

**Statement of Case  
on Behalf of the  
Local Planning  
Authority: Mid  
Sussex District  
Council**

**Appeal under Section 78 by  
Croudace Homes Ltd.**

**Appeal Site: Land South of  
Henfield Road, Albourne, West  
Sussex**

**LPA Reference: DM/22/2416**

**PINS Reference:**

**APP/D3830/W/23/3319542**

**June 2023**

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Signed: *Mary-Jane O'Neill*

For and on behalf of Lambert Smith Hampton

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## 1.0 Introduction

- 1.1 This Statement of Case has been prepared on behalf of Mid Sussex District Council ('MSDC/ The Council') regarding an appeal under Section 78 by Croudace Homes Ltd. ('The Appellant') following the Council's refusal for:

*"Outline planning permission for the erection of up to 120 residential dwellings including 30% affordable housing, public open space and community facilities. all matters are reserved except for access."*

- 1.2 The refusal of planning permission Decision Notice, dated 25 November 2022 (ref. DM/22/2416), lists four reasons for refusal:

*"National planning policy states that planning should be a plan-led system. The application site lies within countryside and the proposal would be contrary to the Development Plan. The Council can demonstrate a five year housing land supply. As a result, at this stage in the plan, there is not a need for this site to be developed. The proposal is therefore contrary to the plan led system of development management that is set out in paragraph 15 of the NPPF. The proposal would not maintain or enhance the quality of the rural and landscape character of the District. The development therefore conflicts with Policies DP6, DP12 and DP15 of the Mid Sussex District Plan 2014-2031 and Policies ALC1 and ALH1 of the Albourne Neighbourhood Plan. There are not considered to be any other material considerations that would warrant determining the planning application otherwise than in accordance with the development plan.*

*The introduction of up to 120 dwellings within this location will bring forth a sense of urbanisation and will in turn disrupt the balance of elements in the view from PRoW 12\_1Al and 15\_1Al. As such, the proposed development would have an adverse effect on landscape character and visual amenity. The site that has not been allocated for development in a Development Plan Document under the plan led process, and at this stage in the plan, there is not a need for this site to be developed. The proposal is therefore contrary to the plan led system of development management that is set out in paragraph 15 of the NPPF. The proposal thereby conflicts with Policy DP12 of the District Plan, Policy ALC1 of the Neighbourhood Plan and the provisions of the NPPF.*

*The proposed development would result in harm to the setting of the Albourne Conservation Area and to the settings of the following listed buildings (Hunters Cottage, Bounty Cottage, Finches, Souches, Spring Cottage, and Inholmes Cottage). The proposal therefore conflicts with Policies DP34 and DP35 of the District Plan. This harm is categorised as falling within the bracket of 'less than substantial' as defined by the NPPF. The public benefits of the proposal (additional housing, including affordable housing,*

*additional spending in the local economy and additional economic activity during the construction phase) do not outweigh the harm to the heritage assets of the Albourne Conservation Area and the listed buildings referred to above that would arise from this proposed development on a site that has not been allocated for development in a Development Plan Document under the plan led process. As the public benefits of the proposal do not outweigh the less than substantial harm (which must be given significant weight to reflect the statutory position in the Planning (Listed Buildings and Conservation Areas) Act 1990) that the preservation of the setting of listed buildings is desirable, the proposal conflicts with paragraph 200 of the NPPF as there is not clear and convincing justification for the harm to these heritage assets.*

*The application fails to comply with policies DP20 and DP31 of the Mid Sussex District Plan in respect of the infrastructure and affordable housing contributions required to serve the development.”*

