Protect Colwell Farm Action Group– Mid-Sussex District Plan Main Modifications Examination hearing statement for MM65 and MM66

Introduction

1. This Hearing Statement accords with the guidance provided within the Inspector's Guidance Note (IDJB-13). It is structured around the Agenda for MM65 and MM66 (IDJB-18) and concerns the soundness of allocations MM65 and MM66.

2. The overarching points this Hearing Statement will demonstrate is that both allocations are **unsound**. PCFAG notes there is some inconsistency between which version of the NPPF applies. The Inspector's Guidance Notes (IBJ-13) refers to the September 2023 NPPF, but the Council's documents refer to the December 2023 version. There is not a substantive different in the paragraphs PCFAG rely on except paragraph numbers. To assist, paragraphs will firstly be given per the Sep 23 NPPF with the Dec 23 NPPF paragraphs in brackets. PCFAG Representation dated 7 September 2026 ("Representation") used the Dec 23 paragraph numbering.

3. It is critical context that it is not necessary to allocate MM65/66 within the Plan.

4. PCFAG recognise that the Inspector required the Council to allocate further Sites and that these allocations have flowed from that request. The Council therefore have had to find further Sites which they would not have originally wanted to allocate and be more forgiving as to concerns about the soundness of sites.

5. But the outcome of that process has led to an over-allocation beyond the housing requirement. The Housing Land Supply and Trajectory July 2026 (H10) makes this clear at 2.5 where it is noted that the Requirement plus Headroom would lead to a figure of 24,837, and the total supply (including these new allocations) is 24,949. A surplus of **112 homes.**

6. PCFAG recognise the benefit of flexibility, but this is an over-supply above the requirement which already includes a headroom figure of 766 to allow for flexibility. It is flexibility upon flexibility.

7. To be clear PCFAG are not saying you should artificially cap the supply to the requirement plus headroom figure. But it does mean that in scrutinising the soundness of Sites the Inspector should not be more tolerant simply because of the burden of meeting an increased need.

8. In relation to MM65 (9) and MM66 (80) both Sites could be removed without going into the headroom figure and this is important because it means that the Plan can continue to be sound even without MM65 and MM66. Nor are the Sites required to meet a particular urgent need early in the plan period. 2.20 of H10 confirms that from years 26/27 to 32/33 there will be far in excess of 89 homes over the necessary 5-year supply figure (around 900 homes in excess rising to over 2000).

9. PCFAG are not therefore arguing there is a knock-out blow to the wider Plan but that unsound Sites – such as MM65 and MM66 – should not be included simply because the Council were under a requirement to find more sites to meet their increased need. The Council have achieved that through the rest of the allocations. These Sites are surplus which makes their unsoundness starker.

10. It is right to note that PCFAG would argue the Sites are unsound even if the Plan did need them to meet its requirement figure (as they are inherently unsound for the reasons below), but the above points are important context. It makes it even harder to forgive the Sites clear unsound flaws.

11. This Statement will address MM66 first as it is the larger site with the greater level of concerns. In summary:

    Site MM66 should not be allocated,

    - for reasons of sustainable access deficiencies, and
    - due to the likely presence on site of Ancient Woodland features

    Site MM65 should not be allocated

    - for (the same) reasons of sustainable access (which apply to MM66)

MM66

Access and Sustainability

12. To be 'sound' an allocation must be consistent with national policy. MM66 is not consistent with 105 (109) and 110 a/b (114a/b):

> *105: The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes[1]. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.*
> *...*
> *110 a:*
> *In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*
>
> *a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
> *b) safe and suitable access to the site can be achieved for all users*

13. The starting point is the Department for Transport Connectivity Tool (a weighty material consideration even though it was introduced after 2023 NPPFs and only placed on a policy footing in the 2026 NPPF).

14. The results were presented by Mr Russell in his evidence to the Inquiry ("Inquiry") in relation to the refused planning application[2] (see Appendix 1 to Representation) which showed that the Site has low levels of connectivity by walking and public transport, with overall sustainable transport connectivity falling within the lowest 20% nationally. By contrast, connectivity by private car is above average, indicating that future residents would be significantly more reliant on car travel than on sustainable modes.

[1] Mr Russell's interpretation of a 'genuine' choice of transport modes means that it had to be 'sufficiently attractive that most people could reasonably be expected to use it'.
[2] LPA ref: DM/25/0445, appeal reference AP/26/0023 and Planning Inspectorate reference 6005786

15. Importantly – given the reference in 105 (109) to solutions varying between urban and rural areas – the Site scored badly on the Connectivity Matrix element of the Tool. This was introduced to address a criticism that the Tool did not reflect the difference in connectivity between urban and rural locations.

16. The Tool allows for the Site to be compared to other sites in a similar urban-rural location. Mr Russell explained how the Site is classified as Urban City and Town. It scores 53 at best (at the Site access). This – when fed into the Connectivity Matrix– means the Site is just on the $10^{th}/20^{th}$ centile boundary for other sites in a similar urban location.

