

Town and Country Planning Act 1990 –Section 78
Town and Country Planning (Development Management Procedure) (England) Order 2013
Town and Country Planning (Inquiries Procedure) (England) Rules 2000

Gladman Developments Ltd

Land off Scamps Hill, Lindfield

Against the non-determination of an outline planning application for:

“Outline planning application for the erection of up to 90 dwellings including affordable housing, with public open space, landscaping, sustainable drainage system (SuDS) and vehicular access. All matters reserved except for means of access.”

Statement of Case

LPA Ref: DM/24/0446



August 2024

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1 INTRODUCTION

1.1 Context

1.1.1 This statement of case is submitted by Gladman Development Ltd (the Appellant), and it relates to an appeal against Mid Sussex District Council's non-determination of outline application DM/24/0446:

“Outline planning application for the erection of up to 90 dwellings with vehicular access point, public open space, landscaping and sustainable drainage systems (SuDS). All matters reserved except for means of access”.

1.1.2 The Appellant considers that a public inquiry is the most appropriate procedure for the appeal by reference to the Procedural Guide: Planning appeals – England (Updated 28th May 2024) and the relevant criteria for determining the procedure for planning, enforcement, advertisement and discontinuance notice appeals (21 April 2022). Further justification for this approach is set out below.

1.1.3 A draft list of Core Documents that will be referred to during the course of the appeal and a draft Statement of Common Ground (SoCG) are submitted alongside this Statement of Case. These documents may be added to by the Appellant or the Council during the appeal process.

1.2 Planning Application Background

1.2.1 The planning application for the proposed development was validated by Mid Sussex District Council on 23rd February 2024 (Application ref: DM/24/0446). The application was supported by a comprehensive suite of technical reports (CD1), in accordance with the Council's planning application validation requirements, which are set out in the Planning and Affordable Housing Statement (CD1.15) that accompanied the application.

1.2.2 The Appellant undertook a public consultation exercise prior to submission. The process of engagement allowed the Appellant to consider the concerns and suggestions of interested parties through the application process. Full details of the public consultation exercise are set out in the Statement of Community Involvement (CD1.16).

1.2.3 Throughout the application process, the Appellant has engaged with Council officers and consultees to address any technical objections or comments, as far as possible. In a letter attached to an email, dated 14th June 2024, the Council requested an extension of time to determine the application. The Appellant agreed to an extension to the determination period

to allow the LPA further time to formally consider the application. This extended period expired on 31st July 2024.

1.2.4 The full correspondence between the Appellant and the Council is submitted at CD3.

1.2.5 Planning law requires that applications for planning permissions be determined in accordance with the development plan unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.

1.2.6 As a matter of practice, the Appellant has actively engaged with the local planning authority to find solutions to problems wherever possible, with the aim of working towards a positive officer recommendation. Notwithstanding this, and despite the extensions of time agreed to, the Appellant has been given no clear timetable for the formal determination of the application. Furthermore, no indication has been provided by officers on whether the application is likely to be supported or not.

1.2.7 In this instance, taking into account the consultation responses received and the failure of officers to provide any positive comments on the merits of the application proposal, the Appellant is of the understanding that the principle of the proposed development is not supported. Furthermore, it is anticipated that agreeing a further extension of time would not alter this position.

1.3 Relevant Planning History

1.3.1 There have not been any planning applications previously submitted on the site. Thus, there is no relevant planning history on the site that is material in the determination of this appeal.

1.4 Appeal Site and Surroundings

1.4.1 The appeal site comprises approximately 6.58 hectares (ha) of land and is formed of three pastoral field parcels bound by hedgerows and trees, located to the south east of Lindfield, adjacent to Scamps Hill and within close proximity to the centre of Lindfield and its associated services and amenities.

1.4.2 To the north the site is bound by commercial buildings at Lindfield Enterprise Park and residential dwellings associated with Noah's Ark Lane and to the east lies the Ancient and Semi-Natural woodland of Little Walstead Wood. Residential development adjoins the western boundary of the site along the southern edge of Scamps Hill. To the south of the site is the Grade II Listed Tythe Cottage which is surrounded by existing woodland and further

agricultural land. A full description of the appeal site and surroundings is set out in the draft SoCG for agreement with the Council.

