

# **Appeal by Gladman Developments Ltd**

## **Land off Scamps Hill, Lindfield**

**Appeal on the Grounds of Non-Determination**

***“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.”***

**APP/D3830/W/24/3350075**

**Addendum Proof of Evidence**

**of**

**Mr John Mackenzie BSc (Hons) MRTPI**

**To Address NPPF**



**January 2025**

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# 1 INTRODUCTION

## 1.1 Scope of this Addendum

1.1.1 In my main proof, I address matters of planning policy together with relevant development control matters, concluding with my assessment of the appropriate planning balance in this case. The purpose of this Addendum is to address the implications of the revised National Planning Policy Framework (published in December 2024) on the conclusions reached in my main proof.

1.1.2 As a general point, the policies of the new Framework do not change any of the conclusions set out in my main proof of evidence. They do lend further support for the conclusions I reach, however.

## 1.2 Implementation

1.2.1 Before turning to the implications of the new Framework for the planning evidence, I note that Annex 1 (paragraph 231) makes clear that, for the purposes of decision making, the policies in the Framework are material considerations which should be taken into account from the day of publication (i.e. from the 12 December 2024).

## 2 INCREASED LOCAL HOUSING NEED

### 2.1 Introduction

2.1.1 Alongside the publication of the new Framework, the Government has introduced a new standard method for calculating local housing need. The local housing need figure for Mid Sussex has increased *significantly* from 1,039 dwellings per annum (dpa), which was the need figure in place when proofs of evidence were exchanged, to 1,356 dpa.

2.1.2 The significant increase in local housing need has important implications for the planning evidence and ultimately for the consideration of the appeal. In particular, it has implications for considering:

1. The consistency of the statutory development plan with the Framework.
2. The weight to be afforded to key development plan policies in play for the consideration of the appeal.
3. The housing land supply position
4. The planning balancing exercise.

2.1.3 This section of my addendum proof addresses points (1) and (2). I will address (3) and (4) in subsequent sections.

### 2.2 Consistency of Statutory Development Plan with the Framework

2.2.1 At Section 3 of my main proof, I provide an overview of the statutory development plan, including commentary on the housing requirement that the plan was prepared to deliver. My main proof also addressed the question<sup>1</sup> as to whether the statutory development plan was up to date.

2.2.2 In summary, I explained my view that the statutory development plan was inconsistent with the Framework as it planned to deliver a housing requirement that was significantly lower than the local housing need figure for the district. As a matter of principle, I remain of this view although note that the extent to which the statutory development plan fails to meet local housing needs is now exacerbated further as a consequence of the new standard method introduced alongside the new Framework.

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<sup>1</sup> JM main proof section 3.6

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### **Mid Sussex District Plan**

2.2.3 The strategic housing policies of the MSDP fail to reflect local housing needs, as required by the Framework (para.62). The MSDP Policy DP4 requirement and housing policies are underpinned by an Objectively Assessed Need (OAN) figure of 876 dpa for Mid Sussex, which falls *significantly* below the current local housing need figure of 1,356 dpa for the district. The MSDP is inconsistent with the Framework in this respect and out of date.

2.2.4 As set out in my main proof (para. 3.6.5), my view is that this position is of particular relevance in determining whether built-up area boundaries can reasonably be considered up to date. I explained my view that, as they were drawn up to deliver a requirement that is significantly lower than local housing needs, they are not. The extent to which the built-up area boundaries will need to flex, in order to accommodate local housing needs has now increased further, as a consequence of the significant increase in local housing need from the position on exchange of the main evidence (i.e. 1,039 dpa) and the new local housing need figure of 1,356 dpa.

### **Lindfield and Lindfield Rural Local Plan**

2.2.5 I have explained in detail, at section 3 of my main proof, why I consider the LLRNP to be woefully out of date for the purpose of considering the appeal proposal. In particular, I explained that it is clearly not in compliance with the MSDP. It does not allocate sites for housing development or plan to meet the MSDP Policy DP4 housing requirement or the Policy DP6 requirement for Lindfield. It is out of date on this basis alone.

