

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78

**THE TOWN AND COUNTRY PLANNING APPEALS (DETERMINATION BY
INSPECTORS) (INQUIRIES PROCEDURE) (ENGLAND) RULES 2000 (AS AMENDED)**

Appeal by Taylor Wimpey Strategic Land

**Outline Planning Application for the erection of up to 150 dwellings, with associated works,
parking, landscaping, publicly accessible open space, land for education or community use,
with access from Green Road and Eastern Road**

Land south of Green Road, Wivelsfield Green

Closing Submissions on behalf of Lewes District Council

PINS Reference: 6005671

LPA Reference: LW/24/0820

9 July 2026

INTRODUCTION

1. The Appellant in this appeal seeks outline planning permission for up to 150 homes to be built on a large area of agricultural land south of Green Road (“the Site”). Its proposals require an access road to be built through the eastern parcel of land, which is designated as local green space (“LGS”) in the Wivelsfield Neighbourhood Plan (“WNP”), and which therefore attracts special protection by virtue of the NPPF. The Appellant cannot demonstrate the very special circumstances which would justify the grant of planning permission in these circumstances. Further, the Appeal Scheme would generate significant landscape harm to the Site, as well as doing harm to several PROWs. This appeal should be dismissed.

LEGAL AND POLICY FRAMEWORK

2. Decisions must be taken in accordance with the development plan unless material considerations indicate otherwise (Planning and Compulsory Purchase Act 2004 s.38(6)). The development plan includes a made neighbourhood plan (the 2004 Act s.38(3)(c)). Here, the development plan includes:
 - i. Lewes District Council Local Plan Part 1: Joint Core Strategy May 2016 (“LPP1”);¹
 - ii. Lewes District Council Local Plan Part 2: Site Allocations and Development Management Policies (February 2020) (“LPP2”);²
 - iii. Wivelsfield Neighbourhood Plan (“WNP”);³
 - iv. Ditchling, Streat and Westmeston Neighbourhood Plan (2018) (“DSWNP”).⁴
3. The NPPF is a material consideration and the tilted balance in paragraph 11(d) applies due to the agreed absence of a five-year housing land supply (“5YHLS”).⁵ The effect is that permission should be granted unless either NPPF 11(d)(i) or 11(d)(ii) is satisfied.
4. NPPF 11(d)(i) is satisfied if *“the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed...”* (Footnote omitted). Those policies referred to are stated at NPPF footnote 7. They include policies relating to Local Green Space.
5. NPPF 11(d)(ii) is satisfied if *“any adverse impacts of [granting permission] would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as*

¹ CD 7.1.

² CD 7.2.

³ CD 7.3.

⁴ CD 7.4.

⁵ CD 8.1. NPPF paragraph 11(d) footnote 8.

a whole, 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, individually or in combination.” (Footnote omitted). The key policies referred to are stated at NPPF footnote 9.

6. NPPF paragraphs 106 – 108 deal with LGS:

“106. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.

107. The Local Green Space designation should only be used where the green space is:

- a) in reasonably close proximity to the community it serves;*
- b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- c) local in character and is not an extensive tract of land.*

108. Policies and decisions for managing development within a Local Green Space should be consistent with national policy for Green Belts set out in chapter 13 of this Framework.”

(Footnote omitted).

7. Importantly, the effect of footnote 45 in NPPF paragraph 108 is that the provisions in NPPF chapter 13 relating to grey belt and previously developed land do not apply in decisions for managing development within an LGS.

8. NPPF paragraph 143 provides:

“143. Green Belt serves five purposes:

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”*

9. NPPF paragraph 153 provides as follows:

*“153. When considering any planning application, local planning authorities should ensure that **substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.** ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of*

inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”

(Emphasis added) (Footnote omitted).

10. NPPF paragraph 154 provides exceptions by which development in the Green Belt (or, here, the LGS) will not be deemed to be inappropriate. The Appellant relies on several exceptions as gateways. These include:

- i. NPPF 154(b) (facilities in connection for outdoor sport, recreation, etc);
- ii. NPPF 154(h)(ii) (engineering operations);
- iii. NPPF 154(h)(iii) (local transport infrastructure).

11. The LPA does not dispute that NPPF 154(h)(ii) or (iii) is **capable** of applying to an access road. However, for any of these exceptions to apply, the Appellant must demonstrate that the facilities or development will preserve the openness of the LGS and not conflict with the purposes of including land within it.

12. *R(Lochailort Investments Limited) v Mendip District Council* [2020] EWCA Civ 1259⁶ concerned a challenge to a neighbourhood plan’s designation of LGSs.

