

LETTER OF REPRESENTATION — OBJECTION TO DM/26/1760

The Planning Department

Mid Sussex District Council, Oaklands, Oaklands Road, Haywards Heath, West Sussex RH16 1SS

Re: Application DM/26/1760 — discharge of Section 106 obligations (approval of the Affordable Housing Scheme and the Play Area Site Location Plan) under outline permission DM/25/1129; Land at Foxhole Farm, Foxhole Lane, Bolney

I OBJECT to application DM/26/1760, submitted by Cala Management Ltd. It concerns the Affordable Housing Scheme and the Play Area Site Location Plan required, ahead of the first Reserved Matters application, by the Section 106 Agreement dated 18 November 2025 (“the S106”). My grounds are set out below, drawn from the application documents and the covering letter of Tom Davies MRTPI of Cala Homes dated 6 July 2026. In short: the scheme does not comply with the S106 the Council itself executed in November 2025, and the Council cannot lawfully treat it as discharging those obligations on the strength of an informal pre-application comment.

Preliminary: the basis on which I ask the Council to act

This application asks the Council, as a party to the S106, to approve details reserved by that Deed. Whatever the position on third-party consultation, the Council cannot approve an Affordable Housing Scheme that does not comply with the obligations in the Deed, and — as a public authority — it must have due regard to the Public Sector Equality Duty (section 149, Equality Act 2010) before doing so. I therefore ask that this representation be placed before the Responsible Officer for Housing and the determining officer, and that the points below be addressed on the face of any decision to approve.

For the avoidance of doubt, the applicable development plan for this site remains the adopted Mid Sussex District Plan 2014–2031 (Policy DP28) and the adopted Affordable Housing SPD (2018). The emerging Mid Sussex District Plan 2021–2039 (now at Main Modifications) is not yet adopted, and I do not rely on it. The National Planning Policy Framework was replaced by a new edition published on 17 August 2026, which now applies to the determination of this application; it does not withdraw the accessibility requirement at issue, which is set by the Section 106 Agreement, adopted Policy DP28 and the adopted Affordable Housing SPD, not by the NPPF. Nor is DP28’s wheelchair-housing requirement inconsistent with the new edition. It is a requirement of precisely the kind the Framework expects a development plan to set: policy HO5(1)(b) provides that the development plan should set out “the proportion of housing on major developments to be delivered to requirements M4(2) and M4(3) of the Building Regulations”, and that those requirements should “meet or exceed local levels of need”. I put it that way because HO5(1)(b) also directs that development plans “should ensure that no less than 40% of homes on major developments are delivered to M4(2) standards”, where DP28 requires 20%; that is a plan-making direction and it says nothing about the wheelchair requirement in issue here, but I do not want to be taken as asserting more about DP28 than I need. On the wheelchair requirement, Annex A(2) accordingly leaves the weight of DP28 undisturbed: development plan policies “should not be given reduced weight simply because they were adopted prior to the publication of this Framework”.

1. The scheme omits the M4(3) Wheelchair Accessible Units required by the S106, adopted Policy DP28 and the Affordable Housing SPD

Paragraph 1.1 of Part One of the Second Schedule to the S106 requires the Affordable Housing Scheme to specify the number, size and type of Affordable Housing Units, “to include four per cent (4%) as Wheelchair

Accessible Units for Social Rent or Affordable Rent.” Part Two of the Second Schedule then fixes what those units are. Its final row requires, against the figure of 4%, “Wheelchair accessible houses comprising 1 x 2 BED / 4 PERSON HOUSE @ a minimum of 103m² and 1 x 3 BED / FIVE PERSON HOUSE @ a minimum of 121m² which comply with all of the requirements contained in Part M(4)(3)(1)(a) and (b) and Part M(4)(3)(2)(b) [sic] for wheelchair accessible dwellings as contained in Category 3 – wheelchair user dwellings of schedule 1 of the Building Regulations 2010 as amended”, with the tenure given as “Social Rented/Affordable Rented”. I quote that exactly as the Deed has it: the brackets in “M(4)(3)” are misplaced in Part Two, while the definitions clause and paragraph 4.1.4 of Part One both write the same requirement correctly as Part M4(3)(1)(a) and (b) and Part M4(3)(2)(b). Nothing turns on the slip, but the Deed should be quoted as written. Two further things follow from that row. The Deed does not leave the 4% to be calculated: it names two specific houses and fixes their tenure as rented. And it sets their size against its own general figures on the same page — a 2-bed/4-person house at “a minimum of 79m² in the case of houses (2 storey)” and a 3-bed/5-person house at “a minimum of 93m² (2 storey)” — so the wheelchair houses are required to be some thirty per cent larger, which is the uplift paragraph 2.48 of the Affordable Housing SPD prescribes for houses. Paragraph 4.1.4 of Part One repeats that M4(3) standard as a construction requirement, and paragraph 1.1.4 requires the Scheme Details to specify “which of the Affordable Housing Units are to be Wheelchair Accessible Dwellings”. Four per cent of the sixty affordable dwellings is 2.4, and Part Two resolves that by naming the two houses.

