

**LAND AT COLWELL FARM,
LEWES ROAD, HAYWARDS HEATH
WEST SUSSEX RH17 7TB
PLANNING INSPECTORATE REF: 6005786**

OPENING STATEMENT FOR MID-SUSSEX DISTRICT COUNCIL

1. As explained to the Inspectorate in its letter of 2 June 2026,¹ the position of Mid-Sussex District Council in relation to this appeal has changed.
2. When the application was reported to the Council's Planning Committee on 21 August 2025, members decided² that planning permission should be refused for 5 reasons relating to:
 - a. The impact on the rural character of the area;
 - b. The extent to which the appeal site could be considered a sustainable location, and to which it would result in reliance on the private car to address basic day-to-day needs;
 - c. The impact on the setting of the (i) Grade II listed Colwell House (ii) the Lewes Road Conservation Area and (iii) North Colwell Barn, which is a non-designated heritage asset;
 - d. The loss of a significant number of trees, which make an important contribution to the character of the area;

¹ CD10.2

² See Minutes at CD3.4, Decision Notice at CD3.2

- e. The absence of a s.106 agreement which secured the necessary affordable housing, infrastructure contributions, off-site highway works and biodiversity net gains.
3. That decision was taken at a time when it was already known that the Council did not have a 5 year housing land supply (“5YHLS”). However, at that point, the Council had already submitted its new District Plan (“the New Plan”) to the Secretary of State for examination. The New Plan not only contained sufficient sites to meet all of MSDC’s own needs (assessed, in accordance with national policy, under the pre-December 2024 standard methodology) but also provided a surplus of almost 1000 new homes which the New Plan indicated could be used either for “resilience” or to meet the unmet needs of adjoining areas such as Crawley. It is a matter of record that the New Plan had been the subject of adverse comment by the then-Local Plan Inspector (Ms Louise Nurser), but these were only provisional views, and the Council remained hopeful that the New Plan was (or could be made) sound, in which case it would soon address the shortfall in the 5YHLS.
4. In the 10 months since that decision, things have moved on considerably. Following the abolition of the Duty to Co-operate, the New Plan is now firmly back on track, but the Inspector who has taken over the examination from Ms Nurser (Mr Jonathan Bore) has asked the Council to explore the possibility of meeting a far higher proportion (50%) of Crawley’s unmet needs, and to make at least some contribution to the unmet needs of Brighton and Hove. While Mr Bore has yet to put a precise figure on this, he has set the Council the task of identifying sufficient new sites to satisfy an annual requirement towards the upper end of the range between 1200 and 1300 dpa.³
5. This is no small request: in order to meet it, the Council has needed to identify sites for around 4000 more homes than were provided for in the Reg 19 Draft of the New Plan, and which members believed would be needed when they determined the Colwell Farm application. In addition to reviewing all its existing allocations (to see whether anything more can be squeezed out of them) the Council has reviewed all of the sites which had

³ The request was announced orally at the hearing sessions, but confirmed in writing in CD7.5

been rejected for allocation during the Local Plan process, including those which had previously been ruled out on the basis of what were thought to be “showstoppers”.

6. Following that review, on 15 May 2026 the Council published a “long list” of 35 sites which could be brought forward.⁴ The Appeal Site was one of the sites included on the list.
7. It is important to be clear about the reasoning which underlay this decision. In particular, the review did not conclude that the concerns set out in the Decision Notice on Colwell Farm were ill-founded: the Council’s position in that regard remained (and remains) the same. However, what it did reflect was the change in extent of the need which was being placed on the other side of the scales in the overall balancing process.
8. The decision to include Colwell Farm on the list needs to be seen in context:
 - a. One of the criticisms which had been made of the New Plan at the Examination concerned its reliance on larger sites with longer lead-in times. The Council was keen to address this, and one of the criteria applied in selecting sites was the extent to which they could be brought forward within the first five years after adoption of the New Plan. The Appeal Site performed well in that regard.
 - b. Of the 35 sites on the list, 9 are in the High Weald National Landscape, and on 3 of those the scale of development proposed amounts to “major” development which para 190 of the NPPF indicates should normally only be permitted in “exceptional circumstances”. This indicates the lengths to which the Council will need to go in order to meet Inspector Bore’s request.
 - c. In contrast, Colwell Farm is not within an area which has been designated (at either national or local level) for its landscape value, nor is it considered to be a “valued” landscape for the purposes of para 187 of the NPPF; and it is common ground that any harm to heritage assets would be “less than substantial”. Although the process of site selection is more sophisticated than simply working one’s way up through the hierarchy of designations and protections, it is self-

⁴ CD7.3, para 1.63

evident that, in policy terms, Colwell Farm is significantly less constrained than some of the other sites which the Council is now proposing to allocate.