13. The Judgment includes (*inter alia*) the following paragraphs:

“10. The ordinary meaning of "consistent" is "agreeing or according in substance or form; congruous, compatible". What this means, in my judgment, is that national planning policy provides that policies for managing land within an LGS should be substantially the same as policies for managing development within the Green Belt. Accordingly, because paragraph 101 aligns management of development within an LGS with management of development in the Green Belt, it is also necessary to refer to what the NPPF says about the latter. Paragraph 133 states:

"The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence."

(...)

29. Mr Ground QC submitted that there are a number of ways in which Policy 5 is more restrictive than Green Belt policy:

- i) Green Belt policy allows appropriate development for example for limited affordable housing or for appropriate facilities for outdoor sport. Policy 5 does not allow "appropriate development" but a very small category of development which "enhances the original use and reasons for the designation of the space" and would clearly not allow either of these examples.
- ii) Green Belt policy allows development if very special circumstances are shown to exist. Policy 5 does not.

⁶ CD 17.5.

iii) Green Belt policy would allow the sites to be used for outdoor sport if such development preserves openness. Policy 5 would not because it requires any development to enhance the original use. This does not permit a change of use.

iv) Policy 5 requires any development to enhance the reasons for the designation. Green Belt policy does not require enhancement of the purposes or openness but their preservation. The Green Belt test is a "do no harm" test, rather than a "make it better" test.

(...)

31. Mr Mohamed also submitted that the purpose and policy behind designating land as Green Belt and designating land as an LGS were different. That meant that it was inappropriate to read across national policies for managing development in the Green Belt to the management of development in an LGS. The difficulty with this submission is that it ignores paragraph 101 of the NPPF which expressly requires consistency between the two. Mr Mohamed was unable to explain what consistency meant on his analysis; and was unable to give any example of a policy in a neighbourhood plan which would fail the test of consistency as he analysed it. I also consider that Mr Mohamed was wrongly treating Lochailort's challenge as amounting to a submission that LGS policies in a neighbourhood plan would be unlawful unless they replicated national Green Belt policy. But that is not the challenge. It is accepted that, provided the departure from the NPPF is explained, there may be divergence between LGS policies in a neighbourhood plan and national Green Belt policy.

(...)

33. I agree with Mr Ground that in all the ways he identified Policy 5 is more restrictive than national policies for managing development within the Green Belt. In my judgment that means that it is not consistent with national Green Belt policy. It does not, therefore, comply with paragraph 101 of the NPPF. Non-compliance with the NPPF does not, of course, automatically mean that a policy in the terms of Policy 5 is unlawful. The NPPF is a material consideration but it is not the law. The statute requires no more than that regard must be had to it. But if a neighbourhood plan departs from the NPPF it must be a reasoned departure. No reasons for the departure were given in this case.

(...)

36. There are, in my judgment, a number of difficulties with this paragraph. First, having approved the examiner's view that the policy was clearly worded, the judge interpreted it as flexible. Second, whether some Green Belt development policies are unsuitable for an LGS is a question of planning judgment. I do not say that it would be unlawful to reach that conclusion, but it would represent a departure from national planning guidance which requires reasoned justification. There is none to be found in the examiner's report. Indeed, as I have said, the examiner did not discuss the terms of Policy 5 at all. Third, whether development would or would not be consistent with Green Belt policy is also a matter of planning judgment in relation to an individual application for planning permission; not a question of interpretation of the policy itself. Fourth, although it is no doubt correct to say that part of the purpose of designating land as an LGS is to preserve openness, that is equally part of the purpose of designating land as Green Belt. As paragraph 133 of the NPPF states, openness is an "essential characteristic" of Green Belt land. I respectfully disagree with the judge's conclusion on this issue.

37. In my judgment, therefore, on the assumption that the ten parcels of land were lawfully designated as LGSs, Policy 5 does not satisfy the basic condition in paragraph 8 (2) (a) of the TCPA. I would allow the appeal on this ground."

14. NPPF paragraph 135(a) provides that planning decisions should ensure that developments “*will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development...*”. Paragraph 135(c) provides that planning decisions should ensure that developments “*are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).*”
15. NPPF 187(b) provides that planning decisions should contribute to and enhance the natural and local environment by “*recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland...*”.
16. NPPF paragraph 232 provides as follows:

“232. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). Where a local planning authority can demonstrate a five year supply of deliverable housing sites (with the appropriate buffer as set out in paragraph 78) and where the Housing Delivery Test indicates that the delivery of housing is more than 75% of the housing requirement over the previous three years, policies should not be regarded as out-of-date on the basis that the most up to date local housing need figure (calculated using the standard method set out in planning practice guidance) is greater than the housing requirement set out in adopted strategic policies, for a period of five years from the date of the plan’s adoption.”
17. As to the spatial strategy, it is common ground in this appeal that the Site is outside the settlement boundary and that there is conflict with the spatial strategy. There is conflict with LPP1 Policy SP2; LPP2 Policy DM1; WNP Policy 1; and DSWNP Policy DS1. The parties are now agreed that this conflict should attract limited weight.
18. LPP1 Policy CP10 – Natural Environment and Landscape Character provides (*inter alia*) that “*The natural environment of the district, including landscape assets, biodiversity, geodiversity, priority habitats and species and statutory and locally designated sites, will be conserved and enhanced by...Maintaining and where possible enhancing the natural, locally distinctive and heritage landscape qualities and characteristics of the district including hedgerows, ancient woodland and shaws, as informed by the East Sussex County Landscape Assessment and the Lewes District Landscape Capacity Study...*”. Again, the parties agree that there is conflict with CP10. They attribute different weight to that conflict. Following cross-examination, Mr Dorfman for the LPA downgraded his proposed weighting to “significant”.
19. LPP2 Policy DM25 – Design provides (*inter alia*) that “*Development which contributes towards local character and distinctiveness through high quality design will be permitted where the*

following criteria are met... Its siting, layout, density, orientation and landscape treatment respond sympathetically to the characteristics of the development site, its relationship with its immediate surroundings and, where appropriate, views into, over or out of the site...”.

20. LPP2 Policy DM27 – Landscape Design provides (*inter alia*) that “*Where appropriate, development proposals should demonstrate a high quality of landscape design, implementation and management as an integral part of the new development. Landscape schemes will be expected to... reflect, conserve or enhance the character and distinctiveness of the local landscape or streetscape and integrate the development into its surroundings, adding visual interest and amenity... ”.*
21. WNP Policy 6 – Green Infrastructure and Biodiversity provides (*inter alia*) that “*Development proposals that enable the protection and enhancement of the key features of the Parish landscape, such as the farmlands, woodlands, hedges, ponds, wildlife corridors and other natural heritage sites, will be supported.*”
22. WNP Policy 7 – Local Green Spaces provides: “*The Neighbourhood Plan designates land to the south of Green Road and west of Wivelsfield Primary School, as shown on the Policies Map M as local Green Space.*” It is common ground that this is the eastern portion of the Site.
23. The reasons for the designation of the LGS are now common ground. Ms Taylor stated in cross-examination that these reasons were relevant considerations in this appeal. They relate to:
 - i. The LGS’s beauty;⁷
 - ii. Its role as a break in the ribbon development along Green Road;
 - iii. Its landscape character as a fitting background to the War Memorial in the northwest corner;
 - iv. Its affording of long views from the Primary School and road across the LGS;
 - v. Its contribution to a sense of place as a frame for Wivelsfield Green.

THE LPA’S CASE

Local Green Space

24. The WNP designates only one LGS in Wivelsfield. It is the eastern portion of the Site. The LGS is, by definition, demonstrably special to this community: see NPPF 107(b). It is currently a beautiful, open space which can be visually enjoyed (as WNP paragraph 5.37⁸ recognises) from various vantage points by numerous types of users. The Appellant’s proposal to put an access road through

⁷ As confirmed by the Appellant during the Landscape Roundtable Session. In addition, despite the content of the supporting text to WNP Policy 7 (and in light of the comments of the Independent Examiner) the LPA no longer argues that tranquillity was a reason for the LGS’s designation.

⁸ CD 7.3.

the northwestern portion of the LGS would do significant harm to the openness of the LGS and also significantly conflict with the purposes of including this land within the LGS – whether those purposes are assessed solely by reference to Green Belt purposes (on the Appellant’s case) or in relation to the specific purposes for which this LGS was designated.