2.2.6 Housing requirements have of course moved on a number of times since the MSDP was adopted and the local housing needs figure for the district is *significantly* higher than the MSDP Policy DP4 requirement (as set out above). The LLRNP is further out of date in this context. It is simply not an effective planning policy tool for meeting the MSDP requirement for Lindfield and is even less capable of helping accommodate current local housing needs.

## **2.3 Weight to Key Development Plan Policies**

2.3.1 At Section 6 of my main proof, I address putative RfR#1, which states that the appeal site is outside of the built up area, as defined by the development plan, and that the principle of development therefore conflicts with Policies DP6, DP12 and DP15 of the MSDP and Policy 1 of the LLRNP.

2.3.2 It is common ground that the appeal site is outside of the currently defined built up area and that (as a consequence of this) the principle of development does not accord with Policies DP6, DP12 and DP15 of the MSDP and Policy 1 of the LLRNP.

- 2.3.3 My position, as set out in detail at section 6 of my proof remains. As part of this response to RfR#1, I have identified material considerations that affect the weight to be afforded to the acknowledged conflict that arises with the development plan, as a consequence of the site being outside of the currently defined built up area. These considerations include that the built-up area boundaries were not drawn up to accommodate local housing needs and need to flex accordingly.
- 2.3.4 The significant increase in local housing need that arises as a consequence of the new standard method amplifies this position and further reduces the weight that should be afforded to the acknowledged policy conflict in determining the appeal.
- 2.3.5 I note here that, in the light of the changed circumstances brought about by the new Framework, MSDC now agrees that the fact that the site is outside of the built up area, as defined by the development plan, is not a reason for withholding planning permission and it is no longer defending RfR#1.

## 3 HOUSING LAND SUPPLY

### 3.1 Introduction

3.1.1 The introduction of the December 2024 Framework has important implications for the housing land supply position in Mid Sussex. The new Framework fundamentally updates and amends key elements of the housing land supply calculation. Of key importance in this case, the new Framework:

- Updates the standard method for assessing local housing need, such that the base annual local housing need figure to be used for the purposes of calculating housing land supply increases to 1,356 dwellings per annum (from 1,039 dwellings per annum) from the base date of 01 April 2024.
- Re-introduces the requirement for local authorities to be able to demonstrate a minimum of 5 years' worth of housing, against the appropriate housing requirement (paragraph 78).
- Re-introduces the requirement for the supply position to include a buffer, in accordance with paragraph 78 of the Framework. Based on the Housing Delivery Test result for Mid Sussex, a 5% buffer now applies in accordance with paragraph 78(a), to ensure choice and competition in the market for land.

3.1.2 An updated SoCG on housing land supply has been prepared and agreed by the main parties to reflect the changed positions of the main parties arising from the new Framework.

### 3.2 The Updated Positions of the Parties

3.2.1 It is now common ground that MSDC cannot demonstrate a 5YHLS as it is required to under paragraph 78 of the Framework. Against the local housing need of 1,356 dwellings, and applying a 5% buffer as required, MSDC's deliverable supply of 4,815 dwellings equates to 3.38 years (a shortfall of -2,304 dwellings).

3.2.2 MSDC's claimed deliverable supply is disputed by the Appellant for the reasons set out in the accompanying evidence of Mr Pycroft (as updated by the SoCG). The respective positions of the parties are recorded at Table 3 of the SoCG on housing land supply. This is reproduced below for convenience.

**5YHLS positions at 1<sup>st</sup> April 2024**

		Council	Appellant
	Requirement		
A	Annual local housing need	1,356	
B	5YHLS requirement without buffer (A X 5 years)	6,780	
C	5YHLS requirement plus 5% buffer (B + 5%)	7,119	
D	Annual 5YHLS requirement including 5% buffer (C / 5 years)	1,424	
	Supply		
E	5YHLS at 1st April 2024	4,815	3,427
F	Supply in years (E / D)	3.38	2.41
G	Shortfall in 5YHLS (E – C)	-2,304	-3,692

3.2.3 Whilst there is disagreement as to the extent of the shortfall, it is agreed that (on either position) the shortfall in deliverable housing land, against the minimum requirement, is significant<sup>2</sup>.