This is not merely a contractual term; it transcribes two adopted documents. Policy DP28 (Accessibility) of the Mid Sussex District Plan 2014–2031 states: *“Category 3 — Wheelchair-user dwellings under Building Regulations — Approved Document M Requirement M4(3) will be required for a reasonable proportion of affordable homes, generally 4%...”* And the S106 requires the affordable units to be constructed to a standard meeting “the standards set out in the Affordable Housing SPD” (paragraph 4.1.2 of Part One of the Second Schedule), the SPD providing at paragraphs 2.46–2.47 that “a reasonable proportion of affordable homes, generally 4% [is] to be provided as wheelchair user dwellings,” meaning M4(3) Category 3 dwellings. The 4% in the S106 is the direct expression of adopted policy, so removing it is a departure from the development plan, engaging section 38(6) of the Planning and Compulsory Purchase Act 2004, and it breaches the SPD independently of the S106’s own wheelchair clause.

The SPD (adopted July 2018) is explicit on process as well as on the proportion: paragraph 2.49 states that wheelchair provision “will be secured through a planning condition” and that “Reserved Matters ... will not be granted until the submitted layout plans have been agreed” showing the M4(3) manoeuvring zones and furniture. The adopted mechanism is therefore to secure and demonstrate M4(3) provision on the reserved-matters layouts, not to waive it at discharge stage.

The submitted scheme comprises five house types (Bellflower, Clover, Daisy, Heather and Maisonette). I have checked every drawing in the submission: the Affordable Housing Layout (drawing AH01 Rev P1, Thrive Architects), which is also the tenure plan; the five house-type floor plans; and the Play Areas Location Plan. The Affordable Housing Layout annotates the affordable plots “M4(2)” throughout, as does the Play Areas Location Plan, which is drawn over the same site base. The five house-type floor plans carry no M4 annotation at all. Not one drawing anywhere in the submission carries an M4(3) annotation. The scheme thus does not simply omit accessible housing — it substitutes M4(2) (accessible and adaptable) units for the M4(3) (wheelchair user) units the S106 requires, a materially lower standard. I add that the Affordable Housing Layout is itself marked “PRELIMINARY”, is at revision P1, and describes that revision in its own panel as “First Draft Issue”, dated 30.06.26. The Council is being asked to treat an executed obligation as satisfied on the strength of a first draft.

Two things put the omission beyond argument on the applicant's own figures. The scheme is not merely unannotated but incapable of delivering the units: the affordable house types tabulated in Cala's own covering letter are Bellflower 80.3m², Clover 94.4m², Daisy 94.4m² and Heather 117.7m² — not one reaches the 121m² required for the 3-bed/5-person unit, and the only 2-bed type is 80.3m² against a required 103m². And it identifies no unit as a Wheelchair Accessible Dwelling, so paragraph 1.1.4 is unanswered on the face of the submission.

Nor can the M4(2) units be offered in substitution: the applicant's own Design and Access Statement on DM/26/1961 states that the "40no M4(2) accessible and adaptable dwellings" are provided "in accordance with the requirements of Condition 39" — a separate requirement, imposed by condition on the outline permission, that a minimum of 20 per cent of the dwellings be built to that standard. Those units were required in any event, and delivering them does not answer the S106's 4% M4(3).

The applicant has since put the point beyond doubt. In a supporting email of 20 August 2026, correcting an admitted error in its cover-letter mix table, Cala's revised table sets the Second Schedule requirement at 4% M4(3) against its own provision of 0% — an express concession, in its own document, that the scheme provides none of the two units the S106 requires. The Council's Principal Housing Enabling Officer, in his response of 14 August 2026 (received on the register 27 August), did not comment on M4(3). Two sentences in that response should be met squarely rather than left to be raised against me. The first is his opening observation that "The applicant has submitted plans which broadly adhere to our requirements". I accept that so far as it goes; but it is an observation about the plans as a whole, made immediately before he lists what must be addressed, and it is not the written agreement that paragraph 1.1 separately requires — which, as ground 2 below sets out, he withholds. The second is the sentence that ends the response: "All other aspects of the submitted plans appear acceptable, all further comments regarding GIA of the units with [sic] be made at reserved matters." That cannot bear the weight of discharging the wheelchair obligation. The officer was addressing the scheme's mix and tenure, on which he withholds support; he expressly defers the gross internal areas of the units — the very measure by which a wheelchair unit is identified under Part Two and the SPD — to reserved matters; and in any event no officer's view can vary an executed Deed or the adopted policy it transcribes.