25. It is common ground that the access road constitutes “development”.⁹ This triggers the application of the Green Belt provisions in the NPPF. The general position, of course, is that development in an LGS is inappropriate unless an exception in NPPF paragraph 154 applies. The LPA does not dispute that the provision of an access road **might** constitute an engineering operation or local transport infrastructure.¹⁰ The LPA’s objection is that the access road fails to preserve openness and conflicts with the purposes of including land within the LGS.
26. In the LPA’s submission, references in NPPF paragraph 154 to the “purposes of including land” within the Green Belt, when applied to LGS, must be read as the purposes of including land within the LGS. For example, NPPF 154(h) reads (as a whole) “*Development in **the Green Belt** is inappropriate unless one of the following exceptions applies:... Other forms of development provided they preserve **its** openness and do not conflict with the purposes of including land within **it**....*” (Emphasis added).
27. “Its” and “it” in that sentence do not apply, on these facts, to the Green Belt. The Site is not in the Green Belt. The words, here, apply to the LGS. That is their plain meaning. Ms Taylor for the Appellant, when cross-examined, struggled to explain why “its” and “it” should not both refer back to the the Local Green Space. They plainly do.
28. Apart from the application of the NPPF’s language, if the purposes of the LGS designation were irrelevant to the analysis in NPPF paragraph 154, then a development which preserved openness (for example, a burial ground within NPPF 154(b)) but which adversely impacted the reason why the land is demonstrably special (for example, its richness of wildlife or its recreational value) would not be obliged to demonstrate very special circumstances to gain permission. This would circumvent the protection given to LGS in the NPPF and risk destroying the reason for the LGS designation in the first place. That cannot have been the policy intention.
29. *Lochailort* concerned a judicial review challenging the designation of a specific LGS policy. It emphasises the need for consistency between Green Belt and LGS. However, it does not answer the specific point in this appeal: what “purposes” means in NPPF paragraph 154 when applied to

⁹ Planning SOCG paragraph 5.10.

¹⁰ It disputes that this development constitutes “*the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, outdoor recreation...*”. It is a housing development and that exception clearly does not apply. Nonetheless, this makes no difference on these facts: the issue is whether the proposed development preserves openness or conflicts with the purposes for which the LGS was designated. That test is the same for all three suggested exceptions.

development within a designated LGS. In the LPA's submission, the answer to that point follows from a plain reading of the NPPF. There is no indication in NPPF paragraph 154 that when the word "purposes" is used in relation to why land was included in an LGS, that this must refer the reader back to the purposes of the Green Belt in paragraph 143. That exercise would make little sense. It is unclear to the LPA, for example, how the purpose of assisting in urban regeneration by encouraging the recycling of derelict and other urban land could be a relevant consideration in applications affecting LGS.

30. If the LPA is correct on this point of interpretation, then the purposes of the LGS are clear. They are the reasons for its designation and relate primarily to landscape considerations in the context of particular important features to this community – for example, views from the War Memorial and the Primary School. Further, even if the Appellant is correct about the meaning of "purposes", then one must consider whether the Appeal Scheme conflicts with the Green Belt purpose in NPPF 143(c).
31. In the LPA's submission, the Appeal Scheme harms openness and conflicts with the purposes for which the LGS was designated. Even if the Appellant is correct that the Green Belt purposes apply, there is clear conflict with the purpose of assisting in safeguarding the countryside from encroachment.
32. Whether a road preserves openness is a matter of planning judgment to be decided on a case-by-case basis. It is common ground that the Appeal Scheme's impacts on the visual aspect of openness are relevant. Obviously, the impacts on openness must be considered in light of the particular land, its visual characteristics, and the broader context of the site. In the LPA's submission, while it accepts that previous appeal decisions may be relevant, the exercise is inherently fact sensitive.
33. As to visual openness, the direct view from the War Memorial across the LGS is, strikingly, not assessed in the Appellant's LVIA. That is a significant omission, because, as the extract from the DFP at paragraph 5.4.17 of the Appellant's landscape PoE shows, the War Memorial (marked with a yellow star toward the top left of the extract) is positioned on Green Road in close proximity to the proposed access road, and the importance of the LGS as a backdrop to the War Memorial is explicitly stated in the WNP supporting text at paragraph 5.35.



34. The indicative photo included at paragraph 3.3.12 of the LPA's landscape PoE¹¹ gives an idea of views currently experienced from the War Memorial. Of course, sir, you will have seen this view for yourself.



¹¹ CD 9.6.