3.2.4 The change to the housing land supply position and the significant increase in the shortfall against local housing need that arises has important implications for the planning balancing exercise. Put simply, the increase in the shortfall greatens the need to release additional land for housing; and the benefit that flows from the delivery of additional housing increases in the planning balancing exercise.

<sup>2</sup> Supplementary SoCG on Planning Matters paragraph 1.6



## 4 PLANNING BALANCE

### 4.1 Introduction

4.1.1 At section 13 of my main proof of evidence, I have set out my overall planning balancing exercise and reach the conclusion that outline planning permission should be granted. My overall conclusion in this respect remains unchanged. However, the changes to the Framework and, in particular, the significantly increased local housing need figure that arises as a consequence of the new standard method, tip the planning balance even further in favour of a grant of planning permission.

### 4.2 Heritage (Framework Paragraph 215) Balance

4.2.1 I have set out my view in my main proof<sup>3</sup> that the ‘less than substantial harm’ to designated heritage assets (which, based on the accompanying evidence of Gail Stoten, is the less than substantial harm, at the lowermost end of the spectrum, to the Grade II Listed Greyfriars) is overwhelmingly outweighed by the public benefits identified by the appeal proposals. I have concluded, in that context, that the (former) paragraph 208 test of the Framework is ‘passed’.

4.2.2 The earlier paragraph 208 now appears (unchanged in terms of its wording) as paragraph 215 of the December 2024 Framework. The inputs into the balancing exercise remain unchanged with the important exception being that the weight that should be afforded to the public benefits that flows from the delivery of additional housing is increased further (because of the significantly increased local housing need). This adds further support to my conclusion that the public benefits of the proposal<sup>4</sup> overwhelmingly outweigh the less than substantial harm identified.

4.2.3 As made clear in the Supplementary SoCG<sup>5</sup> on planning matters, it is agreed between the main parties that the public benefits of the proposed development outweigh the harm (on either parties’ heritage case) to designated heritage assets. The paragraph 215 test is passed and it is agreed that there are no footnote 7 policies engaged in this case<sup>6</sup>.

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<sup>3</sup> section 13.2

<sup>4</sup> including the delivery of additional market and affordable housing; economic benefits; and additional green infrastructure, open space and biodiversity net gains

<sup>5</sup> Para 1.8

<sup>6</sup> Supplementary SoCG on Planning matters para 1.9

### 4.3 Framework Paragraph 11d and the 'Tilted Balance'

4.3.1 I set out my position in my main proof<sup>7</sup> that the tilted balance at paragraph 11(d)(ii) of the Framework is engaged as a consequence of MSDC being unable to demonstrate an adequate supply of housing (and the operation of footnote 8 of the Framework). My position in this respect remains unchanged. MSDC is now also of the view that the tilted balance is engaged as a consequence of the updated housing land supply position and it is common ground that the planning balancing exercise should be done on this basis<sup>8</sup>.

4.3.2 In terms of the function of the tilted presumption, the Government has taken the opportunity, through written ministerial statements (WMS) that accompany the new Framework, to emphasise how it should operate. I have referenced the WMS of 30 July 2024 in my main proof<sup>9</sup>, which makes clear that its function is to boost approvals of development, encouraging planning permission to be granted where plan policies are not up to date, including where there is an insufficient supply of land.

4.3.3 The WMS of 12 December 2024 titled 'Building the homes we need', issued alongside the new Framework states the following:

*"Rapidly driving up planning consents in the context of a system with woefully inadequate local plan coverage will increase the number of permissions secured outside of local plan allocations in the short-term. This is necessary if we are to see the scale of delivery we need to meet our commitment to 1.5 million homes. Therefore, **where it applies, the presumption in favour of sustainable development must have real teeth. The changes we make today ensure that the presumption carries real weight, acting as a significant adjustment to the decision-making balance in favour of approving development.** We are however absolutely clear that this is not a green light for low-quality development. That is why we have amended the presumption to call out the existing safeguards that exist in national policy around the provision of affordable housing, design quality, and sustainability of location, in line with the proposals we consulted on. We simply do not accept there is an inherent trade-off between supply and quality" (emphasis added)*

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<sup>7</sup> Section 13.3

<sup>8</sup> Supplementary SoCG on Planning matters para 1.10

<sup>9</sup> See para 4.1.3

4.3.4 The Government has committed to 'radically boosting the supply of housing'<sup>10</sup> and the imperative of rapidly increasing planning permissions in the context of a system with inadequate up to date plan coverage means that the number of permissions secured on unallocated sites, such as the appeal site, has to increase. The tilted presumption is intended to operate as a powerful trigger for plan intervention and it is clear that, where it applies (such as in Mid Sussex), it should be applied with some force as a significant adjustment to the decision-making balance in favour of approving development.