The covering letter does not seek a formal variation. It relies only on a pre-application comment (reference DM/26/0645, which the covering letter records as advice "received 20th May 2026") that the Housing Enabling Officer "confirmed that due to the location of the site the delivery of Wheelchair Accessible units is not necessary as there may be limited demand from the end users." The short answer is that a pre-application comment cannot change the obligation. Paragraph 1.1 of Part One of the Second Schedule is a term of an executed Deed to which the District Council is itself a party. It binds until it is varied, and it can be varied only in the ways the law and the Deed provide; the view of an officer at pre-application stage, however senior and however sensibly held, is not one of them. Four points follow. First, DP28 does make the 4% "dependent on the suitability of the site and the need at the time" — but that judgement was already made and resolved in favour of provision when the S106 was executed on 18 November 2025. The advice relied on is recorded in the covering letter as having been received on 20 May 2026, a little over six months after that execution. An informal pre-application view expressed at that remove cannot retrospectively reopen a settled, executed obligation, and nothing in the Deed makes the 4% contingent on any later officer view. Second, informal advice from a single officer is not a lawful mechanism for varying or discharging a signed S106 obligation. Only a Deed of Variation, or a formal application under section 106A of the Town and Country Planning Act 1990 directed specifically to this clause, can do that. This application is not directed to that clause: box 8 of the form seeks the discharge of "the affordable housing scheme and play area site location is plan" [sic], not of the wheelchair-accessible housing obligation in paragraph 1.1 of

Part One of the Second Schedule, and no modification of that obligation is specified anywhere in the submission. Box 9, which asks for the reasons for modification or discharge, gives none that would support a release: it says only that “The affordable housing scheme and play area location plan have been submitted as these need to be submitted [sic] before the First Reserved Matters is submitted for the site”. That is a statement that details have been supplied, not a reason why an obligation has ceased to serve a useful purpose. Were it so directed, it would in any event face the difficulty that section 106A(3) permits such an application only after the five years section 106A(4)(b) fixes, no period having been prescribed, which here run from 18 November 2025.

Third, the premise of the assertion — that demand is “limited” — is not borne out by the evidence, including the Council’s own. Nationally, the English Housing Survey 2011-12 recorded that 3.3% of all households contained one or more wheelchair users (cited in LSE CASE Report 147, September 2023; the Survey’s 2018-19 accessibility fact sheet does not repeat that household-level breakdown), and mobility is the most commonly reported impairment among disabled people taken as a whole and among those of State Pension age (House of Commons Library Research Briefing CBP-9602, 17 November 2025, 2023/24 data). Locally, the Council’s Strategic Housing Market Assessment Update (2024) projects the population aged 65 and over to rise by 47% between 2021 and 2040 — some 14,900 more people, accounting for 39% of all population growth — and the same document records that “those people in the oldest age bands are more likely to have a disability” under the Equality Act definition. In fairness, the SHMA Update also states that the analysis “shows lower levels of disability in each age band within Mid Sussex than other locations”; but lower than comparators is not low, the ageing trend it records is steep, and DP28 sets the 4% for the district as a whole, against district-wide need, rather than by reference to the disability profile of any one settlement. A 4% requirement, just two dwellings on this site, is a modest and policy-calibrated response to that need, not a surplus to be traded away. I add one point from the Deed itself. The form of Nomination Agreement annexed at Appendix 2, which the Deed requires the Nomination Agreement to be “substantially in the form” of, provides at clause 14.5 that “Where a new home is a wheelchair accessible unit priority will be determined by need rather than local connection, but priority will still be given to bids from suitable local applicants who have a specific mobility need for these homes and who have the relevant Local Connection with the new development”. I put that no higher than the document allows: Appendix 2 is a pro-forma rather than an operative covenant. But it shows the parties contemplating that these two homes would be let by mobility need across the district rather than by local connection to Bolney, which is the premise the “limited demand from the end users” comment assumes.