- 1.3 It is understood from the Appellant's Statement of Case that the appeal is made on the grounds that the development plan is out of date in terms of the spatial application of its housing policies. The Appellant argues that paragraph 11 (d) of the National Planning Policy Framework (NPPF) is engaged, requiring planning applications to be approved unless footnote 7 considerations provide a clear reason for refusing development. The Appellant sets out that it does not consider there to be any clear reasons to refuse the application and there are no adverse impacts which significantly and demonstrably outweigh the benefits.
- 1.4 This Statement sets out the Council's case in response to the appeal and why it considers that the appeal should be refused.
- 1.5 The Council is currently preparing its annual assessment of housing land supply, with a base date of 1<sup>st</sup> April 2023. Accordingly, the development plan is up to date and (since the Appeal Scheme conflicts with key spatial strategies and other policies of the plan) permission should be refused in accordance with the normal s. 38(6) presumption.
- 1.6 However, even if it is concluded that the Council cannot demonstrate a 5 year housing land supply ("5YHLS") the proposal would result in a very significant impact on the positive contribution which the site currently makes, through setting, to several heritage assets. Specifically, the appeal proposal will affect, through impact on setting, the significance of the following heritage assets:
  - i. The Albourne Conservation Area, located adjacent of the southeast boundary of the site, and centred on the southern part of The Street.
  - ii. Listed buildings along the western side of The Street, to the east of the southern part of the site, including:

- Hunters Cottage, a Grade II listed 17<sup>th</sup> century or earlier cottage,
- Bounty Cottage, a Grade II listed 17<sup>th</sup> century or earlier house;
- Finches, a Grade II listed early 17<sup>th</sup> century timber framed former farmhouse and
- Souches, a 17<sup>th</sup> century or earlier timber framed building.
- Further to the south on Spring Lane, opposite the southern boundary of the site, is Spring Cottage, a Grade II listed 17<sup>th</sup> century or earlier timber framed building.
- To the northeast of the site, on the opposite side of Henfield Road, is Inholmes Cottage, a 17<sup>th</sup> century building.

- 1.7 As these are statutory listed buildings, special consideration needs to be given to their preservation, which includes specific consideration of any impact on the setting or important views and sightlines. The appeal proposal will result in a degree of less than substantial harm, through impact on setting, to the significance of each of these heritage assets. The less than substantial harm must be given significant weight to reflect the statutory position in the Planning (Listed Buildings and Conservation Areas) Act 1990 that the preservation of the setting of listed buildings is desirable. For these reasons, the Council considers that the proposal would fail to preserve or enhance its character of appearance in the Albourne Conservation Area and would give rise to harm to the significance of the Listed cottages.
- 1.8 The level of harm to these heritage assets significantly outweighs the public benefits associated with the proposals, which provides a clear reason for refusal. In view of the above it is therefore considered that the proposal would conflict with Policies DP34 and DP35 of the District Plan and paragraph 200 of the NPPF.
- 1.9 The proposed development does not maintain or enhance the quality of the rural landscape character of the site and surroundings, placing it in conflict with Mid Sussex District Plan Policy DP12 and Policy ALC1 of the Albourne Parish Council Neighbourhood Plan.
- 1.10 It will be submitted by the Council that the benefits of the proposed development would not clearly outweigh the identified harm and that the application of the Planning Balance should lead to the refusal of planning permission.

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## 2.0 Site and Surroundings

- 2.1 The appeal site is 11.54 hectares and is formed of two large agricultural fields and a small orchard located to the south of Henfield Road, to the west of Albourne. The eastern site boundary abuts a small area of public open space known as the Millennium Gardens, Albourne Church of England Primary School, and the rear gardens of some residential properties some which are listed buildings. The southern site boundary abuts Church Lane, a rural road which connects to The Street and has a number of properties and leads to St Bartholomew's Church further along the lane.
- 2.2 Albourne Conservation Area lies to the east and abuts the site boundary with the southern / south-eastern field. There are also several Grade II Listed Buildings located in close proximity of the site, six of which border the appeal site.
- 2.3 Agricultural fields and open countryside are located to the west and northwest of the appeal site with trees forming a boundary between the application site and the fields to the west. A public footpath (Path 15\_1A) runs through the centre of the site running east to west between the northern and southern fields. To the east of the site is another public footpath (Path 12\_1A) which runs north to south along the eastern boundary of the site, connecting The Street to Church Lane.
- 2.4 The site topography falls generally from north to south, although there is an area of higher land to the southwest of the site within the southern field. The site sits within the Albourne Low Weald Landscape Character Area, as defined by the Mid Sussex District Landscape Capacity Study. The application site is formed of two large agricultural fields and a small orchard located to the south. It abuts the settlement boundary of Albourne which is formed by development fronting onto The Street.
- 2.5 The site is located approximately 1.7km north of the South Downs National Park (SDNP). Pronounced topographic features within the National Park such as Wolstonbury Hill, New Timber Hill, and Devil's Dyke are all prominent in distant views to the south.
- 2.6 The site is not considered to be valued landscape in the context of the NPPF, though the landscape the site falls within is notably undulating and forms part of the foothills to the scarp within the SDNP which includes the prominent Wolstonbury Hill at over 200m AOD (Above Ordnance Datum). The scarp extends to the south-west to include New timber Hill and Devil's Dyke.
- 2.7 The built-up area boundary of Albourne lies to the east of the site. The appeal site is located in Flood Zone 1 and is therefore at low risk of flooding. The whole of the application site is situated within the countryside as designated within the Mid Sussex District Plan and the Neighbourhood Plan.