17. The Tool is therefore clearly telling the reader that the Site is not sustainable both individually and when compared to other sites in a similar urban location.

18. This is then borne out by the detail of the different modes of transport from the Site.

19. As a preliminary point, it was rightly conceded by Miller Homes Ltd at the Inquiry that measurements previously used (by both the Council and Miller Homes Ltd) for distances to facilities and services were wrongly taken from the site access. This was inappropriate because – due to the length of access – the nearest house within the site is at least 130m further into the site (with the furthest being 480m).

20. In relation to walking access the detailed evidence at the Inquiry showed:

- Lewes Road's footpaths are in places of inadequate width to accommodate either a double pushchair, or two pedestrians passing each other without needing to step into the road (noting speed and vehicle movements at para.22 below).
- Lewes Road's footpaths are in places discontinuous due to the presence of a layby.

- Footpath HAH-29CU between Lewes Road and Orchid Park/Cobbetts Mead Roads is unlit, frequently overgrown, not overlooked by housing, and poorly surfaced.
- Snowdrop Lane (an alternative walking route to Footpath HAH-29CU) has no footpaths, forcing pedestrians to walk in the road at a junction with the main road
- Snowdrop Lane is inadequately lit
- The only amenity/facility within 800m of walking distance (even on the Council's measurements) from the site is a post box.
- All other amenities are above or substantially above this in distance terms

21. Walking is therefore not a genuine choice from the Site because the routes to any services/facilities is unsuitable, and the distances are too far to make it a genuine transport choice.

22. In relation to cycling access the detailed evidence at the Inquiry showed:

- Lewes Road – which all cyclists would have to travel on leaving the Site – is a 40mph speed limit (routinely exceeded), and which has over 10,000 traffic movements per day.

- There is no protection for cyclists between the site entrance and Haywards Heath Station, a route on which all traffic speed limits are above the 20mph threshold, and with substantially more traffic (10,000+ vehicles per day) than the recognised threshold of LTN1/20 of 2,500 vehicles per day which are, '*desirable upper limits for inclusive cycling within the carriageway*.' It is noted in this guidance '*Most people, especially with younger children, will not feel comfortable'*

- This meant that none of the relevant roads would meet the LTN1/20 standard for cycling[3].

23. Cycling is therefore not a genuine choice because the roads will not be felt safe for the majority of people which means they will not choose to cycle.

24. In relation to bus travel, the detailed evidence at the Inquiry showed:

[3] See 4.36 – 4.38 of Mr Russell's proof – Appendix 1 to PCFAG Main Mods Representation.

- There are no bus stops within reasonable walking distance of the site. The nearest bus stop on Northlands Avenue is 1050m away
- This has a limited service of only two services (one hourly – the 31, and one two hourly – the 31A).
- The better-connected bus stop – outside the hospital – is 1.4km away.

25. Bus travel is therefore not a genuine choice as it is too far away to be used by residents.

26. In relation to rail travel while Haywards Heath station was accepted to be well connected, it was only realistically assessible for most people by car for the reasons set out above. Whatever the referenced 'improvements' to the station are (and it is unclear as reflected in the Inspector's question (iii) in IDJB-16), they will not change the inability to access it other than by car from the Site.

27. Returning to the NPPF tests above – which the allocation must be consistent with:

i) The Site cannot be said to be a location which is currently sustainable (vs 105).
ii) The Site cannot be said to be a location which offers a genuine choice of transport modes (vs 105).
iii) The Site does not offer safe and suitable access for all users (vs 110 b).

28. Given this the only way for the Site to be consistent with 105 and 110 is if the Allocation would make it sustainable (per 105) and take appropriate opportunities to promote sustainable transport modes (per 110a).

29. But MM66 does not do this. Firstly – because of the inherent unsustainability due to excessive distance – it is hard to make the Site sustainable.

30. Secondly, the current wording of MM66 only deals with this point at MM66 (2) and (3). But (2) only attempts to address the issue of suitability of walking routes (and is vague as reflected in the Inspector's question (i) in IDJB-16), and (3) only brings down speed in 30mph on Lewes Road which is still above the LTN1/20 threshold of 20mph.

31. These requirements do not address their distance; it does not address cycling safety or lack of bus provision. It falls far short of the tests of 105 and 110a.

32. While it would be within the Promotor (or the Council's) gift to attempt to rectify this through further modifications requiring infrastructure improvements to cycling routes and bus service being brought into the Site/a new bus stop, there has been no appetite to suggest this and no evidence that such an arrangement is deliverable.

33. The only conclusion is therefore that this is an unsustainably located Site, which would not be made sustainable by MM66 and so is inconsistent with 105 (109) and 110a/b (114a/b) and is thus **unsound.**

34. This also addresses the argument that Hayward Heath is a sustainable Category 1 settlement and therefore the Site is sustainable. That is 'lawyer logic' (if a Site is next to a sustainable settlement, it must therefore be sustainable). In fact, the Site is poorly located in relation to that well connected settlement as reflected in the DfT Connectivity Tool and the actual evidence.