Fourth, the applicant’s own subsequent reserved matters application (DM/26/1961, submitted August 2026) undermines the justification relied on here and shows the omission being embedded across the linked applications. Its Design and Access Statement records, in the pre-application review summary at Part 1, that officers “confirmed that detailed M4(3) accessibility specifications would be required” — the opposite of the “not necessary... limited demand” comment on which this application relies. Part 2 of the same Statement then carries the substitution through to the whole scheme: it provides “40no M4(2) accessible and adaptable dwellings”, and records that “MSDC confirmed that there was no identified demand for M4(3) dwellings in Bolney and that they would be supportive of substituting these two units with M4(2) dwellings”, with not one M4(3) dwelling anywhere. The Statement reports both accounts without reconciling them, and it does not say on what dates each was given or which represents the Council’s settled position. I do not press the two into a flat contradiction, because the pre-application process ran over some weeks and a later view may have qualified an earlier one. The point is narrower and it is enough: an applicant whose own Statement records officers as having required detailed M4(3) specifications cannot at the same time treat an officer’s contrary comment as putting the matter beyond argument. I ask the Council to state on this file which of the two is its position, and when it was reached.

Part 2 also justifies the substitution on the footing that it delivers “homes that better respond to the functional needs associated with M4(3) standards”, which is an assertion that M4(2) dwellings serve wheelchair users better than M4(3) dwellings do. That cannot be sustained on the face of the Approved Document. Approved Document M provides that optional requirement M4(2) is met where a dwelling “makes reasonable provision for most people to access the dwelling and incorporates features that make it potentially suitable for a wide range of occupants, including older people, those with reduced mobility and some wheelchair users”, whereas M4(3) is met where a dwelling “makes reasonable provision, either at completion or at a point following completion, for a wheelchair user to live in the dwelling”. Category 2 is written around what some wheelchair users can use; Category 3 around what a wheelchair user can live in, and where the two are served by the same approach route the Approved Document applies the requirement for “the highest numbered category of dwelling served”. The claim is refuted by the applicant’s own floor areas as well: as set out above, no affordable house type offered reaches either of the sizes the Deed fixes for the two wheelchair houses. I make no suggestion that the sentence was written to mislead — a sentence of that kind can easily survive a revision — but it cannot carry the justification it is being asked to carry. Approving the present discharge on an informal comment would therefore lock in, across both applications, the removal of the wheelchair-accessible housing that the S106 and DP28 require.

I therefore ask the Council: (a) not to treat the Affordable Housing Scheme as satisfying paragraph 1.1 while it omits the M4(3) Wheelchair Accessible Units the S106 and DP28 require; (b) to identify what formal mechanism, if any, is proposed to vary this specific obligation, and to consult accordingly; and (c) to set out, in writing, how it has discharged its Public Sector Equality Duty under section 149 of the Equality Act 2010 — including the needs of disabled and less-mobile residents and prospective occupiers — before accepting a scheme that removes wheelchair-accessible provision on the strength of an unevidenced assertion of “limited demand” that runs contrary to its own adopted policy.

2. The Council’s Housing Enabling Officer does not support discharge, and the tenure split does not meet the required 75/25

Cala’s cover letter of 6 July 2026 tabulated the Second Schedule size mix in a way its agent has since accepted was in error. In a supporting email of 20 August 2026, Cala corrected the table: the Second Schedule requirement is 26% one-bed, 45% two-bed, 20% three-bed and 5% four-bed (with 4% M4(3)), against a proposed 27%, 48%, 20% and 5%. On the corrected figures the bed-size mix is broadly conforming — the only material movement is a three-point uplift in two-bed units — so I do not pursue the size-mix departure as such; the concern that four-bed provision had been cut to a fifth of the requirement fell away once the “25%” four-bed figure was corrected to 5%. The correction does, however, confirm the M4(3) omission set out in ground 1 above (4% required, 0% provided).

What has emerged is a more fundamental obstacle to discharge. Paragraph 1.1 permits the Scheme Details to depart from Part Two only in “broad conformity,” and requires the proposed mix to “have been agreed in writing by the Responsible Officer for Housing.” The Council’s Principal Housing Enabling Officer has now responded, on 14 August 2026 (received on the register 27 August), and far from agreeing the scheme he states that “At present I am unable to support the discharge of condition relating to the affordable housing scheme.” He identifies matters to be resolved first: the tenure split is not the required 75% Affordable/Social Rent (45 units) and 25% First Homes (15 units) — the submitted scheme shows 44 rented and 16 First Homes — for which he recommends swapping two 1-bed/2-person maisonettes for one 2-bed/4-person house; and the First Homes are mis-clustered, for which he recommends re-arranging plots. On the officer’s own assessment, the affordable housing scheme is therefore not agreed and is not in a state to be discharged. I ask the Council not to treat the Affordable Housing Scheme as discharged unless

and until the Responsible Officer for Housing's requirements are met and his written agreement to the final mix and tenure split is on the file.

