden Ghyll Woodland, priority habitats for deciduous woodland and habitats for valued species. It includes landscape of clear historical interest, with small 'assarted' fields typical of the medieval High Weald landscape as well as listed buildings and historic routeways.
5. It was notable that Mrs Brockhurst did not dispute that the features identified by Mrs Hooper were relevant to the assessment of value. Her only disagreement with Mrs Hooper's evidence was whether, taken in the round, the features identified by Mrs Hooper were 'enough' to establish the appeal site as a valued landscape.³ She suggested that a site would need to demonstrate 'all' of the indicators given in the Guidance in relation to each of the factors in order to establish it is a valued landscape. However, Mrs Brockhurst was not able to point to any guidance to that effect. In any event, for many of the factors, the appeal site did display all of the indicators of value. The Parish Councils remain firmly of the view, having regard to Mrs Hooper's assessment, that the appeal site is a valued landscape and should be treated as such.
6. In terms of the effects from the appeal proposals, these are set out in the Appellant's LVIA.
7. In short, however, the proposed development would result in the permanent loss of approximately 100 ha of unspoilt countryside. The historic field pattern of thick native hedgerows and wooded shaws enclosing irregularly shaped small and medium-sized fields typical of the medieval High Weald landscape and managed historically as a mosaic of small agricultural holdings would be substantially degraded. The landscape value of the interconnected pattern of ancient woodland, steep sided ghyll woodland and shaws with numerous ghyll streams would be eroded through the construction of a new network of roads and streets with bridges crossing over steep-sided valleys. The historic dispersed settlement pattern would

² CD 17-5

³ XX by Mr Parker

be consumed by an urban extension to Ansty. Ancient routeways in the form of ridgetop roads and tracks with a system of radiating droveways, often narrow, deeply sunken and edges with trees and wild flower-rich verges and boundary banks, a dense network of small, narrow and winding lanes and tracks, often sunken and enclosed by high hedgerows or woodland strips would be replaced with streets and houses. The access points into the development⁴ would be highly visible, including from the National Landscape. The intimate scale of the landscape would be lost, forever.

8. So far as the National Landscape is concerned, the parties are in agreement as to various key points of principle and in dispute about others.
9. First, it is not in dispute that the appeal site is located immediately adjacent to the NL and is within its setting. There is no dispute, in principle, that development within the setting of the NL can cause harm to its special qualities, so as to engage paragraph 189 of the NPPF.
10. The Appellant's position is that a scheme within the setting of the NL must merely 'avoid or minimise' harm to the special qualities of the NL in order to comply with paragraph 189. The Parish Councils disagree on two important bases. First, NPPF para 189 requires that a scheme must be sensitively located. If it is not sensitively located and it causes harm to the NL, it will breach para 189 even if the harm has been 'minimised'. Secondly, and even on the premise that harm to the NL has been 'minimised', any residual harm to the NL must nonetheless attract great weight in the planning balance according to the first sentence of para 189 NPPF (which makes clear that 'any' harm to the NL should attract great weight). Thus, while schemes within the setting of the NL must as a pre-requisite avoid or minimise harm, any residual harm nonetheless weighs in the planning balance, and great weight must attach to that harm.
11. The Appellant accepted, in principle, that special characteristic six (dark night skies) and seven (aesthetic and perceptual qualities) as identified in the NL Management Plan were capable of being harmed by the appeal proposals.
12. Mrs Hooper explains in her evidence how these special qualities would be harmed.
13. In particular, in relation to special characteristic six, Objective DS1 of the HWNL seeks to:

'preserve the dark skies of the HWNL 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.'