35. The importance of the open countryside backdrop to the War Memorial is obvious. It is a beautiful, open landscape. It underlines the sense of beauty by reason of which (in part) the LGS was designated. It is clearly important to the community – as evidenced, for example, by the statement from Mr Mylo Chamberlain¹². Mr Chamberlain explained in his statement that, every November, Green Road is closed so that residents can gather safely for a remembrance service. The Order of Service for the most recent Remembrance Sunday is before this Inquiry at CD 20.9. In pride of place is a photo of the War Memorial looking out to the LGS beyond.
36. The effect of placing the access road (with its associated landscape screening) behind the War Memorial would be to significantly harm that open backdrop as it is currently experienced. As you raised in a question to Ms Taylor, sir, whether the access road would give rise to a sense of enclosure is also relevant. It is common ground¹³ that a section of the access road between Green Road and Wivelsfield 30, and vehicles using it, would to some extent alter the landscape context of the War Memorial. It is further common ground that a section of the access road, and vehicles using it, would to some extent be visible within the landscape context of the War Memorial.¹⁴
37. The Appellant’s transport assessment predicts 642 daily car movements, 10 taxi movements, and 4 motorcycle movements per day on the access road.¹⁵ This prediction covers only 7am to 7pm, so the actual daily numbers are likely to be higher. When the baseline comparison is **zero** movements across the LGS, these figures represent a very significant harm to visual openness, beauty, and the LGS’s fitting backdrop to the War Memorial.
38. Nor has the LVIA considered views facing east from within the Wivelsfield 30 bridleway passing through the site. As the Appellant’s site investigation report¹⁶ shows, this bridleway is shown in maps dating back to the 1800s and is referred to as “Green Lane”. You will have experienced Wivelsfield 30 for yourself, sir. In the LPA’s submission, views from this bridleway facing east are obviously important.
39. Again, strikingly, the LVIA does not consider views facing east from Wivelsfield 30. While the Appellant’s answer, generally, is that these views are heavily screened, it is common ground¹⁷ that a section of the access road, and vehicles using it, would to some extent be visible within the landscape context of Wivelsfield 30.
40. The LVIA therefore provides no basis on which this Inquiry could assess the views from Wivelsfield 30 into the LGS. That is what is required to assess the impact on visual openness from an obviously

¹² CD20.3a at pages 19 – 21.

¹³ CD 6.2 at paragraph 2.5.2.

¹⁴ CD 6.2 at paragraph 2.6.2.

¹⁵ CD 1.10 at page 31 (internal numbering).

¹⁶ CD 1.30 at PDF page 26.

¹⁷ CD 6.2 paragraph 2.6.3.

material vantage point. It is clear that the access road, and vehicles using it, will to some extent be visible. In the LPA's view, that gives rise to clear harm to the visual openness of the LGS.

41. Next, the landscape harm and harm to openness brought about by the access road will also be discernible from Hundred Acre Lane. As the LVIA shows at viewpoint 14,¹⁸ the position here is elevated above the LGS, and there would be, as the LVIA states, "*direct views to the eastern part of the site, including the route of the proposed access and associated landscaped areas (seen in the more distant part of the middle ground)*". As the LPA's landscape PoE states at paragraph 3.3.19,¹⁹ there would also be a noticeable gap from this viewpoint in the line of mature trees in Wivelsfield 30. In these circumstances, the LVIA's conclusion that there would be a negligible magnitude of impact, and (at year 15) neutral significance of effect, is obviously wrong.
42. The access road will be perceptible here, particularly from this elevated position. As Mr Hird states at paragraph 3.3.19, whilst the proposed road would be in the more distant part of the middle ground, it would nevertheless draw attention to itself, with the movement of vehicles being particularly intrusive. Again, from this vantage point, there is a clear and significant harm to visual openness.
43. It is also important to consider views experienced by pupils at the Primary School. It is common ground that part of the reason for the LGS's designation was that it afforded long views from the school, and provided the Primary School pupils with a sense of rural values.
44. The outdoor areas associated with the school are in close proximity to the proposed access road. Mr Hird at paragraph 3.3.17 of his PoE²⁰ draws attention to the impact of placing the access road in the background of views from the primary school. His conclusion is that "*Whilst the proposed access road would only occupy a small proportion of the view composition, in the background, it would nevertheless draw attention to itself with the movement of vehicles being particularly intrusive. Furthermore, it is thought that the felling of 4 mature trees alongside Bridleway 30 in order to facilitate the road access would create a noticeable gap in the tree'd background of the view composition from this viewpoint, altering the skyline, and therefore likely drawing attention to itself and the proposed roadway.*"
45. The Appellant's landscape rebuttal PoE responds to this point at pages 12 – 13.²¹ It asserts that "*...The school playing fields and playground (both of which would be primarily occupied during term time, in breaks, and I expect are not subject to 'tranquil' activities during these times) are enclosed by a dense hedgerow and hedgerow trees which will serve to screen or filter views. Albeit illustrative at this stage, the Illustrative Landscape Masterplan (ILMP) shows additional planting*

¹⁸ CD 1.7 at PDF page 122.

¹⁹ CD 9.6.

²⁰ CD9.6.

²¹ CD 9.2c.

around the school, and across the eastern part of the appeal site (CD-1.7, pdf page 126, Figure 9). The layering of planting, including reinstatement of hedgerows along historic field boundaries, will further add to screening of the proposed access.”