On the clustering there is a further point, and it goes to the Deed rather than to anyone's discretion. Paragraph 2.43 of the Affordable Housing SPD requires that affordable housing be "designed to a high standard and fully integrated into the overall scheme layout, in clusters of no more than ten dwellings ... rather than concentrated in one location", the only exception being for high density flatted schemes, which this is not. (The SPD's own cross-reference for that exception is to clause 2.49, which appears to be a slip: 2.49 concerns wheelchair provision, and the flatted exception is at 2.51.) Paragraph 2.50 applies the same maximum to flatted units, which are to be provided "in small clusters, of no more than ten units around the development". That standard is not guidance the Council is free to set aside. Paragraph 4.1 of Part One of the Second Schedule requires the Social Rented or Affordable Rented Units and First Homes or Shared Ownership to be "constructed to a standard required to meet", among other things and at paragraph 4.1.2, "the standards set out in the Affordable Housing SPD". Separately, the Deed defines the "Affordable Housing Scheme" as the scheme approved by the Responsible Officer for Housing in accordance with paragraph 1.1 of Part One of the Second Schedule "or such other scheme approved by the Responsible Officer for Housing which scheme shall in any event comply with the Affordable Housing SPD", and it defines the "Affordable Housing SPD" as the Council's Affordable Housing Supplementary Planning Document adopted on 25 July 2018. I should say plainly that the words "which scheme shall in any event comply" may be read as attaching only to the alternative scheme described in the second limb of that definition, and I do not press the wider reading, because the point does not depend on it: paragraph 4.1.2 makes the SPD's standards a covenant in terms, and the SPD is in any event the Council's own adopted guidance.

Whether the layout meets the ten-dwelling maximum is a question the Council should answer before it approves the Scheme, and I put it as a question rather than as an assertion, because what the drawings show admits of more than one view. The Affordable Housing Layout submitted with this application (drawing AH01 Rev P1) shows fifteen of the sixty affordable dwellings the Deed requires — thirty per cent of the Dwellings, rounded up — in one part of the site: three houses at plots 126, 127 and 128, and two blocks annotated "129 - 134" and "136 - 141". The reserved matters drawing AHL.01 Rev A shows the same arrangement, and its key identifies the three houses as Affordable Rented and the two blocks as First Homes. Taken separately they are groups of three, six and six, each below the maximum. Taken together they are fifteen, they stand within roughly twenty metres of one another — a distance I have scaled from the drawings at 1:500 rather than read from any dimension on them — and no market dwelling is shown between them. In fairness to the applicant, both drawings do show separation of the kind paragraph 2.43 contemplates: a road runs between the block at 129 - 134 and the terrace at 126 to 128 on the one hand and the block at 136 - 141 on the other, and each building is served by its own parking court. Whether that is enough to prevent the fifteen reading as affordable housing "concentrated in one location" is a matter of planning judgement for the Council rather than for me, and I note that paragraph 2.43 directs the grouping to be considered by reference, among other things, to "where there is a degree of separation provided by roads, open space or landscape feature". I ask the Council to exercise that judgement, and to record on the file the basis on which it is satisfied, before any approval.

3. The Play Area Site Location Plan — a withdrawal, and what remains

Paragraph 6 of the First Schedule governs the Play Areas, and the S106 defines them as "the provision of up to a minimum level of formal and informal recreational open space across the site as a whole including 2 x Local Equipped Areas of Play (LEAP) and 2 x Local Areas or 'Play on the Way' which together equate to

0.15ha in accordance with paragraph 6 of the FIRST SCHEDULE". Drawing 0817/26/A/30 shows six areas: two LEAPs (Combine Harvester, Tractor) and four LAPs (Natural Trail, Creepy Crawlies, Farmyard, Biodiversity).

I do not suggest that six areas depart from that definition, and I should say so plainly, because I have previously suggested the opposite. In an earlier representation I described the Deed as defining four areas. That was wrong and I withdraw it. The operative word in the definition is "including", which sets a minimum rather than an exhaustive specification, so four Local Areas do not depart from a requirement of two. I make the same withdrawal on DM/26/1961 and DM/26/1962, and the Council is entitled to read what follows with that in mind, which is why I put it narrowly and on the face of the documents.

What remains on quantum is that the application does not demonstrate what it provides. The definition fixes 0.15ha. Two LEAPs at the 400m² minimum would account for 0.08ha between them, so the four Local Areas must supply the balance. None of the six play drawings states its area. I do not assert that the 0.15ha is not delivered; I say that the Council is not in a position to find that it is.