⁴ See Mrs Hooper's PoE at paras 7.12 – 7.18

14. The appeal scheme would comprise 1.5 to 4-storey residential development, school buildings with ridge heights up to 10m and community buildings up to 15m ridge height. There would be light spill from domestic, community and educational buildings, floodlit sports pitches, street lighting and highways lighting which is likely affect the dark skies of the Appeal Site and due to its close proximity to the HWNL, it would also adversely affect the dark skies of the HWNL.
15. Mrs Brockhurst argued that because the eastern part of the HWNL had 'darkest' skies and the appeal scheme would not affect that part of the NL, the dark skies special characteristic of the NL would be unaffected. The Parish Councils contend that Mrs Brockhurst's approach misunderstands the nature of the exercise required and, if adopted by the Secretary of State, would be unlawful. The requirement in the management plan is to avoid any harm to the dark skies of the NL, irrespective of where it arises. The NL Management Plan does not merely seek to protect the largest areas of dark skies and even if it were demonstrably the case (which it is not, here) that the harm to dark skies in some other location in the NL would worse, that would not detract from the harm that would be caused in the location in question. In any event, and irrespective of the methodological differences, Mrs Brockhurst's argument is, upon examination of the evidence, misconceived. While the eastern parts of the HWNL may have larger areas of dark skies, the skies in the vicinity of the appeal site are nonetheless intrinsically dark, as the relevant CPRE mapping shows. As shown on Figure LP5.1 of Mrs Brockhurst's proof, despite the presence of Haywards Heath to the east and the A23 road corridor to the west, the skies in the vicinity of the appeal site are just as dark as the skies in the eastern part of the HWNL, albeit not over as extensive an area. If anything, however, that renders those pockets of the NL which remain intrinsically dark (such as in the vicinity of the appeal site) even more 'special' and worthy of protection.
16. So far as the effects are concerned, it emerged during cross examination by Mr Simons that the Appellant placed significant reliance upon a lighting assessment which had been carried out by the Appellant in order to demonstrate that there would be no effects from lighting on the dark skies of the NL. That reliance was surprising given that Mrs Brockhurst had not mentioned it all in her written evidence. Nonetheless, she confirmed in cross examination that she had not carried out any assessment of lighting on the NL and relied entirely on the lighting assessment. Upon examination, however, and as accepted by Mrs Brockhurst⁵, it became clear that the lighting assessment had (a) not followed the guidance mandated by the HWNL

⁵ XX by Mr Parker

Planning Technical Advice Note: Dark Skies in the High Weald which requires⁶ dark sky Environmental Zone E1 to be used for any assessment of the effects of lighting on the NL from development which is “adjacent or very close to the AONB boundary”⁷ and (b) did not in fact contain any assessment of the effect from lighting on the NL in any event.⁸ There is therefore no meaningful analytical assessment of the effects from lighting on the NL before the Inspector or the Secretary of State.

17. Mrs Brockhurst accepted⁹ that there would be effects from light spill on the NL but asserted that these effects would be no worse than the effects from Cuckfield. Given the absence of any analytical assessment and having regard to the nature and scale of the scheme, there can be no real confidence in the accuracy of Mrs Brockhurst’s assertion. Even if it were to turn out to be an accurate prediction, the CPRE mapping shows that such effects would be deleterious. Currently, the appeal site skies have levels of 0.5 – 1 nanowatts/cm²/sr with nearby areas in the NL being even darker, between 0.25-0.5 nanowatts/cm²/sr. Cuckfield has levels of 2-4 nanowatts/cm²/sr with its fringes (within the NL) being 1-2 nanowatts/cm²/sr. It is therefore clear that if, the appeal site and the area immediately adjacent to it within the NL were to be lit to the extent of the NL adjacent to Cuckfield, that would have an obviously materially detrimental effect on the dark skies of the NL in this location.