1.4.3 The built development aspect of the Site would be located within the two northern field parcels with existing hedgerows and trees maintained and incorporated into the proposed site layout. The southern field would remain open from development and would provide publicly accessible recreational routes through the open space and new parkland and orchard planting.

1.4.4 The site is well located on the edge of Lindfield within close proximity and easy walking distance of the centre and its associated amenities and facilities to meet the needs of future residents as identified in the Transport Assessment (CD1.6). Lindfield is directly adjacent to Haywards Heath, one of three 'Category 1' settlements in Mid Sussex, and a large retail and employment centre that also benefits from fast and regular train services into London.

1.4.5 The boundary of the appeal site is shown on the Location Plan (CD1.2)

1.5 Council Position

1.5.1 As this is an appeal against non-determination of the application by the Council its position is not yet fully known.

1.5.2 However, taking on board the comments from the consultees, the Appellant is aware of the matters which are most likely to have formed the Council's reasons for refusal had a decision been made on the application.

1.5.3 The Appellant's response to the anticipated position of the Council is set out in Section 3. However, the Appellant reserves the right to call witnesses and adduce evidence as necessary to respond to the Council's full case.

1.5.4 It should be noted that there is significant third party interest in the proposal and detailed objections have been raised by third parties on matters that go beyond the areas of dispute anticipated with the Council.

1.6 Justification for an Inquiry

1.6.1 With reference to the Planning Inspectorate's Procedural Guide: Planning appeals – England (January 2024)¹, the Appellant requests a public inquiry for the following reasons:

There is a clearly explained need for the evidence to be tested through formal questioning by an advocate

1.6.2 The anticipated main areas of dispute between the Council and the Appellant are:

- Principle of development and policy conflict – the site is not allocated for housing development in the statutory development plan and is situated outside of the identified development boundary for Lindfield.
- Whether the development plan policies that are relevant to the determination of the application are up to date and the weight that can be appropriately afforded to them for the purposes of development management.
- The Council's ability to demonstrate a sufficient housing land supply.
- Built heritage – the impact on the proposal on the setting and significance of designated heritage assets and the implications of this for the planning balancing exercise
- Ecology – whether sufficient information has been provided to determine the application proposal and the implications of biodiversity impacts for the planning balancing exercise.

1.6.3 The Appellant reasonably anticipates significant dispute with the Council on the above matters.

1.6.4 In addition to the above, it is noted that third parties have raised issues that go beyond the scope of the anticipated matters in dispute with the Council. Most notably:

- Notwithstanding the position of no objection to the proposal from the local highway authority, several respondents on the application have expressed concerns about highways impacts. Lindfield Rural Parish Council has specifically questioned the merits of the applicant's transport assessment and the adequacy of the assessment

¹ <https://www.gov.uk/government/publications/planning-appeals-procedural-guide/procedural-guide-planning-appeals-england>

of the proposal by the local highways authority. CPRE also raises locational sustainability and highway capacity concerns.

- Notwithstanding the fact that Place Services landscape consultant has confirmed a position of no objection position to the proposal, respondents including Lindfield Rural Parish Council have raised concerns about landscape and visual impacts.
- CPRE has raised surface water drainage and flood risk concerns.

1.6.5 The Appellant reserves the right to adduce evidence and call expert witnesses, as necessary to address the concerns of third parties.

1.6.6 It is expected that detailed evidence will need to be adduced by the parties and that it will be necessary to use expert witnesses to advance the respective cases on the above issues. Some of the evidence will be of a specialist and technical nature and the judgements made by individual witnesses will be material to the consideration of planning policy compliance and the overall planning balancing exercise. In order that these potentially determinative matters are properly assessed the Appellant anticipates that legal submissions will be necessary.

1.6.7 Overall, it is the view of the Appellant that it will be necessary for the main parties to be represented by an advocate and that cross-examination of the evidence will be required to test the respective positions of the parties and assist the Inspector in making a decision.

The issues are complex

1.6.8 The above issues are inter-related and complex in nature and will require evidence to be adduced by expert witnesses. It is the view of the Appellant that cross-examination will be required to properly test the evidence associated with at least some of the issues to be resolved through the appeal process.

