

## **Town and Country Planning Act 1990**

Land south of Sunte House, off Gander Green,  
Haywards Heath, West Sussex, RH16 1RZ

**Appeal against the decision of Mid Sussex District Council (MSDC) to refuse planning permission for a proposal to construct 15no. residential dwelling houses with associated garaging/parking, formation of driveways and upgrading of an existing access way**

### **Appellant's Planning Statement of Case**

PINS Appeal Ref: APP/D3830/A/14/2216410

MSDC Application Ref: 13/02587/FUL

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Prepared by:

Andrew Bateson, on behalf of Banner Homes Southern Ltd



AB P&D Reference:

ABB0013

Date: 31<sup>st</sup> March 2013

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AB Planning & Development

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## **PERSONAL BACKGROUND:**

My name is Andrew Bateson. I am a professional planning consultant and Managing Director of AB Planning & Development Limited. I have been instructed to represent the appellants at this Appeal Hearing as their expert planning witness. I hold a Bachelor of Science Honours Degree in Town & Regional Planning, I am a chartered member of the Royal Town Planning Institute, a member of the Small Business Federation and I have been employed in the planning profession for thirty years.

Between 1984 and 2002 I worked in a variety of planning roles in the public sector and was employed by York City District Council, the Property Services Agency, Richmondshire District Council and Aylesbury Vale District Council.

In 2002, I left my role as Plans Team Leader with Aylesbury Vale District Council to become a Principal Planning Consultant at RPS. Having secured promotions to Technical Director, Planning Director, Senior Planning Director and finally Operational Director in charge of the firm's Swindon office, I then left RPS at the beginning of 2011 to establish my own Company.

During my career, I have regularly been employed as expert planning witness at S.78 planning appeal Inquiries and Hearings and at Local Plan, and more recently, Neighbourhood Plan Examinations. For the first eighteen years of my career it was for Local Authorities that I appeared as a witness to defend their planning application decisions and their Local Plan allocations and policies but for the last twelve years I have appeared most often for developers and landowners who have been seeking consents at appeal and/or development allocations in emerging statutory Development Plans.

## **SUMMARY OF CASE:**

The following Statement of Case on behalf of the appellants is divided into seven parts. The first part (on pages 1 and 2) simply states that Banner Homes Southern Limited (the appellant) is appealing the decision by Mid Sussex District Council (the Local Planning Authority) to refuse planning permission for application 13/02587/FUL for five reasons. Those five reasons are set out alongside a single informative that the LPA appended to its decision notice.

The second section of this Statement (on pages 3 to 6) provides a description of the site's location and its relationship with the town of Haywards Heath and all neighbouring developments, including the two Grade II\* listed buildings of Sunte House to the north and Wickham Farmhouse to the west of the appeal site.

The third section (on pages 7 and 8 of the Statement) summarises all the relevant planning history of the appeal site and its immediate surroundings.

The fourth part (on pages 9 to 17 of the Statement) sets out all the relevant national and local planning policies and guidance against which the relative merits of this appeal proposal needs to be considered and be determined.

The fifth part of the Statement (on pages 18 to 20) describes the application proposals for the eleven new open-market dwellings and the four affordable dwellings, plus their garages, driveways, the roadways and the landscaped public open space that comprised the initial planning application to Mid Sussex District Council (MSDC Ref: 13/02587/FUL) and which now form the basis of this appeal.

The sixth section (on pages 21 through to 32 of the Statement) sets out the substantive grounds of this appeal and why we believe the LPA was wrong to refuse planning permission for the five reasons stated in their decision notice. Pages 17-21 address the broad principles of why we believe this development should be granted (Refusal Reason No.1). It sets out why the appeal proposal would represent a logical extension of the most sustainable urban settlement in Mid Sussex District with easy access to an extensive array of local services and facilities. It also explains why, on the basis of the District's substantive shortfall in housing land availability, the granting of permission for these fifteen new dwellings would be highly sustainable and would accord with up-to-date National Planning Policy Framework guidance that overrides out-of-date Local Plan policies that retain little or no weight. We explain why the proposals would not constitute harmful development upon the setting of the two neighbouring listed buildings of Sunte House and Wickham Farmhouse but would instead represent a material enhancement of their setting, through the planned reinstatement of a formal landscaped approach to Sunte House from the south that has long been lost.

Pages 27 and 28 of the sixth section to this Statement address why the development proposals would not be harmful on the character or appearance of the surrounding area or to the open countryside to the north of Haywards Heath (Refusal Reason No.2). The appeal site is well contained by surrounding developments and substantive landscape features and it would not encroach on open rural countryside. It is our contention that the appeal proposals would make far better use of a redundant and rather unkempt area of open land, which would facilitate an increase in public open space area, would enable an enhancement to the southern approach and setting of Sunte House and could facilitate an enhancement to the setting and safety of the public footpath that runs along the northern boundary of the appeal site, alongside the landscaped grounds of Sunte House.

Pages 29 to 30 of the sixth section to this Statement sets out the case for the appellant concerning refusal Reason No.3 and why we believe the proposals would represent high quality design, whose layout, form, scale and material finish would complement and enhance their surroundings.

At pages 31 to 32, the Statement of Case explains that the appeal proposals would offer the opportunity to achieve a significant enhancement of surface water drainage capabilities in the local area (contrary to what has been claimed in Refusal Reason No.4), which would be likely to relieve an existing flooding problem that presently occurs occasionally in properties in neighbouring Sunte Close, to the south of the appeal site.

Pages 31 and 32 of this Statement of Case address Refusal Reason No.5 and other issues raised by Third Party respondents that were not supported as refusal reasons by the LPA. The appellant had previously reached agreement with LPA planning officers as to the nature and scale of S.106 Planning Obligation Agreement contributions. The only reason no such Agreement had been finalised previously with the LPA was because the Council had decided to refuse consent. As part of our on-going Statement of Common Ground discussions with MSDC Planning Officers, we will seek to finalise those agreements and will submit a signed S.106 Unilateral Undertaking to guarantee payment of all the requisite POA contributions in the event that this appeal is upheld and planning permission is granted.

The seventh and final section of the Statement of Case (on page 33) provides a summary conclusion as to why I contend, on the basis of all the evidence presented, that this appeal should be allowed and why conditional planning permission should be granted. The appeal proposals would comply with all relevant national guidance given in the NPPF and with the vast majority of the old saved policy set out in the adopted Mid Sussex Local Plan and all relevant accompanying SPD.

Any slight impact upon the southern aspect setting to Sunte House as a Grade II\* listed building, would be outweighed in my opinion by improvements to the setting of, and access to, the heritage asset, enhancements to a widened footpath beside Sunte House to improve the public realm, benefits that would accrue from helping to rectify an acknowledged significant shortfall in housing land supply at the District's principal settlement, by financial gains in the form of s106 POA contributions to community infrastructure provision and New Homes Bonus funding for both the open market and affordable dwellings, plus surface water drainage enhancements designed to relieve existing flooding problems on a neighbouring residential development. There would be general adherence to most, if not all, other respects of the Development Plan and where the policy itself has already been acknowledged to be out of date and with reduced weight. I will be respectfully suggesting therefore, that this appeal should be allowed and that conditional planning permission ought to be granted.