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### 3.0 Planning History and Handling of the Application

- 3.1 As noted in the Officer's Report, there is no relevant planning history for the site.
- 3.2 The Appellant engaged in the Council's Pre-application Service. A pre-application meeting was held on 2 November 2021 and a formal response was issued on 29 November 2021.
- 3.3 The formal response outlined the Council's position that the principle of the proposed development was not considered to be acceptable as the Council disputed the Appellant's assertion that the Council did not have a 5 year housing land supply (5YHLS) and therefore proposals were contrary to the adopted development plan policies, which were considered to be up to date and would be given full weight in decision making.
- 3.4 The formal response summary from the Council stated:
- "It In light of the above, I am of the opinion that such a proposal is currently considered premature and could not be supported under the policies within the District Plan or the Neighbourhood Plan. The SHELAA is currently being updated and is feeding into the consideration of potential future housing allocations. At this stage, it is advised that the proponents continue to engage with the Council through the District Plan Review process and promote the site for allocation."*
- 3.5 The application (ref. DM/22/2416) was received and validated by the Council on 1 August 2022 with the following description of development:
- "DM/22/2416 | Outline planning permission for the erection of up to 120 residential dwellings including 30% affordable housing, public open space and community facilities. All matters are reserved except for access. | Land South of Henfield Road Albourne West Sussex."*
- 3.6 The application was submitted in outline form including details of access. All other matters relating to appearance, landscaping, layout and scale are reserved for subsequent determination.
- 3.7 The outline planning application comprised:
- A. Plans:
- i. Land Use Plan No. 3117/A/1201/PR/C
  - ii. Building Heights Plan No. 3117/A/1203/PR/B
  - iii. Density Plan No. 3117/A/1204/PR/B
  - iv. Access Plan No. 3117/A/1202/PR/C
  - v. Green Infrastructure Plan No. 3117/A/1205/PR/B



- vi. Illustrative Layout Including Additional Land Plan No. 3117/C/1005/SK/K
- vii. Site Sketch Layout – Full Site No. 3117/C/1006/SK/M Rev A
- viii. Illustrative Landscape Masterplan No. 3018-APA-ZZ-00-SK-L-0002 Rev P04
- ix. Horizontal Illumination Plan No. 2367/DFL/ELG/XX/CA/EO/13001/S3 Rev P02

B. Supporting Documents:

- i. Planning Statement (July 2022) (Strutt & Parker)
- ii. Design and Access Statement (July 2022) (Omega Architects Ltd)
- iii. Built Heritage Application Statement (July 2022) (RPS)
- iv. Archaeological Desk-Based Assessment (April 2022) (Orion)
- v. Agricultural Land Classification and Soil Resources (June 2022) (Reading Agricultural Consultants)
- vi. Energy Statement (July 2022) (Energist)
- vii. Transport Assessment (July 2022) (Paul Basham Associates)
- viii. Travel Plan (July 2022) (Paul Basham Associates)
- ix. Ecological Impact Assessment (July 2022) (CSA Environmental)
- x. Biodiversity Net Gain Assessment (July 2022) (CSA Environmental)
- xi. Flood Risk Assessment and Drainage Strategy (July 2022) (Wardell Armstrong)
- xii. Landscape and Visual Impact Assessment (July 2022) (Allen Pyke Associates)
- xiii. Arboricultural Impact Assessment Rev A (July 2022) (Barton Hyett Associates)
- xiv. Air Quality Assessment (July 2022) (Phlorum)
- xv. Lighting Impact Assessment (July 2022) (Designs for Lighting Ltd)
- xvi. A Geophysical Survey Report (March 2022) (Magnitude Surveys)
- xvii. Phase 1 Ground Conditions Assessment (June 2022) (Stantec)
- xviii. A Statement of Community Involvement (July 2022) (BECG)
- xix. Supplementary post-submission documents including:
  - xx. Heritage response 14 10 22
  - xxi. Albourne ALC Assessment
  - xxii. Mineral Assessment - Oct 2022
  - xxiii. LVIA Addendum
  - xxiv. AIA - July 2022