The application has generated substantial local interest to warrant an inquiry as opposed to dealing with the case by hearing

1.6.9 There has been a significant third-party interest in the scheme with significantly in excess of 200 representations submitted to the local planning authority as part of its consultation on the application proposals.

1.6.10 Further to individual representations, representations from Lindfield Rural Parish Council, Lindfield Parish Council, Lindfield Society and CPRE have been submitted at the application stage, objecting to the proposed development. As set out above, it may be necessary to respond to and address matters beyond those where there is an agreement between the

applicant and the statutory consultee. At this stage it is unclear whether any party will ask for formal Rule 6 status but the Appellant reasonably expects significant involvement in the appeal from third parties. The Appellant reserves the right to adduce evidence and call expert witnesses to address the issues raised by third parties.

Likely Duration

- 1.6.11 It is considered that to address currently anticipated core matters it will be necessary to use four expert witnesses (for both the Council and the Appellant) to advance the case in respect of planning policy compliance and planning balance; housing land supply; heritage; and remaining ecology and biodiversity matters. It is expected that it will take a minimum of 3 days to present evidence on these matters. The Appellant considers that, given the level of third party interest, and the range of issues raised (including those beyond the anticipated main issues with the Council), at least 1 day should be allowed for to deal with interested parties. It is considered that 1 further day will be required for the site visit, Section 106 and conditions session.
- 1.6.12 Therefore, it is considered that to address all likely matters, **a minimum of 5 days** will be required. It is not known at this stage if there will be a Rule 6 Party, but considering the level of representations received from residents, Lindfield Rural Parish Council, Lindfield Parish Council CPRE and Lindfield Society, there is a strong likelihood that a Rule 6 will wish to take a more active part in the proceedings. If this is the case, it is likely that more than 5 days would be required.
- 1.6.13 For the above reasons and to be able to respond to the anticipated matters of contention as detailed in Section 3, the Appellant considers a public inquiry is the only appropriate procedure in this case.

1.7 Core Documents

- 1.7.1 Submitted with this appeal is documentation considered during the planning application process including all documents submitted and assessed by the Council (CD1 – applications submitted at the time of the planning application), submissions post validation (CD2), Consultation responses (CD4) and relevant correspondence (CD3).
- 1.7.2 A further list of relevant documents will be added to the Core Document library that will be referred to during the course of the Appeal. These documents may be added to by the Appellant or Council prior to the commencement of the Appeal and an agreed list will be provided when evidence is exchanged.

1.8 Statement of Common Ground

1.8.1 A draft Statement of Common Ground (SoCG) is submitted with this appeal. It is expected a signed SoCG will be available prior to the inquiry commencing.

1.8.2 Further SoCG on technical matters are likely to be produced to assist the Inspector in highlighting any areas of agreement or disagreement between the parties.

1.8.3 It is anticipated that separate SoCG will be prepared on Heritage and Housing Land Supply.

1.9 Summary of Appeal Proposals

1.9.1 The appeal proposals will provide:

- Up to 90 residential dwellings adjacent to the sustainable settlement of Lindfield;
- 30% affordable housing (up to 27 affordable homes);
- Vehicular access via a single priority junction from Scamps Hill;
- Provision of a pedestrian access on to Scamps Hill as well as the introduction of a three-meter-wide shared footway/cycleway within the site;
- 3.94 hectares of public open space (62.4% of the site) with substantial new recreational routes throughout the southern field and children's play area;
- New structural landscape planting, planting for biodiversity and the retention and positive management of key landscape features, delivering an above 10% net gain in biodiversity;
- A sustainable Drainage System (SuDS); and
- Section 106 contributions or matters secured by condition as detailed in Section 4.

2 THE DEVELOPMENT PLAN AND MATERIAL CONSIDERATIONS

2.1 Adopted Development Plan

2.1.1 Under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning applications should be determined in accordance with the policies of the adopted development plan unless material considerations indicate otherwise.