## 1: INTRODUCTION

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1.1 AB Planning & Development Limited has been instructed by Banner Homes Southern Limited (the applicant/appellant) and with the consent of Mr & Mrs Crowther (the landowners) to present this appeal evidence in order to challenge a decision by Mid Sussex District Council (MSDC, the Local Planning Authority). MSDC refused planning permission for application 13/02587/FUL, which proposed the construction of fifteen new dwelling houses (including four affordable homes) with associated garaging/parking, formation of driveways and upgrading of an existing access way, on land south of Sunte House, off Gander Green, Haywards Heath, West Sussex.

1.2 The planning application was refused by MSDC on 14<sup>th</sup> November 2013 for five reasons:-

- “1. The proposal is deemed to impact on the setting of Sunte House, a Grade II\* Listed Building. The harm arising to the significance of the heritage asset requires clear and convincing justification under Para 132 of the NPPF and such harm must be weighed against the public benefits of the proposal. The harm caused by development of this site is not outweighed by the benefits of the proposal and therefore the development is not deemed to constitute ‘Sustainable Development’ for the purposes of the NPPF. The proposal conflicts with policy B10 of the Local Plan and the NPPF;*
- 2. The proposal would result in harm to the rural character and appearance of the area as viewed from the adjacent public footpath. The proposal would restrict the existing open rural outlook from the footpath extending the narrow and claustrophobic feel of the route making it less attractive to its users and harming the quality of the area in conflict with Policies C1, B9 and B1 of the Local Plan and the NPPF;*
- 3. The proposal is not considered to secure high quality design or a good standard of amenity for all future occupants. The layout fails to respond to the public realm and the proposed affordable housing is poorly integrated with the rest of the development providing a clear visual tenure separation as well as a reduced standard of amenity for future occupiers in conflict with Para 17 of the NPPF and policy B3 of the Local Plan and the Councils adopted SPD Development and Infrastructure;*

4. *The Council is not satisfied that based on the limited information submitted, the drainage proposals for the site would not lead to increased risk of flooding of adjoining properties and therefore the proposals conflict with Policy CS13 of the Local Plan and the NPPF; and*
5. *In the absence of a signed and dated S106 Agreement the proposal does not satisfy the requirements of Policies G3, R3 and H4 of the Mid Sussex Local Plan in respect of infrastructure requirements to service development and affordable housing as supplemented by the Council's Supplementary Planning Document 'Development and Infrastructure' dated February 2006."*

1.3 The refusal decision was accompanied by a single informative, which stated:-

*"In accordance with Article 31 Town and Country Planning (Development Management Procedure) Order 2010 (as amended), the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible."*

- 1.4 Copies of the application Decision Notice and the Planning Officer's delegated report that recommended refusal are both attached at Appendix 1.
- 1.5 This Statement sets out the background to the Appeal and the relevant planning policy context within which it should be considered. The Statement then sets out the case for the Appellant in light of those policies and in the light of all other material considerations.
- 1.6 This appeal Statement is to be supplemented by two further Statements prepared by Banner Homes' design architects (the authors of the application Design & Access Statement) and by their heritage consultant Tristan Squire, which deal with detailed design and listed building/heritage issues, respectively.

## 2: SITE LOCATION AND DESCRIPTION

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- 2.1 The appeal site comprises an area of about 2.6ha, which sits on the northern side of the built-up area of Haywards Heath, the principal town in Mid Sussex District. A Grade II\* listed property known as Sunte House lies just to the north of the site. Residential development abuts the site to the east in Gander Green and to the south and southwest in Sunte Close and Wickham Close, with Wickham Farmhouse (also listed Grade II\*), lying to the west. As such, the site is entirely enclosed by residential buildings on all sides, as evidenced by the photographs attached at Appendix 2.
- 2.2 The site is open, rough grassland, which slopes gently southwards, dropping around 5m over a distance of about 120m, with mature tree screening to its eastern, western and southern boundaries and with mature hedging and trees providing screening along the northern boundary with Sunte House. A public footpath runs east-west across the northern edge of the site, beside the hedge and tree belt boundary with Sunte House.
- 2.3 Historically the appeal site used to provide the route of a second of three different access routes that have served Sunte House at different times over the years. The 1808 OS map shows the original access route to Sunte House from Portsmouth Lane running in an east-west direction in line with the House's southern elevation and parallel with what is now Birchen Lane, some 75m south of that lane and 45m north of the public footpath that runs along the southern boundary of the house. The 1845 OS map shows this original route as the only access to Sunte House but by 1874, the OS map shows the original access route had been bisected by a landscaped pond in the formal gardens created to the east of the House and a new access route had been created from Gander Hill, with the driveway extending across the appeal site. The 1897 OS map showed that the Gander Hill/Gander Green access remained but another route (the third) had been created along what is now called Birchen Lane. By 1910, the OS map shows that substantial avenue planting had been added all along the Birchen Lane route, to signify its status as the main access to the House. In the 1970's the housing in Gander Green was developed across about half the area of what had been the second access route to Sunte House. This left just the appeal site as the only undeveloped remnant of countryside, which used to separate Sunte House from the town of Haywards Heath.

- 2.4 There are now gates from Gander Green opening onto a private track, which is all that remains of the second access drive. It used to be flanked by post and rail fencing (since gone) that swept through the middle of the site from its southeast corner, northwest towards Sunte House. There are further metal gates just to the south of the House, beside the public footpath. Both sets of gates were erected in the early 1990's.
- 2.5 The access route through the appeal site has not been used for many years and was clearly replaced as the principal access route over a hundred years ago. Access to the House is now only from the northeast, down a mature tree-lined avenue via Birchen Lane (the third route). The second access route, which crossed the appeal site and through land now developed as Gander Green, has long been abandoned and become overgrown. The private land which comprises the appeal site had been subject to extensive trespass by footpath users, neighbours and dog walkers, which is why the present owners fully fenced the land and closed off the access.
- 2.6 When originally built as a farmhouse, Sunte House was significantly smaller and the east elevation was its frontage, with the access drive approaching its southeast corner. In the mid nineteenth Century, the south elevation was extended towards the west and formal 'Queen Anne' styling was added to both the original primary east elevation and an upgraded southern elevations. Being the main elevation with its formal gardens in front, the re-styled east elevation is perfectly symmetrical in its design, whereas the extended south elevation features inevitable design compromises, such as two false windows and unsymmetrical chimneys.
- 2.7 Although within the physical built-up area of Haywards Heath and until 1995 also within its defined built-up area, the defined boundary of the town was realigned under the Mid Sussex District Plan and now skirts around the appeal site. However, the site has been considered for development at regular intervals over the course of the last twenty or more years. It was first promoted for housing as part of the Haywards Heath Local Plan (adopted in 1995). The Haywards Heath Local Plan Inquiry Inspector in fact recommended the Proposals Map be modified to specifically bring the open land south of Sunte House that now comprises this appeal site back within the built-up area of the town and thereby facilitate development. Notwithstanding that recommendation, the built-up area boundary was not amended by MSDC and the land south of Sunte House stayed in the area newly defined as 'Countryside Area of Development Restraint'.