3.8 The relevant consultations are summarised in the Case Officer's Report.

3.9 The application was refused on 25 November 2022, and cited the four reasons of refusal as set out in Chapter 1.

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## 4.0 Planning Policy

4.1 The adopted development comprises the following; Mid Sussex District Plan 2014-2031 (March 2018), Albourne Neighbourhood Plan (September 2016) and Site Allocations Development Plan Document (SADPD) (June 2022).

4.2 Relevant District Plan policies):

- a. DP4: Housing
- b. DP6: Settlement Hierarchy
- c. DP12: Protection and Enhancement of Countryside
- d. DP15: New Homes in the Countryside
- e. DP17: Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)
- f. DP18: Setting of the South Downs National Park;
- g. DP20: Securing Infrastructure
- h. DP21: Transport
- i. DP22: Rights of Way and Other Recreational Routes
- j. DP25: Community Facilities and Local Services
- k. DP26: Character and Design
- l. DP29: Noise, Air and Light Pollution
- m. DP30: Housing Mix
- n. DP31: Affordable Housing
- o. DP34: Listed Buildings and Other Heritage Assets
- p. DP35: Conservation Areas
- q. DP37: Trees, Woodland and Hedgerows
- r. DP38: Biodiversity
- s. DP39: Sustainable Design and Construction
- t. DP41: Flood Risk and Drainage
- u. DP42: Water Infrastructure and the Water Environment

4.3 Relevant Neighbourhood Plan policies:

- a. Policy ALC1: Conserving and enhancing character
- b. Policy ALC2: South Downs National Park
- c. Policy ALH1: Housing Development

4.4 Key Supplementary Planning Documents:

- i. Mid Sussex Design Guide SPD (November 2020)

- ii. Mid Sussex Affordable Housing SPD (July 2018)
- iii. Mid Sussex Development Infrastructure and Contributions SPD (July 2018)

4.5 Other key material considerations:

- i. National Planning Policy Framework (2021) (NPPF)
- ii. Planning Practice Guidance (PPG)
- iii. National Design Guide (2019)
- iv. Mid Sussex Consultation Draft District Plan 2021-2039 (November 2022)
- v. Site Allocations Development Plan Document (SAPD) (June 2022).

**National Planning Policy**

4.6 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. Paragraph 11d indicates that the presumption means for decision making:

*“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of date<sup>8</sup>, granting permission unless:*

*i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>7</sup>; or*

*ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.”*

4.7 Footnote 8 states that in the situation where the local planning authority is unable to demonstrate a five-year supply of deliverable housing land then the policies which are most important for determining the application are deemed to be out of date. Footnote 7 indicates, where relevant:

*“the policies referred to are those in this Framework (rather than those in development plans) relating to... land designated as ...**designated heritage assets**...”*

4.8 Therefore, for decision-taking relating to land affecting designated heritage assets, it is first necessary to determine whether Council is able to demonstrate a 5YHLS. If it can, then there is no need to go on and consider whether the application of heritage policies in the Framework provides a clear reason for refusal under paragraph 11 (d) (i). However, if the Council cannot demonstrate a 5YHLS, it is necessary to go on and consider that question before it is concluded that the “tilted balance” applies. If the application of heritage policies in the Framework does provide a clear reason for refusal, the application is (once again) not assessed against the tilted balance set out in paragraph 11(d)(ii) of the Framework.

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- 4.9 It will be demonstrated that the Council can demonstrate a five-year supply of deliverable housing land. Therefore, the policies which are most important for determining the application are not deemed out of date by virtue of Footnote 8 of the Framework. Alternatively, the application of heritage policies provides a clear reason for refusal. Either way, the 'tilted balance' in paragraph 11 (d)(ii) is not engaged.