18. So far as the aesthetic and perceptual qualities were concerned, Mrs Brockhurst accepted that ‘glimpsed long views’ out of the NL including across the appeal site, were part of the special qualities of the NL.¹⁰ While she was of the view that this quality of the NL would not be harmed by the appeal proposals, the Parish Councils firmly disagree. First, it is important to understand that the landscaping on which the Appellant relies to mitigate the effects from the proposals will take some time to mature. Even once it is fully mature, as Mrs Hooper explains, it will conflict with the identified objective (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*”. As a result of the proposed development, the landscape character of the appeal site would be transformed from an unspoilt rural landscape into an urban settlement and would no longer provide a contiguous rural setting to the HWNL and would detract from the visual experience from within the NL. The proposed vehicular

⁶ CD 17.13, PDF11

⁷ The lighting assessment at CD2.15 used the zone E2

⁸ As Mrs Brockhurst accepted in XX by Mr Parker, the assessment did not assess the effect on any receptors within the NL

⁹ XX by Mr Parker

¹⁰ CD17-12, PDF17

entrance to the west of the Appeal Site would result in land-take, tree and hedge removal, the opening up of views into a new urban settlement with associated light spill and highways lighting would also lead to harmful landscape and visual effects, as noted above. Due to the proximity of this entrance to the HWNL and the resulting adverse landscape and visual effects, they would also harm this characteristic of the NL.

19. Turning to coalescence, Ansty and Cuckfield are two neighbouring but physically separate villages in adjacent parishes. Each village has its own identity, history and character, both featuring on historic maps dating from the 17th century with the John Speed Map of Sussex 1610 and the Mordens Map of Sussex 1763.
20. As set out in detail in Mrs Hooper's proof of evidence¹¹, the development of the appeal scheme would lead to the perceived coalescence of the two settlements. In particular, the topography of the landscape between the settlements is such that the development would erode the perception of rural separation and would give rise to intervisibility between the southern edge of Cuckfield and the appeal scheme (see, in particular Figure 27 in Mrs Hooper's proof of evidence).

Whether the proposal would be in a suitable location, with particular regard to national and local planning policy and access to services and facilities

21. It is common ground that the appeal scheme does not accord with the development plan and, so far as its location is concerned, the scheme is contrary to Policies DP6 and DP12 of the Local Plan.
22. Even though it is accepted that the settlement boundaries in the Local Plan will need to be breached to meet housing needs, it remains the case that Ansty is a category 4 settlement (as remains the case in the emerging plan).¹² There are 22 settlements ahead of Ansty in the settlement hierarchy.
23. So far as the locational sustainability of the appeal site is concerned, all parties were agreed on the applicable policy context including, in particular, Policy DP21 of the Mid Sussex District Plan and paragraphs 109, 110, 115(a) and (b) and 117(a), (b) and (c) of the NPPF.

¹¹ Paragraphs 9.1 – 9.20

¹² See the PoE of Mr Connell at paras 4.21 – 4.22

24. Both Mr Lewis¹³, for the Parish Councils, and Mr Stevens¹⁴, for the Appellant, agreed that, at its heart, the question of whether the appeal proposals would be sustainable depended upon whether, having regard to paragraph 110 of the NPPF, the appeal site could be made sustainable by limiting the need to travel and offering a genuine choice of transport modes.

25. The Parish Council and the Appellant¹⁵ are in agreement with the following propositions:

(1) Taking into account the existing walking, cycling and public transport provision, the appeal site is not currently a sustainable location for the type of development proposed.¹⁶

26. Having regard to the baseline conditions as described by Mr Lewis in Section 3 of his proof (which includes, but is not dependent on, an analysis of the site using the DfT connectivity tool), there cannot be any sensible dispute that the appeal site is not currently a sustainable location for development.

(2) While the appeal scheme includes proposals to deliver various facilities on-site, they are not of themselves sufficient to demonstrate that the appeal scheme is in a sustainable location, having regard to the number of ‘external’ trips to which the scheme will give rise.

27. In particular, as Mr Stevens accepted¹⁷, there would be a need for residents to travel externally to the site to go to secondary school as well as to access jobs and other services not being provided on site.