46. There is specific reference in the WNP supporting text to the importance of the LGS as a landscape feature providing the primary school pupils with a real sense of rural values. The primary school's grounds are adjacent to the LGS. Instead of acknowledging the obvious importance of the LGS as a backdrop to the Primary School, the Appellant's landscape rebuttal appears to downplay the landscape effects on (*inter alia*) the apparent basis that children's activities in the playing fields and playground are not “tranquil”. That obviously misses the point.
47. Further, on views from the Primary School, the Appellant's landscape rebuttal simply states, without any detail on the likely heights or densities of the vegetation present between the Primary School and the LGS, that the school grounds are enclosed by a dense hedgerow and hedgerow trees which will serve to screen or filter views. In the absence of any detail from the Appellant, and given the WNP's reference to the relationship between the LGS and the Primary School, the only reasonable conclusion is that the LGS is visible from the Primary School and its grounds, and that this was an important consideration in its designation.
48. The Appellant's landscape rebuttal PoE also states²² that the additional planting proposed will further add to the screening of the proposed access road. That may be the case. However, this is inconsistent with the purpose of the LGS to provide long views from the Primary School and will also harm openness. Absent the proposed development, there would be no reason for that screening. It would exist by reason only of the development and its visual impact should be assessed.
49. In summary, the proposed access road and the hundreds of predicted daily vehicle movements will have a significant adverse impact on the openness of the LGS and the purposes for which it was designated. Even if the Appellant is correct that the Green Belt purposes apply, the Appeal Scheme is inconsistent with NPPF 143(c) – to assist in safeguarding the countryside from encroachment. The access road is clearly development which encroaches on the countryside. It does so by introducing built development and hundreds of additional vehicle movements. It is not a minor encroachment. It is a significant encroachment. Again, while previous appeal decisions can be relevant, this is a fact-specific determination to be made in the particular context of this site.
50. The policy effect of this analysis is that the proposed development represents inappropriate development in the LGS. It is by definition harmful to the LGS and that harm should be given substantial weight in the planning balance. Permission should be granted only in very special circumstances where you sir are satisfied that the potential harm to the LGS by reason of

²² CD 9.5 at page 12 – 13.

inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Landscape Harm and Harm to Character and Built Environment

51. As Mr Hird details in his PoE, there is also landscape harm in this appeal. The LVIA assessed 14 viewpoints around the Site. Viewpoint 8 is taken looking south-west towards the western site boundary from public footpath WSM/1/1. Obviously, that is a publicly accessible vantage point. WSM/1/1 is part of a promoted route – the Wivelsfield Green Walk. The LVIA acknowledges, at year 15, a medium magnitude of impact with moderate to major adverse significance. As Mr Hird states at paragraph 3.3.7 of his PoE,²³ the view from this point would be wholly changed. The Appellant’s Development Framework Plan²⁴ indicates that a built environment would be situated immediately adjacent to the informal footway. Views of the open fieldscape and backdrop of hedgerows and woodland would be completely and permanently curtailed.
52. Next, viewpoint 10. This is described as “*View looking west from the bridleway (Wiv/30/1) within site.*” This is a view stated²⁵ in the LVIA to be taken from along Wivelsfield 30, a bridleway separating the eastern and western portions of the Site. If the Site is developed, then this viewpoint would look directly onto the built environment, and the view would also be wholly changed. It would cease to be a field, which currently frames Wivelsfield 30, and it would become a housing development. That is obviously a major adverse harm to a highly sensitive receptor.
53. Viewpoint 11 faces north from within the Site and is taken from WSM/1/1. The LVIA acknowledges a moderate to major adverse significance of effect at operation stage, and a minor to moderate adverse effect at Year 15. In the LPA’s submission, that reflects the potential introduction of significant residential development in direct views from this vantage point.
54. Viewpoint 12 is taken looking north-east from within the Site, just off the route of the public footpath. This appears to be adjacent to the ancient woodland to the south of the Site. Both this footpath, and paths through the ancient woodland, feature in the Wivelsfield Green Walk. From this point, one has a relatively clear view across the western portion of the Site. The change here will involve long term, direct and near distance views of residential built form. That is a clear adverse effect.
55. Viewpoint 13 is described as “*View looking north-west from within site, just off bridleway (Wiv/30/1).*” This is across from viewpoint 12, which is to the west of the eastern portion of the Site. Again, there would be direct views of the residential development. The fact that the built

²³ CD 9.6.

²⁴ CD 1.33.

²⁵ The Appellant’s Landscape Rebuttal PoE at CD 9.3c paragraph 2.4.10 states that this was in fact taken from a permissive route on the Site.

development in the southern part of the western portion of the Site would be visible from PROWs on either side underscores the significance of the adverse effect.