- 2.8 The site was again considered for housing development in 2004, as part of the Local Plan Inquiry. On that occasion, the Inspector did not favour allocating the land for development. At that time, there was no material need to allocate more land than had already been allocated; so the site was rejected on grounds that it was perceived to have a potentially negative visual impact on the general character and appearance of the area and on Sunte House; and those objections were deemed to outweigh any positive benefits that may have arisen from the suggested development.
- 2.9 Most recently, the site was again put forward for housing development as part of the Small Scale Housing Allocations DPD (ALT/31). The Inspector considering that Plan noted that “the site is reasonably accessible to a wide range of services, facilities and employment in the Category 1 settlement of Haywards Heath”.
- 2.10 Despite those clear sustainability credentials, the Inspector also noted that an important issue to consider in developing the appeal site would be the effect of development on the character and appearance of the area and, especially, its effect on the heritage setting of listed buildings. The Inspector specifically noted that the site adjoins the curtilages of Sunte House to the north and Wickham Farmhouse to the west, which are both listed Grade II\* and each is situated outside the defined built-up area, within a Countryside Area of Development Restraint. However, the Inspector went on to state that Sunte House retains substantial enclosed gardens that complement its setting and those extend mainly to the east and west. Nevertheless, the Inspector also noted that one of the House’s two principal elevations – its southern elevation, (the other being to the east) was relatively close to the southern boundary and, in his opinion; both overlooked and was seen from the appeal site land. Notwithstanding the intervening boundary tree belt and hedgerow and the residential development further to the south, the Inspector concluded at the time that even in its unused state, its open character complemented the listed building and provided a buffer between the house and town.
- 2.11 It is our contention that the appeal site has become physically isolated from both the wider countryside around the north of Haywards Heath and from the original landscaped countryside curtilages of both Sunte House and Wickham Farmhouse. The original parkland settings of both Sunte House and Wickham Farmhouse have long since been eroded and lost through previous planned urban extensions of the town. In our opinion, the appeal site should now be regarded simply as a redundant and unkempt open space within the urban area of Haywards Heath that no longer serves any useful function in contributing to the setting of Sunte House or otherwise.

- 2.12 Later sections in this Statement, as well as in the separate Heritage Statement, go on to assess in greater detail whether, in the light of its clear separation from Sunte House, the land serves any remaining important role in either the setting of Sunte House and/or the visual amenity of the surrounding area.
- 2.10 The appeal site and its immediate surroundings are shown in the photographic images attached at Appendix 2.

### **3: RELEVANT PLANNING HISTORY**

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- 3.1 On 14<sup>th</sup> November 2013, planning permission was refused (under MSDC application Ref: 13/02587/FUL) for the proposed construction of fifteen residential dwellings with associated garaging/parking, formation of driveways and upgrading of existing access way. It is this refusal and its five refusal reasons that is now the subject of this appeal.
- 3.2 An earlier outline application for twelve houses on the current appeal site land was submitted to the LPA in 2000 (MSDC Application Ref: HH/00/02489/OUT). That application was withdrawn prior to determination after an officer recommendation to refuse consent had been drafted and its conclusions and recommendations had been made known to the applicant. The officer's report listed a number of suggested reasons for refusal, including: being contrary to Local Plan Policy C1; adverse impact on the rural character of the area; prematurity in relation to emerging draft policies in a new Local Plan; harmful to the historic setting of Sunte House; lack of affordable housing; a poor dwelling mix; inadequate infrastructure provision; wildlife habitat impact; and a suggested substandard visibility at Gander Hill in a southerly direction. This recommendation for refusal was despite the LPA previously identifying the site in September 1999 for accommodating between 25-40 dwellings in the West Sussex County Structure Plan.
- 3.3 Apart from the three previous considerations of the site's suitability for residential development as part of a Development Plan review process, as referred to in paragraphs 2.6-2.8 above, there is no other planning history associated with the appeal site. Clearly, however, there has been huge outward growth of Haywards Heath since the original construction of Sunte House and Wickham Farmhouse. That growth has resulted in substantial parts of the original farm and parkland setting to both properties being eroded hugely over time. To illustrate, in 1901 Sunte House was sold with 185 acres. With the specific exception of the appeal site, all the other land south of Sunte House and Wickham Farmhouse has been residentially developed and now comprises suburban development in Wickham Way, Wickham Close, Sunte Close and Gander Green. Suburban development also continues westwards and northwards beyond the railway line, to the west of the two houses, in Old Wickham Lane and Orchard Close, to the east of Sunte House in Birchen Lane, and to the north in Gatesmead, Brook Lane and Roundwood Lane (see plans at Appendix 2).

- 3.4 The only remaining sliver of countryside lies to the northwest of Sunte House and is bounded by the railway line to the west and the golf course to the north. A public footpath runs north-south through woodland in this area. The landscaped boundaries of the two listed properties with the appeal site are now very mature, such that the appeal site is quite separate physically and visually from both listed houses.
- 3.5 One other piece of planning history is of relevance to this appeal, which is that permission was granted on appeal in 1986 for the erection of a detached house within the grounds of Sunte House (MSDC Application Ref: HH/305/86; PINS Appeal Ref: APP/D3830/A/87/74831). In allowing the appeal and granting consent, the Inspector stated “...*the site is not, in my opinion, in the countryside, as commonly understood, but is part of the grounds of Sunte House, which are an enclave of generally undeveloped land adjoining the built-up area on three sides...*”.
- 3.6 Copy extracts of the relevant planning history referred to is attached at Appendix 3.

## 4: PLANNING POLICY CONTEXT

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### Development Plan Policy

- 4.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires that any planning application is determined in accordance with the Development Plan, it consisting of: the Development Plan Documents (taken as a whole) which have been adopted or approved in relation to that area.
- 4.2 The Development Plan for this appeal site on the edge of Haywards Heath consists of the Mid Sussex Local Plan (2004). The relevant saved policies contained within that Plan that the Local Planning Authority has sought to rely upon are policies C1, C2, B1, B2, B3, B4, B7, B9, B10, H2, H4, CS13, G3, R3 and T4. Also of relevance is the MSDC Space Standards SPD.
- 4.3 The Council prepared a new draft District Plan that was submitted to Government on 24th July 2013. The independent Inspector who was appointed to carry out an Examination of it recently concluded that the Council had failed in its statutory duty to cooperate sufficiently with neighbouring Local Planning Authorities in the Plan's formulation. He therefore rejected it and the Council now has to start the Plan process once again. The draft policies and suggested development allocations in that former Plan now carry no weight whatsoever.
- 4.4 Given the age of the Mid Sussex Local Plan, the weight that can be attached to its saved policies is significantly reduced and as the District has a substantial 5-year housing land supply deficit, the weight of its housing policies are reduced still further.
- 4.5 The Mid Sussex Local Plan shows this site as lying within a Countryside Area of Development Restraint (Policy C1). Within that area, only certain categories of development are normally allowed as an exception to the general policies of restraint that apply in such areas. It is accepted that the appeal proposal does not fall into one of the specified exceptions, as the houses are not required in association with an identified need for an agricultural or forestry purpose, the site is not allocated for housing within any adopted Development Plan document and as such the application submitted to MSDC was therefore contrary to Local Plan policy C1.
- 4.6 The appellant is aware that MSDC has recently attempted to argue that policy C1 is not a housing policy but is instead a countryside policy, in an erroneous attempt to circumvent the fact that it currently has a significant housing land supply shortfall.

