

## LETTER OF REPRESENTATION — OBJECTION TO DM/26/1760

Weald Chase, The Street, Bolney, West Sussex RH17 5PF. 19<sup>th</sup> August 2026

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, which seeks the Council's approval of 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 eight months ago, 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 District Plan 2021–2039 (now at Main Modifications) and the December 2025 draft revised NPPF are not yet adopted or in force; I do not rely on them, and note only that neither withdraws the accessibility requirement at issue.

### 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 defines those units as specific house types — a minimum of one 2-bed/4-person house of at least 103m<sup>2</sup> and one 3-bed/5-person house of at least 121m<sup>2</sup> — each of which must "comply with all of the requirements contained in Part M4(3)(1)(a) and (b) and Part M4(3)(2)(b) for wheelchair accessible dwellings... Category 3 — wheelchair user dwellings." Paragraph 4.1.4 of Part One repeats that M4(3) standard as a construction requirement.

This is not merely a contractual term. It transcribes adopted Policy DP28 (Accessibility) of the Mid Sussex District Plan 2014–2031, which 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%...*" The 4% in the S106 is the direct expression of that policy. Removing it is therefore a

departure from the development plan, engaging section 38(6) of the Planning and Compulsory Purchase Act 2004.

The requirement is reinforced by a second adopted document. The S106 defines the Affordable Housing Scheme as one that “shall in any event comply with the Affordable Housing SPD,” and the Mid Sussex Affordable Housing SPD (adopted July 2018) provides, 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. On process the SPD is explicit: 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 on an informal officer view. Omitting the units breaches the SPD independently of the S106’s own wheelchair clause.

The submitted scheme comprises five house types (Bellflower, Clover, Daisy, Heather and Maisonette). Every submitted plan is annotated M4(2). 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. Not one M4(3) unit appears anywhere in the scheme. On the scale of affordable provision here, the 4% / Part Two minimum equates to just two homes; the application does not accommodate even those two.

The covering letter does not seek a formal variation. It relies only on a pre-application comment (ref. DM/26/0645, 20 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.” Two 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. An informal pre-application view expressed six months later cannot retrospectively reopen a settled, executed obligation. 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 — and this application is neither.

Third, the premise of the assertion — that demand is “limited” — is not borne out by the evidence, including the Council’s own. Nationally, around 3% of households contain a wheelchair user (English Housing Survey) and mobility is the most common form of disability. 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 — with the incidence of disability under the Equality Act reaching around a third of people in the older age bands. 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.

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, within the very same pre-application summary, 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; the applicant’s own documents are thus internally contradictory on the one point that matters. The same Design and Access Statement then carries the substitution through to the whole scheme, providing “40no M4(2)” units and expressly substituting “these two units with M4(2),” with not one M4(3) dwelling

anywhere. 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 — reinforcing why a settled, executed obligation cannot be reopened in this way.

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 affordable size mix departs materially from the Second Schedule, with no evidenced sign-off — and Cala’s own comparison does not add up**

Cala’s covering letter tabulates the Second Schedule size mix as approximately 26% (1-bed), 45% (2-bed), 20% (3-bed) and 25% (4-bed), against a proposed 27%, 48%, 20% and 5%. The proportion of 4-bed — the larger, family-sized — affordable homes is cut from a quarter of the affordable total to one twentieth. I note in passing that Cala’s stated Second Schedule figures sum to 116%, which cannot be a valid percentage split; the Council should establish the correct baseline before assessing conformity at all.

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.” No such written agreement is included with, or referred to in, this application; the only officer input mentioned concerns the wheelchair-units point above, not the size mix. I ask the Council to require Cala to produce the Responsible Officer for Housing’s written agreement to this departure before accepting the Scheme, and to explain how an 80% reduction in 4-bed affordable provision (from 25% to 5%) can be “broad conformity” with the schedule. The same reduced mix (4-bed affordable at 5%) is carried through into the reserved matters application (DM/26/1961), so this is not a transient drafting figure but the mix now being embedded across the scheme — still with no written agreement of the Responsible Officer for Housing in evidence.

## **3. The Play Area Site Location Plan shows a different number and composition of areas — clarification requested**

Paragraph 6 of the First Schedule, and the S106’s definition of “Play Areas,” provide for “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” — four discrete areas. Drawing 0817/26/A/30 instead shows six: two LEAPs (Combine Harvester, Tractor) and four LAPs (Natural Trail, Creepy Crawlies, Farmyard, Biodiversity).

I do not object to additional play space in principle, but I ask the Council to confirm, before approving the plan: (a) the total area now proposed, and that it still meets or exceeds the 0.15ha minimum; (b) that each LEAP still meets the 400m<sup>2</sup> minimum required by paragraph 3 of the First Schedule; and (c) that the revised number and location of play areas remains consistent with the illustrative masterplan and Green Infrastructure parameter plan considered at outline stage, rather than being accepted as a routine discharge of paragraph 6.2.

I would add that the applicant’s own documents are internally inconsistent about whether even the two LEAPs the S106 requires are provided. The Landscape Management Plan submitted with the reserved

matters (DM/26/1961) classifies drawing 0817/26/A/36 — the “Combine Harvester” area, listed here as one of the two LEAPs — as a LAP, while the covering letter and location plan call it a LEAP. Until that is resolved it cannot be confirmed that the plan delivers the two qualifying LEAPs (each of at least 400m<sup>2</sup>) that paragraphs 3 and 6 of the First Schedule require, and I ask the Council to obtain that confirmation before approving the plan.

### **Request**

For the reasons above, I ask the Council to defer any approval of DM/26/1760 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) produced the Responsible Officer for Housing’s written agreement to the proposed affordable size mix, on a corrected baseline; and (iii) confirmed the area, and the number and status (including whether two qualifying LEAPs of at least 400m<sup>2</sup> each are provided), of the play areas shown on the Play Area Site Location Plan. I would be grateful to be kept informed of the Council’s decision on this application.