2.1.2 In this instance the adopted development plan, as applicable to the determination of the appeal application, consists of:

- Mid Sussex District Plan 2014-2031 (2018)
- Mid Sussex Site Allocations DPD (2022)
- Lindfield and Lindfield Rural Neighbourhood Plan 2014-2031 (2016)

2.1.3 There are no relevant policies regarding the site contained in the Mid Sussex Site Allocations DPD.

2.1.4 A list of planning policies relevant to the appeal proposal is enclosed in the submitted Statement of Common Ground for agreement with the Council.

2.1.5 It is contended that the following policies are of particular relevance:

- DP4 – Housing (MSDP)
- DP6 – Settlement Hierarchy (MSDP)
- DP12 – Protection and Enhancement of Countryside (MSDP)
- DP26: Character and Design (MSDP)
- DP34: Listed Buildings and Other Heritage Assets (MSDP)
- DP37: Trees, Woodland and Hedgerows (MSDP)
- DP38: Biodiversity (MSDP)
- Policy 1: A Spatial Plan for the Parishes (LALRNP)

2.2 Principle of Development

- 2.2.1 The Appellant acknowledges that the appeal site is located outside of, but adjacent to, the defined built-up area boundary of Lindfield where the principle of development is not specifically supported by policies DP6 and DP12 of the Mid Sussex District Plan or Policy 1 of the Lindfield and Lindfield Rural Neighbourhood Plan. However, the Appellant will demonstrate that any conflict in this respect cannot be considered determinative and that there are material considerations that outweigh the policy conflict.
- 2.2.2 The policies of the District Plan seek to direct development to the most sustainable and accessible locations in the district. Lindfield is listed as one of six 'Category 2' settlements which are said to serve the wider hinterland and benefit from a good range of services and facilities, including employment opportunities and access to public transport. Further, despite being categorised as a separate settlement, Lindfield is directly adjacent to Haywards Heath, a top tier settlement which has a comprehensive range of employment, health, education, leisure services and facilities.
- 2.2.3 Lindfield is a sustainable settlement and was previously allocated growth. The appeal site is in a sustainable and accessible location, as such, the appeal proposals contribute to the overall vision of the Spatial Strategy, and proportionate evidence demonstrating this will be adduced by the Appellant. Some support for the Appellant's position that the site is locationally sustainable and future residents would have good access to services and facilities is drawn from the consultation response of Sussex County Council, as local highway authority, dated 21 March 2024 (CD4.19).

2.3 Housing Land Supply

- 2.3.1 The emerging District Plan Review was submitted for Examination on 8th July 2024 and as such, at the time of writing, in accordance with paragraph 226 of the December 2023 Framework, the Council is only required to demonstrate a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing.
- 2.3.2 The Council's latest Five-Year Housing Land Supply Statement was updated in October 2023² which identifies a position of 5.04 years. The statement was updated in October 2023 to reflect amendments in the supply following the appeal at land south of Henfield Road, Albourne³.

² Mid Sussex District Council Housing Land Supply Position Statement as at 1st April 2023, July 2023, updated October 2023

³ Land south of Henfield Road, Albourne. PINS reference: APP/D380/W/23/3319542

2.3.3 The Appellant has reviewed the Council's latest published housing land supply position and considers that it represents a significant over-estimation of true deliverable supply in Mid Sussex. The Appellant will demonstrate that when correctly assessed, the Council is unable to demonstrate the requisite supply of housing land as required by the Framework.

2.4 The National Planning Policy Framework

2.4.1 The Appellant will demonstrate that, having regard to the proper application of the Framework, the following can be said of the appeal proposals.

Sustainable Development

An economic role

2.4.2 Evidence will be adduced to demonstrate the beneficial economic impacts of the appeal proposal. Delivery of new market and affordable homes now in Lindfield is a key contributor that will enable the Council to promote and sustain a strong, responsive and competitive economy.

2.4.3 Economic benefits will arise through the construction process and also from the increased expenditure available in the area to support services and facilities.

A social role

2.4.4 It will be demonstrated that the appeal proposals will deliver new homes of the right type and mix, at the right place and at the right time to meet market and affordable housing need, including:

- The delivery of up to 90 new homes to meet a pressing need, which is an important benefit irrespective of housing land supply in the context of the national policy imperative to significantly boost the supply of housing, but is particularly important in the context of a housing land supply deficit.
- The delivery of up to 27 affordable homes (30% of the total number of dwellings) to address the acute need for affordable housing in the Borough.