I ask the Council to confirm, before approving the plan: (a) the total area of play space now proposed, and that it is not less than the 0.15ha the definition fixes; (b) that each LEAP meets the requirements of paragraph 6.2 of the First Schedule — an area of no less than 400m² complying with NPFA standards, no fewer than five types of play equipment, and a landscape buffer complying with NPFA standards, the specification being prepared in accordance with the current RoSPA Code of Good Practice for Play Areas; (c) that the number and location of the play areas remains consistent with the Illustrative Masterplan (P20074-RFT-XX-XX-DR-A-0101, revision P08) and the Parameter Plan – Green Infrastructure (P20074-RFT-XX-XX-DR-A-0113, revision P02) approved at outline stage, or that the Council records why any departure from them is acceptable, rather than the point being passed over as a routine discharge of paragraph 6.2; and (d) that the position of the play areas relative to the attenuation basins has been assessed before the plan is approved, and in particular the position of the Biodiversity LAP, for the reasons set out below.

On (c), those two drawings are not merely background. Both are listed on the DM/25/1129 decision notice under the heading "Plans Referred to in Consideration of this Application", and condition 2 of that permission requires that "The development hereby permitted shall be carried out in accordance with the plans listed below" under that heading. I should be plain about what that does and does not give me. Layout was a reserved matter at outline, and the first of the two drawings is titled an Illustrative Masterplan, so I do not say that it fixes where the play areas must go; what it does is record what the Council assessed when it granted permission, and condition 2 is why a departure from it is something the Council should address on the file rather than assume. The second is a parameter plan, but its own key is careful about what it fixes: against each of the play areas it marks, it adds "(exact location and size to be resolved through reserved matters)". It therefore does not settle where any individual area goes either; what it records is which kinds of play area the scheme is to contain, and where in general terms. I should also say, rather than leave it to be said against me, that the two drawings are issued at different suitabilities: the masterplan at "S4 For Planning" and the parameter plan at "S0 Work in Progress". The Council will have to judge what weight the latter leaves it. The decision notice's schedule lists both simply as "Other" and gives no titles, which is why I have given the drawing numbers.

The applicant's own documents are also internally inconsistent about whether even the two LEAPs the S106 requires as a minimum are provided. Drawing 0817/26/A/36 is titled "Combine Harvester LEAP" on the location plan and is so described in the covering letter, but the Landscape Management Plan submitted with the reserved matters (DM/26/1961) lists the same drawing as "PLAY – Combine Harvester LAP", and lists only 0817/26/A/35 (Tractor) as a LEAP. The document that would govern these areas after occupation

is therefore the one that describes /36 as the lesser category. Until that is resolved it cannot be confirmed that the plan delivers the two qualifying LEAPs, each of at least 400m², that paragraph 6.2 of the First Schedule requires, and I ask the Council to obtain that confirmation before approving the plan.

A further point on siting arises on this application rather than on the reserved matters, and it concerns the Biodiversity LAP. On the plan now before the Council that area sits at the western end of what the Proposed Drainage Layout Sheet 3 of 3 (5968-003-203-A02) labels “LINED ATTENUATION BASIN 3” — a lined bowl annotated with a top of bank at 26.10mAOD, a base level at 24.10mAOD, a “DEPTH OF WATER (1:100+45%): 1.74m” and a freeboard of 0.260m. I set the substance of that point out in my objection on DM/26/1961 and do not repeat it here. What matters on this application is the sequence. Paragraph 6.2 requires that “The specification for the Play Areas shall be prepared in accordance with the current Code of Good Practice for Play Areas published by RoSPA(Royal Society for the Prevention of Accidents” [sic]. But the specification is a different document from the location plan, and paragraphs 6.3 and 6.4 place it later — it must be approved before commencement of the relevant Phase, and the Play Areas are then to be constructed in accordance with it. This application settles where the play areas go. A specification prepared afterwards cannot move one away from a basin. If the relationship between a play area and a basin is to be assessed at all, it has to be assessed now, on the plan that fixes it.

I should be careful about what I am and am not saying, because two different RoSPA documents are in play and only one of them is named in the Deed. I have not seen the Code of Good Practice for Play Areas, which is not freely published, and I make no assertion about what it says on water. I rely instead on RoSPA’s separately published guidance on sustainable drainage systems, which advises developers and designers to place children’s play equipment “at least 30 metres from water features, including SuDS schemes (unless there are mitigation measures in place)”, and adds that “Even schemes which are occasionally or temporarily submerged pose an unnecessary risk to children.” I do not say the separation here must be thirty metres, and I recognise that RoSPA’s own formulation allows for mitigation. I ask only that the Council satisfy itself, before approving a plan that settles the siting, that the position has been assessed against what paragraph 6.2 requires, and that whatever mitigation is relied on is secured.