9. The long list had an immediate consequence for the Council's position at this inquiry: while it was still to be the subject of "in combination testing" in relation to matters such as transport, infrastructure and habitats impacts, the inclusion of sites entailed an in-principle acceptance that the additional need identified by Inspector Bore outweighed any site-specific concerns relating to matters such as impact on the character of the countryside, relative sustainability or impact on heritage assets.
10. It is against this backdrop that the Council's letter of 2 June 2026 was written. At that stage, the long list was still to be the subject of in-combination testing. The Council considered whether it would be appropriate to maintain its objection to the appeal scheme, pending the outcome of that process. However, para 50 of the NPPF is clear that arguments based on prematurity are unlikely to justify refusal of planning permission unless the development proposed is "so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan". The appeal scheme is simply not of a scale to satisfy that requirement. In any event, the process of "in combination" testing has now been completed, and identifies no concerns which would require a reduction in the number of sites identified. On 27 July 2026, the Council published a list of proposed modifications to the New Plan which included the allocation of all 35 sites on the long list.
11. The Council is aware that this change of circumstance is disappointing for local residents. However, Mr Bore has made it clear that the prospects of the New Plan being found sound now depend on whether the Council is able to meet a much greater proportion of Crawley's unmet need.
12. The significance of this cannot be overstated: MSDC is well-aware of the importance of the plan-led system in national policy, and its experience of the system in recent years has demonstrated its value, not only in terms of the ability to meet national housing

targets, but also in terms of the certainty it provides for the local community. In particular:

- a. When the current District Plan was adopted in 2018, it not only met the entirety of MSDC's own need, but contributed approximately 1500 dwellings to meeting the needs of neighbours.
- b. The District Plan was followed promptly by the Site Allocations DPD ("the SADPD"), which provided the additional sites needed to ensure a continuing 5YHLS through to the end of the plan period.
- c. As a result of the District Plan and the SADPD, throughout the period 2018 to December 2024 the Council was not only able to maintain a 5YHLS, but also significantly exceeded its housing delivery targets, as reflected in the HDT results for 2021 (124%), 2022 (148%) and 2023 (142%).
- d. That track record afforded Mid-Sussex a period of 5 years in which it experienced no significant appeal against refusal of permission for housing, and no appeal in which anyone sought to challenge the Council's 5YHLS or rely on the "tilted balance" under para 11 of the NPPF. That is a record that many local planning authorities would view with envy.
- e. The first occasion on which any developer even attempted to argue that the Council did not have a 5YHLS was the Albourne appeal⁵ in 2023, where the Inspector rejected that argument, and praised the Council for its "proactive approach to housing delivery at both plan-making and decision making". That appeal was consequently dismissed.
- f. It was not until December 2024 that the Council became unable to demonstrate a 5YHLS, and that was entirely due to the December 2024 changes in the NPPF and in particular the higher housing numbers generated by the new standard methodology. That is not a matter which the Council could have predicted or foreseen. However, by that stage the Council had already submitted the new

⁵ Cited at para 7.50 of the Council's Statement of Case

District Plan for examination. Had that Plan proceeded as originally intended, the shortfall in the 5YHLS would have been short-lived.

13. What this history has taught MSDC is that, if the Council wants to control its own destiny rather than being subject to speculative applications and the needless expenditure of officer time and tax-payers money on repeated appeals, it is essential that it has an up-to-date plan in place. The current District Plan no longer satisfies that requirement, and it is clear from the work which has most recently been carried out on the long list that, if the New Plan is to achieve that goal, sites such as the Appeal Site will have to come forward for development. Moreover, in circumstances where there is already a shortfall in the 5YHLS, there is no good reason to delay that decision by continued opposition to the grant of permission at this Inquiry.
14. Finally, for those who argue that it is fundamentally unfair that MSDC should need to release sites in order to address the needs of neighbours, we note that under current plans for local government reorganisation, it is highly likely that Mid Sussex and Crawley will soon become part of the same unitary authority, at which stage arguments about whose need is being met will become academic.
15. It is in these circumstances that the Council accepts that the housing need is so significant that it outweighs the harms referred to in its original reasons for refusal, and has decided that it is no longer appropriate to defend this appeal.

PAUL BROWN K.C.

28 July 2026

**Landmark Chambers
180 Fleet Street
London**