- 4.7 Council Officers suggested that in light of the recent *William Davis Limited & Jelson Limited v Secretary of State for Communities and Local Government & North West Leicestershire District Council* High Court planning judgement [Ref: (2013) EWHC 3058 (Admin)] they could effectively disregard the NPPF advice contained in paragraph 14. However, for the Council to suggest that policy C1 is not a housing policy is not credible. As most opportunities for accommodating new development on previously developed land have been exhausted in the last ten years or so, the only substantive opportunities for accommodating new housing growth will arise primarily on the edges of sustainable settlements. Haywards Heath is the most sustainable settlement location in Mid Sussex and policy C1 is clearly designed to restrict further housing, such as all that which now surrounds the appeal site and has been developed over the course of the past fifty years. In the continuing absence of a creditable replacement Plan with new development allocations, the only realistic way to seek to rectify the current three-year shortfall in housing land supply would be to accommodate new edge of settlement development on land currently constrained by the policy C1 restriction. Accordingly, therefore, the Council's argument in this regard and their reliance on the recent Leicestershire High Court case is not credible and is without foundation.
- 4.8 As the planning case officer properly acknowledged in her delegated report that recommended refusal, the mere fact that the site lay within the Countryside Area of Development Restraint was not, in itself, sufficient reason to resist the application. That was because MSDC does not have an up-to-date 5-year housing land supply.
- 4.9 The assessment of housing need and supply for Mid Sussex District was based upon housing numbers originally specified in the old South East Plan. Although that Regional Plan has now been revoked, the LPA accept that the housing figures contained within it are still the most up to date figures that have been independently examined for assessing housing land supply in Mid Sussex. Proposals that were contained within the draft District Plan sought to redress the District's housing land supply shortfall but as they were subsequently dismissed at Examination, they now carry no weight. Accordingly, the District's substantial shortfall in housing land supply is a material consideration that must be taken account of in determining this appeal.
- 4.10 Saved policies in the Local Plan that relate to new housing proposals in Category 1 settlements such as Haywards Heath were formulated more than ten years ago. As a consequence, and having regard to the advice in paragraph 215 of the National

Planning Policy Framework (NPPF), significantly less than full weight can be given to policies such as C1 that aim to restrain development growth around the town's edges.

- 4.11 Local Plan policy C2, which was also referred to as relevant in the consideration of the application by MSDC, relates to 'Strategic Gaps', including the undeveloped countryside between Haywards Heath and the neighbouring settlements of Cuckfield, Lindfield and Scaynes Hill. The defined objectives of policy C2 are to prevent settlement coalescence and retain the separate identity and character of settlements. Clearly, as the appeal site is entirely enclosed by suburban residential development to the southwest, south, east and northeast and by the substantial houses of Wickham Farmhouse and Sunte House to the west and north, development of the appeal site would not threaten potential coalescence of Haywards Heath with any of the three neighbouring settlements referred to in this policy and it is therefore of no relevance.
- 4.12 Local Plan policy B1 is pertinent to the appeal. It requires a high standard of design, construction and layout in all new developments. It includes a range of criteria against which development proposals will be assessed, including protecting the setting of settlements and individual properties and environments. Clearly, in this instance, it is a matter of dispute between the appellant and the Council as to whether or not the appeal proposals would be compliant with this policy. The detailed design rationale for the development proposals was explained in the Design & Access Statement that accompanied the planning application to MSDC and is expounded upon in the separate Design Statement of Case that will accompany this appeal and the associated minor amended Block Layout Plan, which has now been agreed with the Council's Design Officer as an amendment that would overcome refusal reasons No.2 and 3.
- 4.13 Local Plan policy B2 relates to the design of new residential estate developments. Although this development of fifteen new houses would comprise a small estate development, there is nothing contained within any of the Council's five reasons for refusal that suggests any form of conflict with policy B2.
- 4.14 Local Plan policy B3 seeks to protect residential amenities and to resist development that would harm nearby residents by virtue of noise and disturbance, loss of privacy, overlooking, reduction in natural light or reduction in outlook. Again, this is a matter of dispute between the parties because the Council maintain in their third refusal reason that the development proposal would, particularly in relation to the affordable dwellings, somehow conflict with this policy.

- 4.15 Local Plan policy B4 relates to energy efficiency measures and the use of natural resources and sustainable drainage. Whilst there remains dispute with the Council concerning surface water drainage issues and the scheme's compliance or otherwise with policy CS13, there is no suggestion made by MSDC in any of its five refusal reasons that there would be any potential conflict with policy B4.
- 4.16 Local Plan policy B7 relates to the protection of trees of important amenity value. Once again, there is no suggestion made by MSDC that there would be any potential conflict with policy B7.
- 4.17 Local Plan policy B9 requires the design and layout of new development proposals to reduce the potential for crime. The Council's second reason for refusal, which we dispute, suggests that by proposing four new dwellings (on Plots 9-12) sited some 25-30m back from the retained public footpath over a length of about 210m, it would somehow conflict with this policy. Subsequent to the Council's decision and as part of our preparations for both this appeal and a further planning application to MSDC, the appellant discussed with the Council's planning and conservation design officers how the issue could be satisfactorily addressed. Council Officers now agree that the slightly modified layout form shown on the submitted minor amended plan, which rotates some of the proposed dwellings away from the footpath, would be sufficient to overcome their concerns. This is because it would enable a much greater separation to be created between the proposed dwellings and the retained public footpath and would also afford surveillance of the footpath from the homes, across the proposed intervening 0.951ha area of Public Open Space.
- 4.18 Local Plan policy B10 relates to the protection of listed buildings. Although the Council's first refusal reason is not specific in this regard, it is presumed by the appellant that the Council's suggested conflict with policy B10 would relate specifically to Sunte House and policy criterion (d), which relates to the protection of the setting of listed buildings rather than to any of the other criteria, which relate to building works and/or conversion works to listed buildings [for the avoidance of any doubt, no works are proposed to either of the two listed building adjacent to the site]. This is an area of dispute between the parties, which is addressed in far greater detail in the separate Heritage Statement of Case. The special architectural and historic interest of Sunte House lies in the fact that it has been established as a farm complex for more than 300 years, with increasing gentrification in the later Georgian and Victorian periods.