Request

For the reasons above, I ask the Council to withhold its approval of DM/26/1760. I put the request that way deliberately rather than asking for approval to be postponed. This is not an application for planning permission. If the Council is treating it as one made under section 106A, the equivalent is a determination under section 106A(6)(a) that the obligation “shall continue to have effect without modification” — none having been specified. Paragraph 1.1 of Part One of the Second Schedule makes the Scheme Details conditional on their having “been agreed in writing by the Responsible Officer for Housing”. That agreement has not been given: the officer’s response of 14 August 2026 withholds it. The Council is therefore not deciding when to approve but whether to, and in my submission it should not, unless and until Cala has (i) either delivered the M4(3) Wheelchair Accessible Units the S106 and DP28 require, or obtained a lawful, consulted-on variation of that obligation; (ii) satisfied the Responsible Officer for Housing’s requirements of 14 August 2026 — including the correct 75/25 tenure split and the re-clustering of the First Homes — and produced his written agreement to the final affordable mix and tenure split; and (iii) demonstrated the area of the play space shown on the Play Area Site Location Plan against the 0.15ha the S106 fixes, and confirmed the status of each area, including whether the two qualifying LEAPs of at least 400m² each are provided. I would be grateful to be kept informed of the Council’s decision on this application.

If it has not already been actioned, I renew my request that the substance of the pre-application advice relied on for the wheelchair-housing point (reference DM/26/0645), and any caveats within it, be placed on the public file. The enquiry does not appear on the Council's public planning register as an application: a search of the register for DM/26/0645 returned "no results" when I last ran it on 4 September 2026. The same request applies to the play areas: the applicant's Design and Access Statement on DM/26/1961 records that officers "accepted the proposed reduction in Local Areas for Play (LAPs), subject to appropriate justification", so unpublished pre-application advice is being relied on there too, and the justification it was made subject to cannot be seen either.

The consultation position, as at 4 September 2026

For completeness: filtering the document list for this application on the Council's own online register by document type "Consultation response" returned, when I last checked it on 4 September 2026, one entry out of fourteen — the Principal Housing Enabling Officer's response, written 14 August 2026 and received on the register on 27 August. No other consultee response appears. The one consultee who has responded is the officer whose written agreement paragraph 1.1 of Part One of the Second Schedule requires, and he withholds it. That is checkable in one filter, and I would of course withdraw anything in this paragraph that a later response overtakes.

All factual matters set out above are stated to the best of my knowledge and belief.

Yours faithfully,

A solid black rectangular box used to redact the signature of the sender.

Annex — documents relied upon

Listed so that every source quoted or relied upon in this letter can be checked against its source.