56. The LVIA does not consider views from within Wivelsfield 30 facing north or south. The proposed access road would cut straight through this bridleway and require the felling of four mature trees. As Mr Hird states at paragraph 3.3.11 of his PoE,²⁶ this would create a noticeable gap in the continuous canopy that is present in the baseline situation. Users' attention would be drawn to road infrastructure and moving vehicles, fundamentally and permanently changing the nature of the view composition and curtailing the baseline ability for long views aligning with the trackway. These are additional and significant views which the LVIA does not address.
57. Nor does the LVIA consider views from Bridleway Westmeston 28b. This is part of the Sussex Border Path – another promoted route – as Mr Hird states in his PoE at paragraph 3.3.3. The LVIA does not include any viewpoints from here. Mr Hird's opinion is that it would be possible to see some areas of housing at the western end of the proposed development. That would clearly be an adverse change from the present position.
58. In summary, for the reasons set out above, the LPA invites you sir to give significant negative weight to harm to the landscape and natural environment.
59. Further, the Lewes Landscape Sensitivity Assessment at paragraph 3.2.4 notes that the Wivelsfield Green settlement boundary is characterised by a generally narrow ribbon pattern of development adjacent to Green Road.²⁷ Table 77 on page 333 of that document assesses the western portion of the Site. It notes at page 337 that *“Any development should be sympathetic to the character of Wivelsfield Green, as such it should be consistent with the scale and typologies of surrounding development. Development should be located in the northern and eastern parts of the parcel, following the route of Eastern Road, such that it is consistent with the linear settlement pattern of Wivelsfield Green.”*
60. As such, the development of the Site in its southwestern portion would diminish the perception of the settlement's linearity and thus give rise to harm to the settlement pattern in Wivelsfield Green. This would be perceptible, for example, to users of the PROW network which serves the eastern portion of the Site. In the LPA's submission, this is a separate harm which should be afforded moderate weight.

Suburbanisation of the PROW Network

61. The Site is well served by a PROW network. This includes:

²⁶ CD 9.6.

²⁷ CD 15.4 at paragraph 4.61.

- i. Bridleway Westmeston 28b to the west of the Site. This is part of the Sussex Border Path, a promoted route;
 - ii. Footpath WSM/1/1. That footpath runs through the western portion of the Site from north to south between Eastern Road and the ancient woodlands to the south;
 - iii. Wivelsfield 30 between the eastern and western portions of the Site.
62. The parties are agreed that harm and suburbanization to PROWs is a harm which must be weighed in the planning balance. The LPA attributes that harm significant negative weight, whereas the Appellant attributes it very limited weight. That is clearly a significant understatement.
63. The effects on Wivelsfield 30 are particularly concerning. There is significant vegetation associated with this path, which runs directly through the Site. There is a continuous canopy of trees. That canopy would be severed by the proposed access road. Further, users of Wivelsfield 30, instead of experiencing a sense of continuity walking either north to Green Road or south to the ancient woodland, would meet a traffic junction. They would also perceive the trappings of a traffic junction which are necessary to make the crossing safe. It is a transformation of the experience of Wivelsfield 30, to the severe detriment of users. In the LPA's view, the experience of Westmeston 28b and Footpath WSM/1/1 is also harmed by their transformation into more suburban routes. Given these effects, the Appellant's weighting of this harm is far too low. It merits significant harm in the planning balance.

Application to Policy

64. Several policy conflicts are agreed. First, the Appellant acknowledges that the Site is located outside of the settlement boundary.²⁸ This gives rise to conflict with LPP1 Policy SP2 and LPP2 Policy DM1. Additionally, there is conflict with WNP Policy 1 and DSWNP Policy DS1, which follow the local plan's spatial strategy. The parties agree that this harm attracts limited weight.
65. The Appellant also accepts that the appeal scheme conflicts with LPP1 Policy CP10. It affords this conflict moderate weight in the planning balance. However, obviously, the weighting of the landscape harm depends (*inter alia*) on the extent of the harm identified. The Appellant's assessment of that harm is set out in the LVIA and the Appellant's PoE. As Mr Hird demonstrates in his PoE, this evidence significantly underestimates the extent of the landscape harm in this case for numerous reasons.
66. The LPA relies on the evidence of Mr Hird in relation to NPPF paragraphs 135 and 187. Mr Hird deals with these paragraphs in his PoE²⁹ at paragraphs 5.1.4 and 5.1.9. In relation to WNP Policy 6,

²⁸ Appellant's Planning PoE CD 9.1 at paragraph 3.11.

²⁹ CD 9.6

even if this is interpreted as merely permissive, the relevant test therein (“protection and enhancement”) is substantially similar to the language in Policy CP10 (“conserved and enhanced”), which, as is common ground, the Appeal Scheme conflicts with.