- 4.19 The English Heritage list description describes Sunte House as containing fabric dating back to the early 18th Century, which is of intrinsic interest. The list description makes it clear that it is of aesthetic and artistic importance, at least to the extent of its architectural qualities. Insofar as the setting of Sunte House is concerned, its immediate setting consists of: its enclosed formal landscape garden to the east; the landscaped garden and tennis court to the west; the open field to the south (this appeal site); and the outbuildings to the north (some of which are independently listed, or are listed by virtue of being within the curtilage of the listed building), through which runs the only retained access route to the House from Birchen Lane. In former times, the grounds of Sunte House used to be far more extensive but much of the original estate has been developed through urban expansions of Haywards Heath. The remnant open spaces to the south and north of the House, from which the listed building can still be appreciated, are glimpse views only and then which are extensively filtered by mature boundary trees, even in winter months.
- 4.20 The proposed development would undoubtedly have some affect upon the wider setting of the listed buildings at Sunte House but not to such a degree as to warrant refusal in my opinion, or in the opinion of the appellant's specialist heritage consultant. In terms of individual effects on the setting and significance of the listed buildings for the purposes of the tests under the NPPF, the assessments are: there will be a slight effect on the Grade II\* listed Sunte House for the purposes of triggering section 66 of the Act, which requires assessment for the purposes of local policy and the NPPF; there will be little or no effect on the Grade II listed walled garden and any such effect could be considered within the assessment for Sunte House; and there would be little or no effect on the Grade II listed garden building and any such effect could likewise be considered within the assessment for Sunte House.
- 4.21 The detailed consideration of effects is detailed in the separate Heritage Statement but in my considered opinion, the majority of the proposed development will have only a very slight effect on the wider setting of Sunte House and its surrounding outbuildings and such minor impacts would be outweighed by the various other benefits of development. In particular, much of the development on the western and eastern sides of the field would be unseen from Sunte House. Where public views are afforded to the south of Sunte House from the public footpath, the development proposal has been deliberately designed to leave a substantial undeveloped area to retain that immediate setting.

- 4.22 By virtue of the separation distances and intervening substantial tree screen, none of the new houses would impact in any way whatsoever upon the large and formal landscaped gardens that lie in front of the House's principal eastern elevation. An enhancement would be achieved to the southern heritage setting of the House by virtue of the proposed restoration of the nineteenth Century access route and the creation of a large public and maintained open space area in front of the House's southern elevation from which to view and appreciate the House and part of its landscaped grounds.
- 4.23 Local Plan policy H2 requires a mix of dwelling types, sizes and affordability in new housing development and also requires that an efficient use is made of land. There is no suggestion made by MSDC in any of its five reasons for refusal that there would be any potential conflict with any aspect of policy H2.
- 4.24 Local Plan policy H4 requires housing development schemes of 15 or more dwellings to normally provide 30% as affordable dwellings. Agreement had been reached with Council officers to accommodate four affordable dwellings on site and to make a contribution towards off-site provision of the remaining half an affordable dwelling. The only basis upon which there remains any dispute with the Council in relation to this policy (refusal reason 5) relates to the lack of a signed S106 Planning Obligation Agreement (s106 POA). As agreement had previously been reached in this regard and a draft s106 POA had been provided to the Council before it agreed to validate the application, a signed s106 POA will be made available in advance of any appeal Hearing to satisfy policy H4 and overcome (in part) the Council's fifth refusal reason.
- 4.25 Local Plan policy CS13 relates to the need to ensure that all new development proposals make provision to ensure that they are satisfactorily drained. Proposals had already been advanced as part of the original application submission which we believed demonstrated that not only would the appeal site be adequately drained but development would also result in significant drainage benefits off-site for residents living in Sunte Close. As part of its appeal Hearing evidence submission and any accompanying draft Statement of Common Ground (SoCG), the appellant will seek to supplement its earlier evidence to demonstrate to the Council's satisfaction that its outstanding potential concerns relative to tree roots and the proposed underground surface water protection storage facility were without foundation and had been adequately addressed to thereby overcome the holding objection of refusal reason 4.
- 4.26 Local Plan policy G3 relates to the need for development schemes to either provide for their own necessary infrastructure requirements or make contributions by way of a

s106 POA for others to provide such infrastructure. The appellant had made clear at the application stage that it was willing to make such contributions by way of a signed s106 POA. Had the application not been refused then such an Agreement would have been signed. Accordingly, therefore, a signed s106 POA will be made available in advance of any appeal Hearing to both satisfy policy G3 and overcome (in part) the Council's fifth refusal reason.

- 4.27 Local Plan policy R3 relates to play-space provision. The appellant had made clear at the application stage that it was willing to fund such recreational enhancements. Had the application not been refused, a s106 POA would have been signed. Again therefore, a signed s106 POA will now be made available in advance of any appeal Hearing to both satisfy policy R3 and overcome (in final part) the Council's fifth reason for refusal.
- 4.28 Local Plan policy T4 relates to sustainability requirements and traffic generation. Whilst a few local residents had expressed some concerns in this regard, both West Sussex County Council as Highway Authority and MSDC had concluded that junction visibility at Gander Green with Gander Hill met required standards and was safe. There was therefore no potential conflict with any aspect of Local Plan policy T4.

### **Strategic Planning Policy Guidance**

#### **National Planning Policy Framework**

- 4.29 The National Planning Policy Framework (NPPF) was adopted in March 2012. It sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.
- 4.30 In accordance with that guidance, the appeal proposal represents an opportunity for urban regeneration on the edge of the District's most sustainable town. Residential development would be contained entirely within other developed land and substantial treed boundaries and would not involve an outward extension of the settlement into open rural countryside. As such, the proposed fifteen new dwellings would represent efficient use of unused land that is overseen but has no public access, it would help consolidate the existing settlement pattern of Haywards Heath and through the restoration of a southern approach driveway and creation of a large public open space area in front of its southern elevation, would enhance the heritage setting of Sunte House as a grade II\* listed building.

- 4.31 The provision of fifteen new houses, including four affordable homes on the appeal site would undoubtedly make a useful contribution to the District's current housing shortfall. The lack of a 5-year supply means that where a development is found to constitute 'Sustainable Development', as this would be on the edge of the District's major town with easy access to its extensive range of services and facilities, paragraph 14 of the NPPF is particularly relevant.
- 4.32 NPPF paragraph 14 states that "*at the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means: approving development proposals that accord with the Development Plan without delay; and where the Development Plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted*".
- 4.33 If an application constitutes sustainable development (as the Appellant maintains) it follows that it must be considered on the basis of the 'presumption in favour' of sustainable development. Planning permission may only be refused if any adverse impacts would significantly and demonstrably outweigh the benefits of development, when assessed against the NPPF as a whole, or specific NPPF policies indicate development should be restricted. Only if a proposal fails to constitute sustainable development would the presumption in favour of permission not apply; and an application must then be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

Localism Act 2012

- 4.34 When assessing the principle of development, it is also now relevant to consider Part 6 of the Localism Act 2012, which was enacted on 16th January 2012. That Act requires LPAs to have regard to local finance considerations (so far as they are material to any application) as well as the provisions of the Development Plan and any other material considerations. The New Homes Bonus commenced in April 2011, and it match-funds the additional Council Tax revenue raised for new homes and empty properties brought back into use, with an additional amount for affordable homes. This Bonus will be available to provide funding to Councils for five more years and it is now a material planning consideration.

- 4.35 If this appeal scheme were ultimately to be permitted, the LPA would receive a New Homes Bonus for all of the new homes proposed and an additional sum for each the four affordable housing units proposed.