4.3.5 The new Framework has introduced some changes to Framework para 11(d), with a view to strengthening the presumption. In respect of para 11 (d)(i), a change has been made to be clear that when assessing whether areas or assets of particular importance provide a reason for refusal, there should be a 'strong' basis for doing so, which replaces the previous 'clear' reason for doing so. I do not consider this change to have any significant implications for the consideration of the appeal and it is common ground in this case that there are no footnote 7 policies in play.

4.3.6 The new Framework has added the following to para 11 (d)(ii):

*"...having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes.."*

4.3.7 I understand that the intention of this is to signal the importance of these matters in assessing the potential impact of development proposals when the presumption is applied. Footnote 9 signposts the relevant Framework paragraphs that deal with those matters. As a broad point, there is no suggestion by MSDC that the proposal fails to comply with any of the relevant Framework policies. Rather:

- As set out in my main proof<sup>11</sup>, the S106 will secure 30% affordable housing on site at a tenure mix that accords with the formal consultation request of MSDC's housing enabling team, in accordance with Framework paragraph 66. MSDC considers the delivery of affordable housing, as proposed, is a benefit that should be afforded substantial weight<sup>12</sup>.

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<sup>10</sup> Government response to the proposed reforms to the National Planning Policy Framework and other changes to the planning system consultation. Updated 12 December 2024. Para 3

<sup>11</sup> Section 10.2

<sup>12</sup> Gareth Giles PoE para 6.15

- The proposed development is located adjacent to the existing built-up area of Lindfield. It unequivocally avoids the development of isolated homes in accordance with Framework paragraph 84.
- The proposed development is locationally sustainable, limiting the need to travel and offering a genuine choice of transport modes, including public transport<sup>13</sup>. The proposal will deliver a safe and suitable access and there are no unacceptable impacts on the transport network. The requirements of Framework paragraphs 110 and 115 are met.
- The Illustrative Framework Plan (CD1.3) identifies a net density of 36 dwellings per hectare. The framework and DAS demonstrate that the appeal site can accommodate the proposed quantum of development successfully, while maintaining the surrounding area's prevailing character and the setting of heritage assets, in compliance with Framework paragraph 129.
- In accordance with Framework paragraphs 135 and 139, the proposed development will function well and contribute to the overall quality of the area over the lifetime of the scheme. The proposal establishes the framework for a high-quality and sustainable residential development that is safe, inclusive and accessible and which promotes health and wellbeing, and a strong sense of place. The final detailed design and layout of the development would be finalised at the reserved matters stage.

4.3.8 To conclude, the Framework para 11 (d) tilted presumption is engaged and the relevant 'safeguards' highlighted in national policy around the provision of affordable housing, design quality, and sustainability of location are very much met. The presumption should be applied with real weight in the decision-making balance in favour of approving development.

## 4.4 Overall Planning Balance

4.4.1 At section 13.6 of my main proof, I undertake a planning balancing exercise in the context of the tilted balance. The inputs into the balancing exercise remain unchanged with the important exception being that the weight that should be afforded to the delivery of additional housing as a benefit is increased further (as a consequence of the significantly increased local housing need and the shortfall that exists in the supply position). This re-enforces my view that the limited adverse impacts of the proposal do not significantly and

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<sup>13</sup> See SoCG (October 2024) Section 4.16

demonstrably outweigh the benefits of the proposal and the planning balance tips *very* firmly in favour of a grant of planning permission. MSDC agrees that planning permission should be granted<sup>14</sup>.

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<sup>14</sup> See Supplementary SoCG on planning matters para 1.11.