(3) The appeal scheme would give rise to a significant number of ‘external’ trips and, in order for the appeal scheme to be sustainable in terms of paragraph 110 of the NPPF, the Secretary of State would need to be satisfied that residents had a genuine choice of transport modes for those external trips

28. The Appellant’s Addendum Transport Assessment, dated May 2025, predicts that the appeal scheme will give rise to almost 13,000 daily trips, of which 8,000 will be made by private car.

¹⁸ On any view, and as Mr Stevens agreed, that is a significant number of trips and, in order to

¹³ Examination in Chief (“EiC”) by Mr Parker

¹⁴ Cross-examination (“XX”) by Mr Parker

¹⁵ As agreed both by Mr Steven and by Mr Brown, the Appellant’s planning witness during XX by Mr Parker.

¹⁶ Mr Stevens agreed, during XX by Mr Parker, that insofar as he had suggested in his proof of evidence at paragraph 2.17 that the appeal “is” a sustainable location, that was incorrect.

¹⁷ XX by Mr Parker

¹⁸ CD 10-9, PDF53.

satisfy paragraph 110 of the NPPF, the Secretary of State must be satisfied that those trips could be made sustainably.

(4) The locations to which residents of the appeal scheme are likely to wish to travel are Cuckfield (including the Warden Park Academy), Haywards Heath (including the railway station), Burgess Hill and Ansty (including the community and leisure facilities and the Secretary of State would need to be satisfied that there was a genuine choice of transport modes to those destinations

(5) Cuckfield (including the Warden Park Academy) and Haywards Heath are beyond reasonable walking distance for the majority of residents

29. Having regard to the distance to the facilities and services in Cuckfield (which are between 1.5km and 2.5km measured from the centre of the appeal site¹⁹), Mr Stevens agreed that they were at the very outer limit of what people would be prepared to walk regularly such that, while some people might walk those distances irregularly, walking to Cuckfield was not a genuine choice of transport mode for residents of the appeal site.²⁰

30. Haywards Heath is even further away than Cuckfield.

31. In addition to the fact that Cuckfield is beyond a reasonable walking distance, the Parish Councils contend, in any event, that the pedestrian routes to the village do not provide a safe or suitable route.

32. The most direct route passes directly north along FP 8aCU and Newbury Lane.²¹ Mr Stevens agreed that in its current state, it is unsuitable²² but contended that, following upgrade works secured through the s106 obligation, the footpath would provide a suitable walking route, albeit more of a 'recreational' option.

33. However, given that FP 8aCU is the most direct route it will be the 'desire line' for residents and the one which the majority of residents are therefore likely to use. Even with the upgrades proposed, the Parish Councils maintain that the route would not be safe nor suitable. While the nature of the works to be carried out has not yet been determined, Mr Stevens asserted that it would likely comprise vegetation removal, re-surfacing and drainage works. While such

¹⁹ Mr Stevens' PoE, Table 4-2

²⁰ Mr Stevens XX by Mr Parker

²¹ Mr Lewis PoE, Figure 4-1

²² XX by Mr Parker

works would obviously be necessary, they would not be sufficient. In particular, the route would remain unlit and there would be insufficient width for cars and pedestrians to pass one another safely. There is, furthermore, no public right of access along part of Newbury Lane.²³

34. Mr Stevens asserted that the route which most pedestrians would be likely to use passed along the B2036. This route would be lit and there was a segregated footpath alongside the road. However, for the majority of residents, this route would not be the most direct route and would be materially longer than the FP 8aCU route. While Mr Stevens produced evidence to suggest that the difference between the two routes was minimal²⁴, these distances were measured from the edge of the appeal site, rather than the middle (as Mr Stevens' had done for other measurements).
35. Both the route along the B2036 and FP 8aCU depend, in any event, upon residents walking along South Street in order to access the services and facilities in Cuckfield. As Mr Lewis has demonstrated, the footway along South Street is intermittent, very narrow and includes sections where it terminates abruptly.²⁵ For all these reasons, there is no safe and suitable walking route to Cuckfield.