Ancient woodland

35. To be 'sound' an allocation must be effect i.e deliverable. The – overlooked – presence of Ancient Woodland on the Site makes MM66 undeliverable because of national policy's protection of Ancient Woodland.

36. While it is appreciated the examination is considering the old version of the NPPF, the logic of this point (that the Allocation will never get permission) requires consideration of the current wording of the NPPF (although it is in substance the same as previous versions).

37. Paragraph N6 2 of the 2026 NPPF notes '*development proposals which would entail the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.'*.

38. Evidence was presented by Mr Carpenter in his evidence to the Inquiry in relation to the refused planning application[4] (see Appendix 2 to Representation) that there was further possible Ancient Woodland within the Site which had been missed by the Promoter and Council.

39. The cartographic evidence included a 1795 and 1813 Map which showed Ancient Woodland in close proximity to the Site. A 1840 tithe map confirmed the eastern field of the allocation was created by assarting – the cutting out of fields from woodland i.e Cains Wood (which is accepted as Ancient Woodland) and trees are shown on the later Epoch 1 and Epoch 2 OS Maps.

40. This together with the limited botanical evidence PCFAG were able to ascertain (having been refused access to the Site) confirmed the presence of four ancient woodland indicator species (bluebell, remote sedge, tutsan and wood sorrel).

41. This meant the Promotor's tree expert – when asked by the Inquiry Inspector – accepted there was a 30% possibility that the eastern boundary of the eastern field was Ancient Woodland.

42. This is sufficient to trigger the precautionary principle i.e decision-taker or plan-maker should proceed on the basis that in such a situation there is Ancient Woodland present unless presented with evidence showing otherwise. This is for a simple logical reason; if development/allocation has been refused on the basis of the likely presence of Ancient Woodland, and it subsequently becomes clear there is no Ancient Woodland present, nothing (in terms of irreplaceable habitat) has been lost. Conversely, allowing an allocation with Ancient Woodland present may lead to a successful application and subsequent development – which is irreversible.

43. The 'so-what' to this point is that given there is – per the precautionary principle – Ancient Woodland on Site then there is a clear impact on deliverability as a Developer would have to demonstrate either that they would be able to avoid loss or deterioration to the Ancient Woodland (which we have no evidence for and is hard to envisage with

[4] LPA ref: DM/25/0445, appeal reference AP/26/0023 and Planning Inspectorate reference 6005786

the quantum sought), or would have to demonstrate wholly exceptional reasons and provide a compensation strategy. These 'wholly exceptional reasons' would not be met by simply meeting housing need on an allocated Site.

44. The fundamental issue with MM66 is that it has been drafted on the basis that there is Ancient Woodland next to but outside of the allocation. This is reflected in the wording of MM66 (6) (which is also ineffective see Inspector question (iv) in IDJB-16. But allocation simply does not work – and it is hard to retrofit it through further modifications – if there is Ancient Woodland inside the Allocation. It renders it undeliverable and therefore unsound.

Conclusion on MM66

45. These two issues both individually and collectively render MM66 clearly unsound.

46. Furthermore – given the Site is part of the Council's oversupply – it is noteworthy that if the Council had scored the Site correctly in light of these points, then rather than scoring the Site 9, it falls to within a range of at the highest 6[5], and at the lowest 2[6], depending exactly where accessible travel distances are measured from.

47. Looking at those three alternative scores[7]:

> On the original score of 9, there were 54 Sites not allocated which scored better.
> On the revised score of 5, there were 96 Sites not allocated which scored better.
> On the revised score of 2, there were 116 Sites not allocated which scored better

48. This is a stark illustration of how MM66 is unsound. It is a poorly performing site allocated to unnecessarily meet a requirement which is being exceeded (and would be exceeded without MM66).

MM65

[5] See Appendix 4 to Main Mods Rep for detailed calculation
[6] See Appendix 5 to Main Mods Rep for detailed calculation
[7] See Appendix 6 to Main Mods Rep for detailed setting out.

49. This allocation for 9 homes is in close proximity to MM66 and will be accessed via the Lewes Road.

50. It is therefore only logical for the PCFAG to note that the same sustainability issues in relation to MM66 would apply to MM65. For those same reasons – which won't be repeated – it is unsound.

51. If the Inspector were to find MM66 unsound then it must follow that MM65 is unsound (and perhaps more so given the allocation policy makes no provision for sustainable travel improvements).

52. However, PCFAG raises no argument about Ancient Woodland in relation to MM65 as we have no evidence as to whether Ancient Woodland is on the Site itself.

Conclusion

53. Sites MM66 and Site MM65 should not be allocated for development as they would not be sound.

21 October 2026, Protect Colwell Farm Action Group

Word Count: 2,982