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## 5.0 The Council's Case

5.1 The Officer's Delegated Report sets out why the scheme is unacceptable and should be read in conjunction for the reasons for refusal set out in the decision notice. These form part of the Council's Statement of Case in addition to consultation responses and third-party correspondence for planning application DM/22/2416.

5.2 As far as can be foreseen, the documents that the Council intends to rely on during the course of the Inquiry have been referred to in this statement. The Council, however, reserves the right to refer to any updated documents if and when documents referenced have been superseded or any other appeals or case law considered relevant.

### ***5 Year Housing Land Supply***

5.3 In accordance with national planning policy, the Council is required to annually prepare an assessment of its supply of housing land. The Council's most recent assessment of its housing supply was published and subsequently considered as part of the SADPD Local Plan examination process and provides a position on the Council's supply as of 1 April 2021. This assessment identifies that there is a 5.59 years of housing supply.

5.4 At the time of the Council's decision, the strategic policies of the Local Plan were less than 5 years old, and the Council's conclusion that it could demonstrate a 5YHLS was made against the requirement set out in the Local Plan. In its Appeal Statement, the Appellant has argued that, in the period since this decision (but before the appeal was lodged) that situation has changed, in that the Local Plan is now more than 5 years old, with the result that the housing requirement should be assessed using the standard methodology. However, although the Appellant asserts that this will result in an increased requirement, and that there will be a shortfall against this requirement, the Appeal Statement gives no indication of what the Appellant suggests the requirement now is, or what it considers the supply to be when measured against this, or how that calculation has been arrived at. This is unsatisfactory: the Council is entitled to know the case it is expected to meet, but the Appeal Statement provides no details in this regard.

5.5 Responding as best it can, the Council observes that the requirement set out in the Local Plan is stepped, and is 876 to 2023/24, rising to 1,090 dpa thereafter. Coincidentally, the requirement under the standard methodology is also 1090 dpa. Consequently, to the extent that there is any difference between the Local Plan requirement and the standard methodology, it is only 214. Against this, in finding the Council's Site Allocations DPD ("the SADPD") sound, the Inspector was satisfied that the SADPD allocated 907 more dwellings than was strictly required.

- 5.6 The Appellant has provided no analysis which explains why the over-allocation in the SADPD is not sufficient to compensate for any increase in the requirement which flows from the application of the standard methodology. The Council is currently preparing its annual assessment of housing land supply, with a base date of 1st April 2023. The Council will publish this updated 5 Year Housing Land Supply (5YHLS) assessment in due course, it is envisioned this will be within sufficient time to prepare a topic specific Statement of Common Ground (SoCG) prior to the exchange of evidence.

**Heritage Harm**

- 5.7 The third reason for refusal states:

*'The proposed development would result in harm to the setting of the Albourne Conservation Area and to the settings of the following listed buildings (Hunters Cottage, Bounty Cottage, Finches, Souches, Spring Cottage, and Inholmes Cottage). The proposal therefore conflicts with Policies DP34 and DP35 of the District Plan. This harm is categorised as falling within the bracket of 'less than substantial' as defined by the NPPF. The public benefits of the proposal (additional housing, including affordable housing, additional spending in the local economy and additional economic activity during the construction phase) do not outweigh the harm to the heritage assets of the Albourne Conservation Area and the listed buildings referred to above that would arise from this proposed development on a site that has not been allocated for development in a Development Plan Document under the plan led process. As the public benefits of the proposal do not outweigh the less than substantial harm (which must be given significant weight to reflect the statutory position in the Planning (Listed Buildings and Conservation Areas) Act 1990) that the preservation of the setting of listed buildings is desirable, the proposal conflicts with paragraph 200 of the NPPF, as there is not a clear and convincing justification for the harm to these heritage assets'.*

- 5.8 According to the staged approach set out in the relevant Historic England Guidance 'Historic Environment Good Practice Advice in Planning Note: The Setting of Heritage Assets', evidence will be provided which examines and demonstrates an understanding of the significance of the Albourne Conservation Area, the listed buildings identified in the reason for refusal, and their settings. The nature and extent of the impacts and less than substantial harm arising to these designated heritage assets will be assessed and it will be demonstrated that this harm is such as to outweigh any public benefits arising from the proposed development, such that it would not constitute 'sustainable development.'
- 5.9 The Council considers that the impact of the proposals on heritage harm to be a clear reason for refusing the proposals.