67. The LPA also alleges conflict with LPP2 Policies DM25 and DM27. Mr Hird addresses these points in his PoE from paragraphs 5.1.17 to 5.1.24.³⁰ Mr Hird notes at paragraph 5.1.20 that the proposed development, if it accommodated 150 homes, would spread out further than the field to the north-west of the Site behind Eastern Road. For that reason, the proposal would not respond sympathetically to the characteristics of the development site or its relationship with its immediate surroundings when one considers the adjacent linear settlement pattern of Wivelsfield Green. This gives rise to conflict with Policy DM25.
68. As to Policy DM27, it is clearly appropriate, given the sensitivity of the Site, for this development proposal to demonstrate a high quality of landscape design, implementation and management **as an integral part of the new development**. Mr Hird notes at paragraph 5.1.23 of his PoE that no detailed landscape design has been provided, and as such the Appellant has not demonstrated that landscape design has been “integral” to the overall design of the proposed access road. Further, Mr Hird concludes that the aspects of the landscape design scheme which are apparent at this stage – including the plan to truncate Wivelsfield 30 and fell four mature trees in the process – do not reflect, conserve, or enhance the character and distinctiveness of the local landscape. This gives rise to conflict with Policy DM27.
69. Finally, as to WNP Policy 7, the LPA considers that this stands or falls with the application of LGS policy. If the Appeal Scheme is appropriate, or if there are very special circumstances warranting the grant of permission, then there will be no conflict. If the Appeal Scheme is inappropriate, and no very special circumstances exist to justify granting permission, then there will be conflict.

Planning Balance

70. The weights to be afforded to benefits and harms are, of course, fundamentally a matter for you sir as the decision maker. The LPA’s position in this appeal is that, applying (on the LPA’s case) NPPF paragraph 153, the potential harm to the LGS by reason of inappropriateness, and the other harm resulting from the proposal, is not clearly outweighed by other considerations. It invites you to dismiss this appeal.
71. On the planning balance, the LPA makes the following points on harms:
- i. As to the general approach, NPPF paragraph 153 provides that substantial weight should be given to any harm to the LGS, including harm to its openness. Inappropriate

³⁰ CD9.6.

development is, by definition, harmful to the LGS and should not be approved except in very special circumstances. “Very special circumstances” will not exist unless the potential harm to the LGS by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations;

- ii. The Appellant has underestimated the extent of the harm to landscape. For the reasons set out above, and detailed in Mr Hird’s PoE, the harm is more extensive and more significant than the Appellant has recognised. This harm should be afforded significant negative weight;
- iii. The LPA considers that the harm to the village’s built environment and character is a harm which should attract separate negative weight in the balance. In any event, even if this harm folds into the harm to landscape and the natural environment, then this should nonetheless be accounted for in the assessment of that harm;
- iv. The parties are agreed that harm and suburbanization to PROWs is a separate harm to feature in the planning balance. For the reasons set out above, the LPA considers the Appellant to have understated the harm under this heading. Significant weight should be afforded.

72. And on benefits:

- i. The LPA agrees with the Appellant that the delivery of 90 market homes and the delivery of 40% affordable housing should attract weight at the top end of the scale. The parties have agreed that the extent of the 5YHLS shortfall is substantial and that there is an on-going and pressing need for affordable housing in Lewes;
- ii. The LPA accepted in planning evidence that its weighting of “limited” for the provision of publicly accessible local green space should be upgraded. It therefore accepts the Appellant’s proposed moderate weighting. The LPA also accepted in planning evidence that the delivery of sustainably located homes would be a benefit. Even accepting the Appellant’s moderate weighting for this benefit, this would not change the LPA’s case on the NPPF 153 balance;
- iii. As to biodiversity net gain, the LPA accepts that, applying the decision in *Vistry Homes Ltd v Secretary of State for Levelling Up, Housing and Communities & Anor* [2024] EWHC 2088 (Admin), a decision maker should not reduce the weight to be provided to BNG simply because it fulfils a legal requirement. You, sir, are left to form a planning judgment as to the appropriate weight to give to this benefit. However, even if the Appellant’s moderate weighting were accepted, this would not change the LPA’s case on the NPPF 153 balance.

CONCLUSION

73. In summary, the Appeal Scheme constitutes inappropriate development in an LGS. That LGS is, by definition, demonstrably special to the local community which it serves. The proposal to introduce an access road through that LGS would significantly harm the openness of the LGS and the purposes of including land within it. In these circumstances, the harm to the LGS by reason of inappropriateness, and the other harm resulting from the Appeal Scheme, is not clearly outweighed by other considerations. This constitutes a strong reason for refusal pursuant to NPPF 11(d)(i). This appeal should be dismissed.

9 July 2026

JACKSON SIRICA

CORNERSTONE BARRISTERS