2.4.5 Without a sufficient supply of new homes, Mid Sussex District Council cannot meet the needs of present or future generations. The failure to deliver sufficient homes has adverse social consequences.

2.4.6 The provision of formal and informal public open space on the site, including a locally equipped area of play and recreational routes through a new expanse of open space is a further social benefit of the proposals.

2.4.7 It will be demonstrated that the site is located in an accessible and sustainable location close to key services and facilities of Lindfield, and the wider area, that will help support the health, social and cultural wellbeing of Lindfield.

An environmental role

2.4.8 It will be demonstrated that the appeal proposals have no unacceptable adverse effects on environmental considerations. The proposals involve the provision of informal and formal public open space, landscaping and ecological management mitigation works which together deliver an above 10% net gain to biodiversity.

2.4.9 An onsite sustainable drainage system will also act to provide a betterment in surface water runoff.

2.5 Weight to be afforded to the development plan and the presumption in favour of sustainable development.

2.5.1 The presumption in favour of sustainable development sits at the heart of the Framework. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. However, Paragraph 11 of the Framework identifies how plans and decisions should apply a presumption in favour of sustainable development. For decision taking, this means:

- c. *approving development proposals that accord with an up-to-date development plan without delay; or*
- d. *where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:*
 - i. *the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.*

- 2.5.2 In accordance with footnote 8 of the Framework, in the absence of an adequate housing land supply, it is the case that the most important policies for determining the application are out of date and that the appeal proposals fall to be determined in accordance with the tilted planning balance contained within Framework paragraph 11(d).
- 2.5.3 The titled balance does not displace the development plan as the starting point for determination. However, in the context of paragraph 11(d) of the Framework, the Appellant will demonstrate this is an instance where the most important policies for determining the appeal are out of date.
- 2.5.4 It will be shown that there are no specific policies in the Framework that would provide a clear reason for withholding planning permission or mean that the presumption should be disapplied. It will be demonstrated, cognisant of Framework paragraph 208, that any acknowledged harm to the significance of designated heritage assets arising from the proposed development are outweighed by the public benefits. It will also be demonstrated that the provisions of Framework paragraph 14 do not apply in relation to the Lindfield and Lindfield Rural Neighbourhood Plan. Overall, it will be demonstrated here are no adverse impacts that would significantly and demonstrably outweigh the benefits of granting planning permission in this case.
- 2.5.5 The Appellant will demonstrate that the appeal proposals are generally compliant with all relevant development plan policies that can be considered up-to-date for the purposes of decision-making and would represent a logical and sustainable extension to the existing settlement.
- 2.5.6 The appeal proposals will deliver new housing development to assist MSDC in achieving and maintaining the requisite minimum supply of housing land and will also assist in meeting the government objective of significantly boosting the supply of housing.
- 2.5.7 In this instance there are significant material considerations which outweigh any conflict with the development plan. Evidence will be adduced to demonstrate this position.

2.6 Written Ministerial Statement (30th July 2024) and the Consultation Draft of the NPPF

- 2.6.1 On the 30th July the newly-elected Government, who have pledged to build 1.5 million new homes in their first term, published a Written Ministerial Statement (WMS) "Building the homes we need" alongside the Consultation Draft of the NPPF. Both of these documents are

now material considerations in the determination of this appeal and clearly set the tone and direction of the Labour Government in their approach to reform planning and deliver growth.

2.6.2 It is well-established that a WMS is a material consideration and the clear terms of the WMS are a statement of the Government's policy.

2.6.3 Of direct relevance to the appeal is the clear tone in Central Government's commitment to improving affordability, turbocharging growth and building the 1.5 million homes they have committed to deliver. The statement reaffirms that the country is in "the most acute housing crisis in living memory".

2.6.4 The WMS makes clear that the Government are seeking to strengthen the general presumption in favour of sustainable development, again outlining their commitment to ensuring that planning permission is granted on suitable sites in sustainable locations. This goes to the heart of the Appellant's case as the appeal scheme is located in a sustainable location within close proximity to local services and amenities with good public transport connections to larger employment centres, including Haywards Heath, Gatwick Airport and London.