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***Landscape Harm***

- 5.10 The Council will show that the proposed development does not maintain or enhance the quality of the rural landscape character of the site and surroundings, placing it in conflict with Mid Sussex District Plan Policy DP12 and Policy ALC1 of the Albourne Parish Council Neighbourhood Plan.
- 5.11 The appeal site comprises an important part of the rural setting to Albourne and can be directly accessed by PRoW 15\_1AI, which dissects the existing agricultural fields, as well as PRoW 12\_1AI that runs through the south-eastern corner. The introduction of up to 120 dwellings would fundamentally change the site from undeveloped rural land to a considerably more urbanised character. It also represents a noticeable deviation from the existing settlement scale and pattern of the village.
- 5.12 The submitted Landscape and Visual Impact Assessment (LVIA) and subsequent addendum assessed predicted effects on many landscape character and visual receptors to be beneficial. The Council will show that this substantially underestimates the adverse effects of the proposals. Visual amenity will be permanently disrupted along the PRoW network with urban influences also intruding on the existing sense of tranquillity and rurality.
- 5.13 Overall, the urbanising effect of the development proposed, would have poor relationship to its context and result in a significant harmful effect on the rural setting of Albourne and the PRoW which runs through the site. The Council will demonstrate that by failing to be sympathetic to the local character and landscape setting, the appeal scheme is in conflict with NPPF Paragraph 130, sub-section C. Evidence will also show that the scheme fails to address the predicted impacts on landscape character and visual amenity placing it in conflict with NFFP Paragraph 155, sub-section A. In addition, the proposals do not recognise the intrinsic character and beauty of the countryside as required by NPPF Paragraph 174, sub-section B.

***Tilted Balance / Planning Balance***

- 5.14 It is the Council's view that the tilted balance is not engaged based on housing land supply figures. The Council also disputes the Appellant's suggestion that the development plan is out of date, simply because part of its 5YHLS includes permissions granted on appeal on sites which were, at the time of those decisions, outside the settlement boundary. The decisions referred to in the Appeal Statement all predate adoption of the District Plan and the SADPD, which has made additional allocations and amended settlement boundaries such that the need for housing in the District can be met through the normal application of the plan-led system.
- 5.15 Irrespective of the 5YHLS, the tilted balance is not engaged due to the heritage arguments and the identified harms to the heritage assets. It is the Council's case that the adverse

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impacts associated with the granting of permission, namely the harm to the heritage assets, both individually and cumulatively, do not outweigh the benefits of the scheme, and there are also harms regarding the landscape character. It is the Council's view that that the proposals will have a detrimental impact on the local landscape and setting of the heritage assets and, moreover, that the proposals are not sustainable. The harms are therefore not clearly outweighed by the benefits that the Appellant has identified.

- 5.16 There are no material considerations of sufficient importance either to set aside the s.38(6) presumption in favour of the development plan, or to outweigh the harm which the Appeal Scheme would cause. In particular, the Council considers that there is no evidence base or policies to support a requirement for several of the alleged benefits on which the Appellant relies, including the community shop and school. Furthermore, it is the Council's view, that where these are necessary to make the development acceptable in planning terms, they should not be deemed a benefit. The Council queries the viability of the proposed shop as no viability evidence supporting the Appellant's position was submitted at the application stage, or since.
- 5.17 Accordingly, the Council will demonstrate that the range of planning benefits associated with the scheme are diminished and are not considered to be sufficient to significantly and demonstrably outweigh the identified harms. The Proofs of Evidence will therefore identify and demonstrate that the harms associated with the appeal proposals are not clearly outweighed by the identified benefits.