(6) The only 'active travel' option to the Warden Park Academy and Haywards Heath are cycle routes

36. The parties are in agreement that the only *potential* option for active travel to the Warden Park Academy and Haywards Heath is to cycle.
37. Again, however, the Parish Councils dispute that the route between the appeal site and those locations is safe or suitable.
38. So far as the route to the Academy is concerned, children would need to cycle along a dedicated route along the A272 to the A272/B2184 roundabout. At that point they would be expected to follow the dedicated cycle route which diverts away from the direction of the school (towards Haywards Heath) cross Tyler's Green on a dedicated crossing and then head back towards the school, as shown on Mr Lewis' Figure 3-1 in his rebuttal proof.

²³ See paragraphs 4.2.10 – 4.2.33 of Mr Lewis' PoE

²⁴ Mr Stevens' Rebuttal PoE, Figure 2.2

²⁵ Mr Lewis PoE, para 4.2.34 – 4.2.37

39. The difficulty with that proposal is twofold. Firstly, given that the route around the roundabout is not the most direct (and involves a significant diversion), children are likely to want to follow the desire line across the A272 and directly onto the B2184, as shown dashed red on Mr Lewis' Figure 3-1. Significantly, Mr Stevens conceded that this was a possibility and that, if children were to use this route, that would not be safe or suitable.
40. Furthermore, the B2184 along which children would need to cycle from the roundabout to the school is a 30mph route. The relevant CIHT guidance on cycling²⁶ provides, in this respect, that *"Local Transport Note 02/08 advises that at speeds of twenty miles per hour and below, cycle traffic and motor traffic readily mixes. At speeds up to thirty miles per hour, it may be appropriate to manage traffic within the carriageway by providing separate lanes for cycle traffic."* Mr Stevens agreed²⁷ that, applying this guidance, it would not only be appropriate but necessary for traffic to be managed within the highway by providing a separate lane for cycle traffic, not least given the vulnerable nature of the majority of the likely users. No such provision is proposed.
41. For these reasons, the route from the appeal site to the Warden Park Academy is not a suitable route for cycling.
42. As to the route to Haywards Heath, Mr Lewis explained that the cycle route being provided along the A272 was not the most direct route and that most residents wishing to cycle to Haywards Heath would seek to use the route along PRoW 69CR, PRoW67CR and Copyhold Lane. For all the reasons given by Mr Lewis in his PoE²⁸ and notwithstanding the upgrades proposed by the Appellant (whose deliverability is doubtful), the cycle route to Haywards Heath is not a safe or suitable route.
43. For all these reasons, the Parish Councils contend that there would not be a safe or suitable active travel route either to the Warden Park Academy or Haywards Heath.
- (7) There would be no active travel routes to Burgess Hill whatsoever**
44. Despite agreeing that residents of the appeal scheme are likely to want to travel between the appeal scheme and Burgess Hill and despite the Appellant itself having planned to deliver

²⁶ CD6-10 Planning for Cycling, CIHT, PDF17

²⁷ Mr Stevens XX by Mr Parker

²⁸ Para 4.4.3 – 4.4.13

active routes to Burgess Hill as part of its planning application,²⁹ no active travel routes to Burgess Hill are now proposed as part of the appeal scheme.

45. The Parish Councils contend that this is an obvious deficiency in the appeal scheme, in isolation but also has the consequence that residents of the appeal scheme will be entirely dependent on the proposed bus service to travel sustainably to Burgess Hill.

46. Turning then to the bus service, the adequacy of the proposed bus service is key to understanding whether, in the long term, the appeal proposals are sustainable as they claim to be.

47. Mr Stevens agreed a number of significant points of principle, so far as the bus service is concerned. Mr Brown made clear that he agreed with Mr Stevens in all respects.

48. It is therefore a matter of agreement that:

(1) The sustainability of the appeal proposals was contingent upon the delivery of the bus service. In other words, the proposed pedestrian and cycle links are not, in themselves, enough to discharge the requirements of para 110 of the NPPF. If the bus service is not in operation, the appeal site is not sustainably located.