## 5: THE APPEAL PROPOSALS

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- 5.1 As indicated in the original application documentation and in this initial appeal submission, an application was submitted to Mid Sussex District Council in 29<sup>th</sup> July 2013 and was given MSDC planning application reference 13/02587/FUL.
- 5.2 The proposed development would enable construction of fifteen residential dwellings comprising eleven open-market dwellings and four affordable dwellings, all with associated garaging/parking, formation of driveways and upgrading of the existing access way off Gander Green. The application proposed a residential density of just 6 dwellings per hectare. Whilst this density is very low, it deliberately respects its immediate surroundings and was considered an appropriate density by MSDC and local residents. The proposed development would comprise: 4 x 3-bedroom houses (the affordable dwellings); 1 x 3-bedroom open-market dwelling; 3 x 4-bedroom open-market dwellings; and 7 x 5-bedroom open-market dwellings.
- 5.3 Access to the site would be from Gander Green; by reinstating a driveway that at one time served Sunte House. It is important to note that the historic build of and the access to Sunte House was not as it now appears. The impressive front gates and pillars to the south of the house are quite new. They give a false impression as to the importance of the southern driveway approach. Judging by the content of their representation, this fact and that of the old southern driveway not being the original approach to the House, may well not have been fully appreciated by English Heritage when they commented on the application to MSDC. Similarly, English Heritage probably did not fully appreciate that the East elevation of the house was originally the front, not the South elevation, which is architecturally compromised by lack of symmetry and by false windows.
- 5.4 It is also worthy to note that much of the southern approach from an old Lodge house on Gander Hill has been previously lost through the residential development of Gander Green and that has significantly affected its status as an approach to Sunte House. Nevertheless, the proposed development would facilitate reinstatement of a driveway to the gated southern approach through a tree-lined area of new Public Open Space, which we contend would represent a significant enhancement to the southern setting of the listed house by providing it with a fitting entrance to this imposing house. The new dwellings would all be accessed off that main driveway, in three groupings set well away from the House and its southern aspect.

- 5.5 The proposed layout would retain a north/south vista of landscaped undeveloped open land through the centre of the site. This has been designed specifically to protect the setting of Sunte House and maintain an undeveloped vista from the House between trees on its southern boundary and above the hedge alongside the public footpath that separates the House from the appeal site. That hedgerow and tree belt would be strengthened to provide additional screening along the northern boundary of the appeal site, as well as new tree planting either side of the retained open vista and also as an avenue either side of the reinstated driveway. The vast majority of mature trees around the site boundaries would be retained, with no high-category trees (grades A-C) to be removed. Some careful remedial tree surgery was proposed to ensure long term survival and to improve visibility at the access driveway from Gander Green. The minor revised layout plan that accompanies the appeal submission has been the subject of considerable pre-appeal discussion with LPA Officers. It has involved the rotation of the building blocks to both increase separation distances with Sunte House and with the intervening public footpath and that realignment of the dwellings has facilitated an increase in the size of the Public Open Space area in front of the House's southern aspect, such that it would be 0.951ha in area, which is more than 36 percent of the site area.
- 5.6 All the proposed dwellings would be constructed with traditional brickwork and horizontal boarding and, in some instances, knapped flint. Clay roof tiles would predominate and window styles would vary from timber casements to full sash windows. Chimneys would be used throughout the design.
- 5.7 A total of fifty-two car parking spaces are proposed in the development, which would equate to an average of 1.5 spaces for each of the affordable dwellings and 4.1 spaces for each of the open market dwellings. This level of provision would exceed minimum requirements for such a development but would specifically meet neighbouring residents' wishes.
- 5.8 Pedestrian connectivity would be made north from the appeal site to the public footpath running along the northern boundary and with Gander Green to the east.
- 5.9 It was evident from comments made at pre-application public meetings that surface water drainage was a major issue for residents living in Sunte Close, immediately to the south of the appeal site. In order to ensure satisfactory drainage of the appeal site and to also afford substantially improved drainage for neighbouring residents in Sunte Close, an underground surface water drainage tank was proposed beneath the central open space area, which would receive run-off water and prevent flooding.

5.10 Copies of all the documents that comprised the application submission are attached at Appendix 4 to this Statement of Case evidence, along with the minor amended layout plan that has been subsequently discussed with and agreed with LPA planning and design officers.

## 6: PLANNING CONSIDERATIONS

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- 6.1 The planning considerations, and as such the case for the Appellant, will focus upon the LPAs five specified reasons for refusal, as set out at paragraph 1.2, above.

***The principle of development and whether or not any potential harm to the heritage setting of Sunte House would arise – LPA Refusal Reason No.1:***

- 6.2 Insofar as the general principle of development is concerned on the appeal site, the adopted Local Plan and the draft District Plan that has subsequently had to be withdrawn both identified Haywards Heath as the District's principal town and a 'Category 1' settlement. It is therefore considered the most sustainable settlement location within Mid Sussex at which to accommodate new housing development. Notwithstanding that fact, the adopted Mid Sussex Local Plan currently shows this site as lying within a 'Countryside Area of Development Restraint' outside of the town's developed limits (Policy C1). Within this area, only certain categories of development are allowed as an exception to the general policies of housing restraint that apply in such areas.
- 6.3 It is accepted that the appeal proposal does not fall into any one of the specified Policy C1 exceptions, as the houses are not required in association with an identified need for an agricultural or forestry purpose, the site is not allocated for housing within any adopted Development Plan document and as such the application submitted to MSDC was contrary to Local Plan policy C1. However, as the MSDC planning case officer rightfully acknowledged in her delegated report that recommended refusal, the mere fact that the site lay within the Countryside Area of Development Restraint was not, in itself, sufficient reason to resist the application. That was because MSDC does not currently have an up-to-date 5-year housing land supply in the District.
- 6.4 The assessment of housing need and supply was based on the housing numbers specified in the old South East Plan. Although that Regional Plan has now been revoked, the housing figures contained within it are still the most up to date figures for assessing the District's housing needs, the only ones that have been independently examined and agreed, and are the measure against which housing land supply needs to be made. The proposals that were contained within the draft District Plan sought to redress the District's substantial 5-year housing land supply shortfall but as they have now been withdrawn following a perceived failure in the duty to cooperate during the Plan's preparation, the draft policies and development allocations carry no weight.

Accordingly, therefore, the District's current shortfall in housing land supply is a material consideration that must be taken into account in determining this appeal proposal.

- 6.5 The lack of a 5-year supply means that where a development is found to constitute 'Sustainable Development', paragraph 14 of the NPPF is relevant. That policy states that *"at the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means: approving development proposals that accord with the Development Plan without delay; and where the Development Plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted"*.
- 6.6 Paragraph 49 of the NPPF states that housing applications should be considered in the context of a 'presumption in favour of sustainable development'. Relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a 5-year supply of deliverable housing sites.
- 6.7 When assessing the principle of development, it is also relevant to consider Part 6 of the Localism Act 2012. This Act requires LPAs to have regard to local finance considerations (so far as they are material to any application) as well as the provisions of the Development Plan and any other material considerations. The New Homes Bonus commenced in April 2011 and it match funds the additional Council Tax revenue raised for new homes and empty properties brought back into use, with an additional amount for affordable homes. It is a material planning consideration in this instance because if this appeal scheme were ultimately to be permitted, the LPA would receive a New Homes Bonus for each of the fifteen proposed houses and a supplemental sum for the four affordable housing units proposed.
- 6.8 Another material consideration to consider in this instance would be the potential benefit that would arise for residents living in Sunte Close who presently experience significant surface water drainage problems at their properties. Those difficulties would potentially be overcome as a consequence of the enhanced surface water drainage measures proposed as an element of this appeal proposal.