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## 6.0 Witnesses and Evidence

- 6.1 It is currently anticipated that the Council will present evidence in respect of:
- (a) Five year housing land supply;
  - (b) Heritage harm;
  - (c) Landscape and visual impact harm;
  - (d) The sustainability of the proposals and overall planning balance.
- 6.2 Accordingly, the following Proofs of Evidence will be provided on behalf of the Council:
- (a) Proof of Evidence- Alex Roberts: 5YHLS;
  - (b) Proof of Evidence- Emily Wade: Heritage;
  - (c) Proof of Evidence- Robert Browne: Landscape;
  - (d) Proof of Evidence- Mary-Jane O'Neill: Planning balance;

### ***Appeal Documents***

- 6.3 The Council intends to refer to the following documents:
- a. National Planning Policy Framework (2021) (NPPF)
  - b. Planning Practice Guidance (PPG)
  - c. National Design Guide (2019)
  - d. Mid Sussex Consultation District Plan 2021-2039 (March 2018)
  - e. Site Allocations Development Plan Document (SAPD) (June 2022)
  - f. Albourne Neighbourhood Plan (September 2016)
  - g. Mid Sussex Design Guide SPD (November 2020)
  - h. Mid Sussex Affordable Housing SPD (July 2018)
  - i. Mid Sussex Development Infrastructure and Contributions SPD (July 2018)
  - j. Photographs and images of the site and area
  - k. Planning (Listed Buildings and Conservation Areas) Act 1990
  - l. The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning: 3 (2nd Edition)

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- m. Statements of Heritage Significance: Analysing Significance in Heritage Assets Front cover for Statements of Heritage Significance: Analysing Significance in Heritage Assets Historic England Advice Note 12
  - n. Education evidence
  - o. Relevant appeal decisions and judgements of the courts

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## 7.0 Conditions

- 7.1 In accordance with paragraph 55 of the NPPF (2021) and without prejudice to the Council's Case, the Council will engage with the Appellant to provide, as part of the Statement of Common Ground a list "recommended conditions" in the event the Planning Inspectorate allows this appeal.
- 7.2 As directed by the Planning Inspectorate the Council will seek to resolve as many outstanding issues as possible, and if the Inspectorate allows, seek to provide an updated Statement of Common Ground during the course of the appeal process as needed.

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## 8.0 Summary and Conclusions

- 8.1 This Statement of Case has been prepared on behalf of Mid Sussex District Council ('MSCD/ The Council') following an appeal under Section 78 by Croudace Homes Ltd. ('The Appellant') following the Council's refusal for:

*'Outline planning permission for the erection of up to 120 residential dwellings including 30% affordable housing, public open space and community facilities. all matters are reserved except for access.'*

- 8.2 The refusal of planning permission Decision Notice is dated 25 November 2022 and lists four reasons for refusal, as set out in Chapter 1. The reasons for refusal deal with matters relating to the development plan and the Council's 5YHLS; landscape and heritage matters as well as the provision of affordable housing. This Statement sets out the Council's case in response to the appeal and why it considers that the appeal should be refused.
- 8.3 The Council is currently preparing its annual assessment of housing land supply, with a base date of 1<sup>st</sup> April 2023. Accordingly, the development plan is up to date and (since the Appeal Scheme conflicts with key spatial strategies and other policies of the plan) permission should be refused in accordance with the normal s. 38(6) presumption.
- 8.4 The Council will demonstrate that the appeal proposals result in harm to several heritage assets; would fail to preserve or enhance its character of appearance in the Albourne Conservation Area; and would give rise to harm to the significance of the Listed cottages. The level of harm to these heritage assets significantly outweighs the public benefits associated with the proposals, which provides a clear reason for refusal.
- 8.5 The Council will demonstrate that by failing to be sympathetic to the local character and landscape setting, the appeal scheme conflicts with NPPF Paragraph 130, sub-section C. Evidence will also show that the scheme fails to address the predicted impacts on landscape character and visual amenity placing it in conflict with NFFP Paragraph 155, sub-section A. In addition, the proposals do not recognise the intrinsic character and beauty of the countryside as required by NPPF Paragraph 174, sub-section B.
- 8.6 The Council will demonstrate that the appeal proposal is contrary to the policies of the Development Plan and there are not considered to be any other material considerations that would justify approval of the proposals. Consequently, the planning balance is considered to fall significantly in favour of refusing planning permission.

**Lambert Smith Hampton**

**June 2023**