(2) In order for the proposed service to enable residents to have a genuine choice of sustainable transport modes, the service would need to run at weekends and in the evenings (contrary to the Appellant's earlier stated position).

(3) For the appeal site to be sustainably located, the bus service must run in perpetuity. If the bus service ceases to operate at the end of the temporary period for which the Appellant has committed funding, the appeal site will not be sustainable.

(4) Whether the Secretary of State can be satisfied that the bus service will remain beyond the period for which the Appellant is providing funding will depend on whether it is commercially viable.

49. Pausing there, it is important to note that Mr Stevens' professional judgment (with which Mr Brown agreed³⁰) differed from the position recorded in both the Highways SoCG and the Planning SoCG. The Highways SoCG records that a weekday daytime bus service would be adequate to secure the sustainability of the site³¹ whereas Mr Stevens' view was that weekend

²⁹ As set out in the original Transport Assessment at CD 1-50

³⁰ XX by Mr Parker

³¹ CD7-2, para 4.34

and evening services were necessary. The Planning SoCG records that mere provision of the on-site infrastructure would be sufficient to secure the sustainability of the appeal site, whereas Mr Stevens agreed that it was only with the provision of the off-site pedestrian and cycle links and the bus service that the appeal scheme would be sustainable. While the Appellant will no doubt refer to the fact that the sustainability credentials of the proposals have been agreed with the Highways Authority and the LPA, it is notable that the professional witness on whose views the Appellant relies differs materially from the position agreed with those statutory bodies. This only serves to reinforce the importance of the Inspector and the Secretary of State reaching their own views as to the sustainability of the proposals, irrespective of what may have been 'agreed' by one party or another through the SoCGs.

50. The fundamental point of difference between the Appellant and the Parish Councils is whether the bus service is likely to be commercially viable at the end of the temporary period to which the Appellant has committed to fund it. As set out above, this issue is determinative of whether the appeal proposals are sustainably located. If it is not demonstrated that the bus service is likely to be commercially viable, the appeal proposals are not sustainably located.
51. The difference between the Appellant and the Parish Councils turns on just one issue, albeit an incredibly important one, namely what is a reasonable mode share to expect the bus service to achieve.
52. The most recent evidence produced by the Appellant in this respect is set out in Mr Stevens' rebuttal evidence³² at paragraphs 3.10 – 3.26. This evidence has been reviewed by Mr Lewis, in a note prepared for the inquiry.³³
53. The Appellant's position is that the bus service is likely to achieve a mode share of 7.9% at +2 years following final occupation.³⁴ Mr Lewis' position is that it is reasonable to plan for a mode share of 2%. The parties are agreed³⁵ that, in order to break even, the bus service must achieve a mode share of 6.9%.
54. Remarkably, Mr Stevens explained in cross-examination that he was not himself putting forward any analysis whatsoever of the bus mode share that was likely to be achieved by the appeal proposals.³⁶ Instead, he was entirely reliance upon the analysis put forward by the

³² CD8-8

³³ ID04

³⁴ Mr Stevens' Rebuttal PoE, para 3.23

³⁵ Mr Lewis EiC and Mr Stevens XX by Mr Parker

³⁶ Mr Stevens XX by Mr Parker

County Council through its consultation response to the planning application.³⁷ It is worth noting that, at the time that the consultation response was drafted, it was understood that a 4.9% mode share was all that was required for the service to break even. As set out above, the breakeven point is now understood to be significantly higher.

55. In any event, WSCC's analysis to support the view that a 7.9% mode share is achievable is threadbare. Quoted in 'full', the 'analysis' provides as follows:

The highest MSOA bus modal share in Mid Sussex in the 2011 census for journeys to travel to work is the Turners Hill/Copthorne area at 3.4%. Areas within Crawley have recorded levels between 5% and 11.5% however have the benefit of the Fastway services. If the combined modal share for public transport is utilised (as the bus service will need to connect with the railway station in Haywards Heath) then the west of Haywards Heath would indicate a potential modal share of 7.5% and 7.9% for the MSOA of Cuckfield and Ansty.