2.6.5 The WMS is clear in its conclusion that **"that there is no time to waste. It is time to get on with building 1.5 million homes"**. It is the Appellant's case that the appeal proposals will make an important contribution in enabling the delivery of up to 63 market and 27 affordable homes in the short term. This wholly accords with the Government policy as set out in the WMS; the building of new homes is crucial in achieving the stability, investment and reform to the Country is now striving to achieve.

2.6.6 Whilst the Consultation Draft of the NPPF could potentially be subject to some change, the presumption remains to be found at paragraph 11 of the consultation draft and within the WMS, the Secretary of State emphasises the clear intention to strengthen the presumption in favour of sustainable development.

2.6.7 A number of key amendments of relevance to this appeal scheme are proposed in the consultation draft, including:

- The strengthening of the presumption in favour of sustainable development
- The removal of paragraph 226 and the four-year housing land supply and the reinstatement of the five-year housing land supply requirement
- The reinstatement of the 5% buffer to land supply calculations

- The revised standard method

2.6.8 Whilst these amendments could potentially be subject to some change, these documents clearly indicate the direction of travel being advocated by the Government at utmost pace and support the necessity of approving sustainable proposals immediately.

2.7 The Emerging Local Plan

2.7.1 Mid Sussex District Council are in the process of preparing their District Plan Review, which will guide the type, amount and location of development in Mid Sussex over the period 2021-2039. It is intended to replace the adopted Mid Sussex District Plan.

2.7.2 The District Plan Review was submitted to the Secretary of State for examination on 8th July 2024.

2.7.3 Paragraph 48 of the NPPF confirms that weight may be given to relevant policies in emerging plans according to the stage of the Plan's preparation (the more advanced, the greater the weight that may be given), the extent to which there are unresolved objections and the degree of consistency with policies in the Framework.

2.7.4 The emerging District Plan Review is still subject to examination and a number of unresolved objections. As such, the Appellant considers that the emerging District Plan Review should be afforded limited weight for the purposes of development management.

3 THE APPELLANT'S CASE

3.1 Introduction

3.1.1 This section of the Statement of Case sets out the Appellant's position in relation to matters which the Appellant currently anticipates being the main issues of contention between the parties and the most likely topics of dispute at the Appeal. The Appellant reserves the right to address any further issues that might be raised in any subsequent putative reasons for refusal by the Council; or matters raised by third parties.

3.1.2 As this appeal is made against the non-determination of a planning application there are no formal reasons for refusal to respond to at the present time. However, taking account of the feedback received from Council officers and the views of statutory consultees received to date, the Appellant current envisages that the appeal is likely to focus on the principle of development, having regard to the development plan and other material considerations; heritage; and ecology. Further to these matters, Lindfield and Lindfield Rural Parish Councils, The Lindfield Society and CPRE raise additional matters, including locational sustainability; highways and transportation; landscape and visual impacts; and flood risk, which may need to be addressed in evidence.

3.2 Issue 1: Principle of Development

3.2.1 There are no Reasons for Refusal or consultee comments from the Planning Policy officer available for the application proposal although it is anticipated that the Council will cite development principle as a reason for opposing the propped development.

3.2.2 It is acknowledged by the Appellant that the appeal site is beyond the defined built-up boundary of Lindfield. Policy DP6 and DP12 seek to direct development to within the defined built-up boundaries of settlements and protect the countryside, defined as the area outside of built-up boundaries. Whilst DP6 and DP12 do enable development to be located outside of the defined built-up boundaries, the site does not fall within the restrictive criteria set out within the policies. Additionally, Policy 1 of the LALRNP restricts any development which lies outside of the built-up area boundaries of Lindfield and Scaynes Hill.

3.2.3 Whilst it is accepted that the site is not allocated for development in either the development plan or a neighbourhood plan, and the site sits outside of, but adjacent to the built-up boundary of Lindfield, which results in a conflict with Policies DP6 and DP12 of the District

Plan and Policy 1 of the LALRNP, there are material considerations in this case which indicate that weight to the identified policies and subsequent conflict should be reduced.

3.2.4 The Appellant will demonstrate that the Council cannot demonstrate a four-year supply of housing land. In this context, the Appellant will demonstrate that the appeal proposals fall to be determined in accordance with the presumption in favour of sustainable development and the tilted planning balance contained within Framework paragraph 11d, and that there are no restrictive policies that would mean that the tilted balance should not apply.