Source	Edition / date relied on	Where used
Section 106 Agreement relating to DM/25/1129 (executed copy on the register; parties Mid Sussex District Council, West Sussex County Council, J A C Allen, Wates Developments Limited and Barclays Bank UK PLC)	Completed 18 November 2025; the executed copy on the register is dated in manuscript on its face, “DATED 18 November 2025”, and the applicant’s covering letter records the permission as approved on that date	Grounds 1, 2 and 3 — the definition of “Wheelchair Accessible Unit”; Second Schedule Part One paras 1.1, 1.1.4, 4.1 (including 4.1.2) and 4.1.4; Second Schedule Part Two, the 4% row and the 2-bed and 3-bed house rows; the form of Nomination Agreement annexed at Appendix 2, clause 14.5; First Schedule paras 6.2, 6.3 and 6.4; the definition of “Play Areas”
Outline permission DM/25/1129 — decision notice	18 November 2025	Grounds 1 and 3 — condition 39 (M4(2)); condition 2 and the schedule of plans referred to
Illustrative Masterplan, drawing P20074-RFT-XX-XX-DR-A-0101, Re-Format LLP — an approved plan on outline permission DM/25/1129	Revision P08, 27 June 2025 on the drawing’s own revisions panel; listed on the decision notice as P08, 04.07.2025; 1:1250 at A1; suitability “S4 For Planning”	Ground 3 — the number and location of the play areas considered at outline stage
Parameter Plan — Green Infrastructure, drawing P20074-RFT-XX-XX-DR-A-0113, Re-Format LLP — an approved plan on outline permission DM/25/1129	Revision P02, 24 April 2025 on the drawing’s own revisions panel; listed on the decision notice as P02, 29.04.2025; 1:2500 at A3; suitability “SO Work in Progress”	Ground 3 — the number and location of the play areas considered at outline stage
Cala covering letter, Tom Davies MRTPI, Cala South Home Counties Ltd on behalf of CALA Management Ltd	6 July 2026	Throughout — the pre-application quotation, the mix table and the affordable house-type floor areas
Cala supporting statement (email), Tom Davies MRTPI — corrected mix table	20 August 2026	Grounds 1 and 2 — 4% M4(3) required against 0% provided
Submitted drawings: Affordable Housing Layout (also the tenure plan), drawing AH01 Rev P1, Thrive Architects; five house-type floor plans; and the Play Areas Location Plan (see below)	AH01 Rev P1, “First Draft Issue” 30.06.26, marked PRELIMINARY; on the register 17 July 2026	Ground 1 — M4 annotations, and the preliminary status of the layout; Ground 2 — the grouping of the affordable dwellings at plots 126 to 141
Affordable Housing Layout, drawing AHL.01 Rev A, Thrive Architects — submitted on DM/26/1961	Rev A, “Planning issue” 28.07.26; status PLANNING	Ground 2 — the same grouping of affordable dwellings, and the tenure key
Mid Sussex District Council, Principal Housing Enabling Officer, consultation response	Written 14 August 2026; received on the register 27 August 2026	Grounds 1 and 2
Mid Sussex District Plan 2014–2031	Adopted 2018; Policy DP28 (Accessibility)	Ground 1
Mid Sussex District Plan 2021–2039 (emerging)	Schedule of Main Modifications, July 2026; not adopted as at the date of this letter	Preliminary — recorded as not relied on for policy weight
Mid Sussex Affordable Housing SPD	Adopted July 2018; paras 2.43, 2.46, 2.47, 2.49, 2.50 and 2.51	Ground 1 — the 4% wheelchair requirement and the process for securing it; Ground 2 — the ten-dwelling maximum cluster size
Design and Access Statement, DM/26/1961 (Parts 1 and 2)	August 2026	Grounds 1 and 3 — Part 1 pre-application review summary; Part 2, 40no M4(2), condition 39 and the M4(3) substitution; reduction in LAPs
Mid Sussex Strategic Housing Market Assessment Update	2024; paras 4.2 and 4.6	Ground 1 — older-population growth and disability incidence
LSE CASE Report 147, The social and economic value of wheelchair user homes	September 2023	Ground 1 — 3.3% of households (English Housing Survey 2011-12)

English Housing Survey, Adaptations and Accessibility Fact Sheet (MHCLG)	2018-19	Ground 1 — relied on for the fact that it does not repeat the 2011-12 household-level wheelchair breakdown
House of Commons Library, UK disability statistics: Prevalence and life experiences, CBP-9602	17 November 2025 (2023/24 data)	Ground 1 — mobility as the most commonly reported impairment
Planning and Compulsory Purchase Act 2004	As amended; section 38(6)	Ground 1 — determination in accordance with the development plan
Town and Country Planning Act 1990	As amended; revised text in force to 11 August 2026; section 106A, including subsections (3), (4) and (6)	Ground 1 and the Request
Application form, DM/26/1760 — “Application for the Modification or Discharge of Planning Obligations”	Dated 6 July 2026; on the register 17 July 2026	Ground 1 — box 8 and box 9
PLAY — Play Areas Location Plan, drawing 0817/26/A/30, Hill-Wood & Co	Rev A, 27 July 2026 (“Amendments to revised drainage layout”); sheet dated July 2026; stamped PRELIMINARY	Ground 3
Landscape Management Plan, Hill-Wood & Co — submitted on DM/26/1961	As submitted, August 2026	Ground 3 — drawing schedule; classification of drawing 0817/26/A/36
Proposed Drainage Layout, Sheet 3 of 3, drawing 5968-003-203, Robert West Consulting — submitted on DM/26/1961	Rev A02	Ground 3 — Lined Attenuation Basin 3
RoSPA, “Sustainable Urban Drainage Systems (SuDS) & Safety”	Web guidance, undated on its face; captured 1 September 2026	Ground 3 — the 30-metre advice. NOT the Code of Good Practice for Play Areas named in the Deed, which is not freely published and which I have not seen
Equality Act 2010	As amended; section 149 (public sector equality duty)	Preliminary and Ground 1
National Planning Policy Framework	August 2026 edition	Preliminary — Annex A(2) and policy HO5(1)(b)
Approved Document M, Volume 1: Dwellings (Building Regulations 2010)	2015 edition incorporating 2016 amendments	Ground 1 — the Performance statements for optional requirements M4(2) and M4(3), and paragraph 0.4