56. This analysis is woefully deficient in obvious ways. First, while census data provides a starting point for an understanding of likely mode share, it is important to bear in mind that average bus mode share for journeys to work across Mid Sussex is 1.7%. In the vicinity of the appeal site the figure is 1.5%. The highest level of bus mode share achieved within all of Mid-Sussex is around Crawley Down which has a bus mode share of 2.7%. Insofar as WSCC refer to levels of mode share of between 5 and 11% for Fastway services in Crawley, this is not a useful comparator. The proposed bus service will neither be a fastway service, nor in Crawley. Even taking into account the fact that users may connect with the train in Haywards Heath, it is simply unrealistic to assume that the proposed bus service is going to achieve a mode share four times the existing mode share and double that of the highest mode share elsewhere in Mid Sussex. There is no explanation whatsoever (whether in the WSCC consultation response or elsewhere) to explain how the figure of 7.9% has been calculated (and why for example, taking into account the factors referred to in the response, the figure is 7.9% rather than, say, 6.8%). If the bus service achieves a mode share of anything more than 1% less than its target, it will not be commercially viable and the appeal site will not be sustainable.

57. The Parish Councils contend that it is wholly unrealistic to plan a bus service for the scheme on such a highly ambitious bus mode share, particularly when the sustainability of the scheme depends upon the ongoing delivery of that service. While transport planning should use a 'vision led' approach, that cannot sensibly mean that it is appropriate to adopt wildly

³⁷ CD4-10, PDF5.

optimistic predictions for the likely success of a service which is so fundamental to the appeal proposals.

58. The Parish Councils therefore remain firmly of the view, irrespective of what the other parties may have agreed, that the appeal site has not demonstrated itself to be sustainable in the long term. It gives rise, therefore, to a clear breach of paragraph 110 of the NPPF and Policy DP16 of the Local Plan as well as DP4 and DP6 of the Local Plan.

Prematurity

59. The Parish Councils adopt and rely on the evidence given by Chloe Salisbury in relation to the issue of prematurity. It is of particular concern to the Parish Councils that the promoter of this scheme is continuing to pursue it speculatively by way of this appeal when to do so risks delaying the delivery of much needed development through the plan-led process.

60. So far as the approach to paragraphs 50 and 51 of the NPPF is concerned, the Parish Councils make the following remarks (having particular regard to the reasons why the Secretary of State has recovered the appeal):

(1) Insofar as it is the Appellant's position that the appeal scheme cannot be premature to the emerging Local Plan because the emerging Plan does not yet include any of the long list sites, that is obviously wrong and fundamentally misunderstands the nature of the prematurity objection. The emerging Plan to which the appeal scheme would be premature exists and has been submitted. Everyone agrees that it has reached an 'advanced stage' for the purpose of paragraph 50(b). The question thereafter is whether the 'the plan-making process' would be undermined. That 'plan-making process' obviously includes consideration of the need for additional housing sites and, more importantly, which sites should be taken forward to meet the need. The fact that the long list sites are not 'yet' the subject of an allocation or policy in the plan, is immaterial.

(2) The Appellant's argument that the focus of paragraphs 50 and 51 is on the 'outcome' of the plan-making process, by which it means 'the adoption of a plan', which it says would not be prejudiced, also misses the point. As was repeatedly stated in evidence, the question arising by reference to paragraphs 50-51 is not whether MSDC will in due course adopt 'a' plan. The question is rather what the effect on the decision-making process will be and, insofar as the outcome is concerned, would there be any prejudicial effect as regards decisions as to what the content of the plan should be as well as decisions as to what should not be in the plan.