3.2.5 It will be further demonstrated that the proposal will provide significant benefits, particularly in terms of market and affordable housing, and the adverse impacts of the development would not significantly and demonstrably outweigh these benefits.

3.3 Issue 2: Housing Land Supply

3.3.1 The Council's latest Five-Year Housing Land Supply Statement (October 2023) claims a deliverable supply position of 5.04 years.

3.3.2 The Appellant considers that it represents a significant over-estimation of true deliverable supply in Mid Sussex. The Appellant will demonstrate that when correctly assessed, the Council is unable to demonstrate the requisite supply of housing land as required by the Framework.

3.4 Issue 3: Heritage

3.4.1 Within the Conservation Officer's consultation response (CD4.1) an objection to the scheme on heritage grounds was recorded and conflict with District Plan Policies DP34 and DP35 cited. The Conservation Officer has attributed the following levels of harm to the setting of four heritage assets:

- Lindfield Conservation Area – less than substantial, at the low-mid range of that scale
- Grade II Listed Greyfriars, Gravelye Lane – less than substantial, mid-high range of that scale
- Grade II Listed Tythe Cottage, Scaynes Hill Road – less than substantial, low-mid range of that scale
- Walstead Grange Non-Designated Heritage Asset – high level of harm to an asset of a high level of significance within the local context.

3.4.2 The Appellant will present evidence on heritage matters and will draw upon the information contained in the Heritage Assessment (CD1.14) that accompanied the application.

3.4.3 The Heritage Assessment includes an appropriate and proportionate level of settings assessment for designated heritage assets within 1km of the site. It concludes that assets to be excluded on the basis of context, distance or lack of intervisibility comprise Lindfield Conservation Area and the Grade II Listed Tythe Cottage. The Heritage Officer does not agree with the Appellant that these assets should have been scoped out from the assessment.

3.4.4 Evidence will be produced to demonstrate that the proposed scheme will result in a minor level of harm to the non-designated heritage assets of Walstead Grange and less than substantial harm at the lowermost end of the spectrum to the Grade II Listed Greyfriars.

3.4.5 Paragraph 208 of the Framework states:

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

3.4.6 Evidence will demonstrate that public benefits outweigh the minor harm to setting in accordance with the tests of paragraph 208 of the Framework. The of the Framework "tilted" balancing exercise as per paragraph 11(d)(ii) should still be undertaken.

3.5 Issue 4: Ecology

3.5.1 At the time of writing, the Appellant is yet to receive a further response from the Council's Ecological Consultant. An initial Consultee Response was provided on 19th March 2024 (CD4.13) requesting further information be provided prior to the determination of the application. An Ecological Impact Assessment, which the Appellant considers to address the ecology consultation response was formally submitted to the Council on 23rd July 2024 (CD2.3). It is unclear at this stage what the Council's position will be in respect of the ecology and biodiversity impacts of the proposal. The Appellant will adduce evidence, as necessary, to address any remaining areas of dispute between the parties on ecology and biodiversity.

4 PLANNING CONDITIONS AND SECTION 106 OBLIGATIONS

4.1 Planning Conditions

4.1.1 The Parties will seek to reach agreement on a suggested list of planning conditions in advance of the inquiry. Any update will be provided accordingly.

4.2 Section 106 Obligations

4.2.1 The appellant will draft a S106 obligation, and this will be issued to the Council for comment in advance of the appeal in order to provide reasonable opportunity for agreement to be reached. The draft S106 obligation will be provided to the Inspector 10 days in advance of the Inquiry, in accordance with the PINS procedural guide.

4.2.2 A number of Section 106 requests were made during determination of the planning application. These include:

- Affordable Housing
 - 30% of total units on site (27 units)
 - 25% First Homes (7 units)
 - 75% Social Rented (20 units)
- Highways
 - Prior to occupation of any dwelling, to implement a scheme of sustainable transport improvements as shown on drawing titled 'Proposed Highways Improvements' and numbered 1723/09.
 - Prior to occupation of any dwelling, to implement a full travel plan based on the detailed contained within the framework travel plan dated April 2024 or as may otherwise be agreed with WSCC.
 - To pay the travel plan auditing fee of £3,815
- School Infrastructure contribution
 - As the housing mix is unknown, WSCC propose the insertion of a formula into any Legal Agreement in order that the school infrastructure contribution may

be calculated at a later date. WSCC's Consultee Response (CD4.28) sets out the formula to be used for calculating Primary and Secondary education contributions.