- 6.9 On the positive side, therefore, this appeal proposal would provide new open market and affordable housing at a sustainable town location. That housing could help meet identified local needs and partially offset a significant current shortfall in housing land supply within Mid Sussex District (only 3 year's supply of the 6 year land supply required).
- 6.10 The proposed development would also provide significant funding via s106 POA towards the provision of community infrastructure improvements locally and reinstate the 'lost' southern driveway approach to Sunte House.
- 6.11 These benefits would be further supplemented by the LPA receiving New Homes Bonus funding for the eleven open market and four new affordable dwellings on the site and also by the residents in Sunte Close not continuing to experience occasional surface water flooding problems caused by run-off from the appeal site.
- 6.12 In accordance with paragraph 134 advice in the NPPF, all these benefits need to be weighed against the suggested harm that the LPA, English Heritage, a local heritage Society and some local residents suggest would arise from the proposed development affecting the setting of the Grade II\* listed Sunte House. It also needs to be assessed against a consideration of whether or not, as we maintain, the appeal proposals would, in part, represent an enhancement to the heritage setting of Sunte House through the reinstatement of a former access drive and the creation of a landscaped open space area from which to appreciate the House's setting and across which the House would continue to have unrestricted open aspect. The appellant accepts that the appeal site did originally form part of the wider countryside setting of Sunte House historically and at one time provided one of the access routes to the House. However, the growth of Haywards Heath over the course of the last fifty or so years has seen the original countryside setting to Sunte House and neighbouring Wickham Farmhouse eroded significantly. Rather than being quite isolated from the town in open countryside, both properties are now enveloped by suburban residential estate developments that extend to their formal garden edges and continue further to the north, around the west and east sides of both houses.
- 6.13 The Council and English Heritage accept that the mature boundary trees along the appeal site's western boundary totally screens Wickham Farmhouse from the site, so there would be no perceivable harmful impact upon its heritage setting. However, the boundary screening between Sunte House and the appeal site at the centre is less extensive than along the boundary with Wickham Farmhouse.

6.14 Simply because the appeal site used to provide an access route to the House and because parts of the appeal site can still be seen between boundary trees and above the central boundary hedge from upper floor windows in Sunte House, the LPA and English Heritage have deemed it to be harmful on the House's setting.

6.15 That opposition fails to adequately reflect, in my opinion, the facts that:

- the House is no longer, and for many years has not been, accessed via the appeal site but is instead accessed from the north via the tree lined avenue of Birchen Lane;
- the main heritage setting of Sunte House currently derives principally from its large (5 acre) formal and totally enclosed gardens, in which the House sits centrally;
- historically, the frontage of the House was its perfectly symmetrical east face, not the compromised south face;
- the appeal site is physically separated from Sunte House by the public footpath and the intervening mature trees and hedgerow along the common boundary;
- the land is not publicly accessible;
- the land is not actively maintained and is quite scruffy, not enhancing the setting of Sunte House, and otherwise has no undeveloped use;
- the old access route would be reinstated as the driveway for the new development and it would provide a restored 'grand' southern approach to Sunte House along a tree-lined avenue through a landscaped open area; and
- the open views that are afforded from Sunte House across a central portion of the appeal site would be maintained and enhanced in a preserved north-south open and tree-lined vista down the slope towards the trees on the boundary with existing houses in Sunte Close and towards a part of the reinstated and tree-lined southern driveway approach.

6.16 The appeal application was accompanied by a detailed Heritage Statement, which discussed the site history, the visual framework to the site, the design rationale for the proposed development and the potential impact upon the heritage assets of neighbouring Sunte House and Wickham Farmhouse.

- 6.17 That Statement included a detailed assessment of relevant policy and guidance. That original support statement and now this and the supplemental Heritage and Design appeal statements provide what I believe to be clear and convincing justification for the development, sufficient to meet the requirements set out in paragraph 132 of the NPPF. The LPA and English Heritage failed in their original assessments to reflect the enhancements to the southern setting of Sunte House that would accrue from the restoration of a southern access drive through a landscaped open area. They also failed to afford proper weight to the many other benefits that would accrue from development in accordance with NPPF guidance. Accordingly, therefore, I do not accept that there would be a significant and demonstrable harm such as would outweigh the benefits and warrant a conflict with Local Plan policy B10 or, more importantly, the NPPF and which could potentially render the appeal proposals unsustainable on environmental grounds. Instead, the main heritage setting of Sunte House would at very least be preserved, and in our opinion enhanced, without harm and, in the absence of a 5-year supply of housing land, the presumption in favour of such residential development, which would bring with it substantive social, economic and environmental benefits should be maintained.
- 6.18 Haywards Heath is a vibrant town with a wide range of shops, leisure and cultural facilities. Good rail links are available from Haywards Heath, which provide direct rail access north to both London Victoria and London Bridge stations and south to Brighton, Lewes and Eastbourne. Good motorway (M23) and A-category roads (A272) are also in close proximity to the town, providing it with quick and easy access into London, London Gatwick airport and Brighton. There are also an extensive array of pedestrian footpaths, cycle routes and bus services in the immediate vicinity of the appeal site, which provide easy access to the railway station, to its bus routes, to a major supermarket (shortly to be joined by another), to a Primary and a Secondary School, to Oathall Community College, and to the town's Sports and Leisure Centre. Haywards Heath is classified as a 'Category 1 settlement' by MSDC, which makes it one of the most sustainable locations in the District at which to accommodate new development needs. As such, the appeal site is ideally situated for sustainability.
- 6.19 The specialist heritage consultant who compiled the original Heritage Statement that accompanied the planning application to MSDC (Tristan Squire) concluded that "*the contribution of the subject site to the areas character is neutral, presenting a poor quality appearance to the area*".

- 6.20 Insofar as the proposed development was concerned, the heritage consultant concluded that *“the proposed layout and design of the dwellings on the site to the south of Sunte House pay hugely greater respect to the listed building and its open setting than the later developments of the urban fringes”* [and] *“this proposal clearly provides an opportunity to improve the quality of the housing and improve the spaces between properties whilst paying careful regard to the setting of Sunte House. Indeed, improvements to the approach of Sunte House will be brought about by the re-opening of the sweeping front drive and the conversion of a shabby field into a formal landscape setting, which will be a major enhancement”*.
- 6.21 Mr Squire’s initial evidence has now been supplemented by his additional Heritage Statement of Case that accompanies this appeal. In it, he concludes that the slightly revised layout plan now suggested, which has been the subject of detailed further consideration by LPA Officers, would afford even greater benefit to the setting of Sunte House.
- 6.22 It is of particular importance to note that both English Heritage in their objection letter and MSDC in their Committee report made specific reference to paragraph 134 in the NPPF and **not** to paragraph 133. By making such reference, there is at very least implicit acknowledgement that the setting of Sunte House would not necessarily be harmed by enabling a small residential development to proceed in the field to the south, provided the design and layout of any development were of sufficiently high quality.
- 6.23 It is also important to note in this regard that the WSCC Archaeologist raised no objections to the development proposal and commented specifically that *“...apart from the application area, which possesses almost no relict parkland features, the parkland has wholly been built over, and has lost its parkland character...the ‘historic parkscape’ to the south of Sunte House has lost most of its integrity, now surviving as open land only within the meadow field to the south of Sunte House, i.e., over 80% of the former parkland’s extent has been built over by 20<sup>th</sup> Century housing...the former parkland status of the application site is heavily compromised by more recent development and land use; accordingly no archaeological objection, on the grounds of the land’s former historic parkscape use, is made to the development”*.