- (3) The suggestion that the weight to be accorded to the prematurity objection is commensurate with the weight to be accorded to the emerging policies of the plan is misconceived. The policies in the emerging plan currently attract limited weight precisely because decisions are yet to be made in relation to the long list of sites. It is the fact that the grant of permission for the appeal scheme would prejudice those decisions which gives rise to the prematurity objection. The Appellant's position confuses fundamentally the question of weight to emerging policy with the weight to be accorded to prematurity.
- (4) Finally, insofar as the Appellant suggests that MSDC has not produced any 'evidence' to support is contention that the grant of permission for the appeal scheme would prejudice the plan-making process, the requirement in the NPPF is to 'indicate clearly' how the plan-making process would be prejudiced. Ms Salisbury has done just that. The whole point is that it should not be necessary to examine the 'evidence' because that examination of evidence should take place in the context of the Local Plan, not the s.78 appeal. The Appellant's reliance upon evidence from Mr Stevens and Mrs Brockhurst as to the comparative merits the appeal scheme vis-à-vis the long list sites makes this very point. That is precisely the evidence that the Local Plan would need to grapple with. It is not for this inquiry.

61. The Parish Councils maintain that the scheme is obviously premature and that to grant permission for it would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are obviously central to the emerging Local Plan insofar as, for the reasons given by Ms Salisbury, it would predetermine decisions in respect of the housing sites on the long list which are currently the subject of examination.

Planning balance

62. The starting point for the determination of the appeal, as all parties agree, is that the scheme is contrary to the development plan such that it should be dismissed, unless material considerations indicate otherwise.

63. The Parish Councils accept that the appeal scheme would give rise to benefits, including the delivery of market and affordable housing. While this would be a substantial benefit of the scheme, the Parish Councils note that there will be some considerable delay in delivering any homes on the site and that the grant of permission for the appeal scheme risks prejudicing the

timely delivery of homes through the plan-led process. The Parish Councils accept that there will be other benefits, including educational provision and open space and sports/recreational uses.

64. The Parish Councils do not accept that all the benefits claimed by the Appellant will arise, or that they should attract any meaningful weight in the planning balance. This is the case for the healthcare provision (which is designed to mitigate the effects of the appeal scheme only) and the bus service (in light of the concerns above).

65. The Parish Councils contend that the harm to the NL as has been identified above, taking account of the scheme's benefits, amounts to a 'strong' reason for refusal so as to disengage the tilted balance in paragraph 11(d) of the NPPF.³⁸

66. In any event, set against the benefits of the Scheme are the harms by reason of the unsustainable pattern of development, the harm to landscape character and visual amenity (including the harm to the HWNL), the loss of agricultural land, the loss of trees, the effect on the significance of heritage assets and prematurity.

67. Importantly, as Mr Brown accepted³⁹, if the Secretary of State agrees that the appeal site has not been 'made sustainable' for the purpose of paragraph 110 of the NPPF, this is a matter which should attract 'significant' weight against the scheme. That is the case even if the tilted balance applies, given that paragraph 11(d)(ii) explicitly refers to the importance of ensuring that development is directed towards sustainable locations.

68. The Parish Councils respectfully invite the Secretary of State to dismiss the appeal.

24 June 2026

Jack Parker

Cornerstone Barristers

³⁸ Applying the approach at paragraph 34 of Monkhill Ltd v Secretary of State for Housing, Communities and Local Government and Waverley DC [2021] EWCA Civ 74 at ID24

³⁹ XX by Mr Parker

List of Appearances

Jack Parker, Counsel, instructed by Susy Gandy of Richard Buxton Solicitors, called:

- **David Lewis**, MSc, CIHT in respect of the sustainability of appeal proposals with regard to access and services
- **Louise Hooper**, BA (Hons), L Arch, CMLI in respect of landscape character and visual amenity
- **Mark Connell**, BSc (Hons), DipTP, MRTPI in respect of planning policy and planning balance