- Library Infrastructure contribution
 - As the housing mix is unknown, WSCC propose the insertion of a formula into any Legal Agreement in order that the library infrastructure contribution may be calculated at a later date. WSCC's Consultee Response (CD4.28) sets out the formula to be used for calculating the library infrastructure contributions.
- Total Access Demand (TAD) contribution
 - As the housing mix is unknown, WSCC propose the insertion of a formula into any Legal Agreement in order that the TAD contribution may be calculated at a later date. WSCC's Consultee Response (CD4.28) sets out the formula to be used for calculating the TAD contributions.
- Leisure
 - Formal Sport
 - £110,282 towards formal sport pitches and ancillary facilities at Lindfield Common and/or Hickmans Lane
 - Community Buildings
 - £63,250 to make improvements to 1st Lindfield Scouts Hut and/or King Edward Hall and/or Barn Cottage Community Centre
- Contaminated Land
 - £20,935

4.2.3 The Section 106 obligation will also include provisions for the management of on-site open space and Sustainable Drainage Systems

4.2.4 Should any new Section 106 requests arise before the commencement of the Inquiry, the Appellant will review these with the Council and include in the obligation where necessary and CIL compliant.

5 THE PLANNING BALANCE AND CONCLUSIONS

5.1 The Planning Balance

5.1.1 The Appellant contends that the location of the appeal site is sustainable and accessible, which conforms with the overall purpose of these policies and the Spatial Strategy. The Appellant maintains that the appeal site is a logical development site and will secure a sustainable pattern of development. Evidence will be adduced, as necessary, to demonstrate that the site is in a sustainable location with good connectivity to nearby services and facilities.

5.1.2 The Appellant acknowledges some, albeit limited, conflict with the development plan. This arises as the site lies outside of, but directly adjacent to, the defined development boundary for Lindfield. Specifically, conflict arises with policy DP6 and DP12 of the District Plan and Policy 1 of the LALRNP which direct major housing development to land within the defined development boundaries.

5.1.3 It will be shown through evidence that any harm generated by the appeal is limited and outweighed by the substantial benefits of the scheme. The Appellant will assess the planning merits in the context of the 30th July WMS and the Consultation Draft of the NPPF, both of which are material considerations in the determination of this appeal and clearly set the tone and direction of newly-elected Government in their approach to reform and growth.

5.1.4 The appeal proposal will secure a range of benefits that will be demonstrated in full in evidence. These include, *inter alia*:

- Up to 90 residential dwellings adjacent to the sustainable settlement of Lindfield;
- 30% affordable housing (up to 27 affordable homes);
- Vehicular access via a single priority junction from Scamps Hill;
- Provision of a pedestrian access on to Scamps Hill as well as the introduction of a three-meter-wide shared footway/cycleway within the site;
- 3.94 hectares of public open space (62.4% of the site) with substantial new recreational routes throughout the southern field and children's play area;
- New structural landscape planting, planting for biodiversity and the retention and positive management of key landscape features, delivering an above 10% net gain in biodiversity;

- A sustainable Drainage System (SuDS);
- Estimated construction spend of £15.9 million;
- Supporting approximately 130 Full Time Equivalent (FTE) construction jobs;
- An additional gross expenditure by residents of circa £3.2 million annually;
- £745,560 New Homes Bonus payments; and
- Section 106 contributions or matters secured by condition

5.1.5 Evidence will be adduced to demonstrate that the tilted planning balance as identified in paragraph 11(d)(ii) of the framework is engaged due to the Council being unable to demonstrate a sufficient housing land supply. It will be demonstrated that there are no adverse impacts caused by the scheme which would significantly and demonstrably outweigh the benefits of granting planning permission.

5.1.6 The Appellant will submit that the appeal should be allowed and planning permission granted for the proposed development.