***Whether or not there would be potential harm to the rural character and appearance of the area – LPA Refusal Reason No.2:***

- 6.24 The appeal site lies immediately adjacent to the built up area of Haywards Heath, to the south, southwest and east, with further built development in the form of Wickham Farmhouse and Sunte House lying immediately to the west and north. Whilst the Council argued in the report recommendation that the mature trees along the boundaries to the south and east helped screen the site from the more suburban development this can also be said for the mature tree belts to the north of Wickham Farmhouse, west of Sunte House and along the public footpath that separate this appeal site and Wickham Farmhouse and Sunte House from the narrow strip of countryside that stretches from the south between Sunte House and the railway line, up to the golf course to the north.
- 6.25 The public footpath that runs along the boundary with Sunte House is largely a narrow tree lined route that connects different suburban parts of the town and links residential properties off Portsmouth Lane to the east with residential properties off Old Wickham Lane and Balcombe Road to the west. The Council argued that the appeal site had an open and rural character and claimed it had more in common with the open field to the west of Sunte House, which is extensively bisected by pathways. In contrast, the appeal site has a single relatively narrow footpath that runs along its northern boundary between trees and hedgerows, which separate Sunte House from the appeal site.
- 6.26 The pathway provides linkage between the different suburban developments on the edge of Haywards Heath and the land bounded by Sunte House, the railway and the golf course. There is currently no public access into the appeal site, so the land does not serve any useful purpose as a transition between the built up areas and the strip of countryside to the northwest. It merely offers a short stretch of views across an enclosed sloping field - rather than the predominant views of the backs of suburban residential gardens or views into the grounds of Sunte House or wider views northward into the much larger area of open space to the northwest with its bisecting public pathways. In terms of 'public realm', the heritage asset of Sunte House is only visible from a short stretch of the footpath through the gateway immediately in front of the House's southern elevation and is not visible at all from the gates at Gander Green. Wickham Farm is also not visible from Sunte House land. Reinstatement of the driveway approach to Sunte House from the south will afford an enhancement to its setting and a far more expansive public area from which to view the House.

- 6.27 Council Officers said that to the east of the appeal site the public footpath runs between the rear gardens of properties in Gander Green and Birchen Lane and suggested that it was, at that point, particularly narrow and claustrophobic and not a pleasant route to travel. They further suggested that the appeal proposal would effectively extend that sense of claustrophobia and make it a far less desirable and safe route to traverse. However, such comments are not borne out by the well-used nature of both the pathway and the open space land to the northwest. They both appear to be well used by local residents from all of the surrounding suburban areas. One can only reasonably assume from such levels of public usage that local residents do not share the views of officers about 'claustrophobia'. Besides, the locality is characterised in part by the many more enclosed and narrow footpaths, referred to in Sussex as 'Twittens'. Notwithstanding our disagreement with the Council's original conclusions in this regard, our subsequent minor revised layout plan has achieved a greater separation between the existing pathway and the proposed houses, such that there would be less 'claustrophobia', more open space and more security from overlooking from each of the proposed new dwellings. Council Officer's now accept that the minor amendments suggested in the revised plans would overcome their concerns in respect to Refusal Reasons No.2 and No.3.
- 6.28 I have already demonstrated in the preceding paragraphs how an exception to the normal restraint of Local Plan policy C1 is justified in accordance with NPPF guidance by virtue of the District's failure to provide an adequate supply of available housing land to satisfy its identified needs. Insofar as Local Plan policies B1 and B9 are concerned, the original and now supplemental Design and Access and the Heritage statements provide clear design rationale and justification for the development proposals and demonstrated how the amenities of existing and future occupiers could be preserved and even enhanced in some aspects.
- 6.29 Rather than increase the potential for crime, I believe the safety of pathway users would actually be enhanced through overlooking of an additional 210m stretch of pathway from seven of the proposed new houses. Those houses would be set well back from the footpath and the minor revision now proposed would provide an extensive area of additional public space on the south side of that footpath. Any sense of enclosure would be minimised and could be controlled by conditions relating to boundary treatments. As such, I believe there would be no conflict with the guidance set out in paragraph 58 of the NPPF.

***Whether or not the appeal proposals would represent high quality design and provide a good standard of residential amenity for all future occupants – LPA Refusal Reason No.3:***

- 6.30 The proposed layout has sought to introduce a significant area of Public Open Space (up to 0.951ha) within the central area of the site, alongside the restored former driveway route to Sunte House and from the footpath, to create both a focus for the scheme and clear open vistas from and to the southern elevation of Sunte House.
- 6.31 This proposed open area would afford improved connectivity from the development to the pathway to the north and to the residential development of Gander Green, to the east.
- 6.32 The suggestion that the four affordable units would be somehow poorly related to the rest of the development does not stand up to scrutiny. The proposed units would provide a clear linkage between the existing development in Gander Green and the rest of the proposed development. Whilst the affordable units would necessarily be slightly smaller in size than the open-market dwellings, the actual building blocks would be largely consistent with their size, form, alignment and design to the proposed neighbouring open-market units and be built of the same high-quality materials. The slightly revised layout form, which is shown on the minor revised plan that has been extensively discussed with the LPA, has ensured even greater integration of the affordable dwellings with the rest of the proposed development.
- 6.33 The appeal site is extremely well screened on all sides, including from the suburban dwellings in Wickham Close, Sunte Close and Gander Green and from the two neighbouring listed properties of Wickham Farmhouse and Sunte House. Given the extent of the mature screening, which would all be retained and supplemented, coupled with the back to back distances between properties that would all be in excess of 35m, Council Officers accepted that the proposal would not result in any harm to the amenities of neighbouring occupiers.
- 6.34 The distance between proposed dwellings and the positioning of windows and garage blocks has been carefully designed in such a way as to prevent overlooking and maintain a high standard of residential amenity for future occupants. The wide range of proposed building materials are designed to complement rather than detract from their surroundings and if some of the proposed building design styles are not agreeable to the personal taste of the planning officer, the Council should not be seeking to prescribe any particular building style.

6.35 In my opinion, there was nothing proposed within the application submission to MSDC that represented either a direct conflict with its Local Plan policy B3 or to the guidance contained within paragraph 17 of the NPPF.

6.36 This conclusion is supplemented by additional evidence presented in the separate Design Statement of Case presented with this appeal.

***Whether or not the appeal proposals would increase the risk of flooding of adjoining properties – LPA Refusal Reason No.4:***

6.37 The appealed application proposed that foul drainage would be disposed by way of a new connection into existing foul sewers in Gander Hill and neither MSDC nor any of its statutory consultees disputed the acceptability of that proposal.

6.38 Insofar as surface water drainage was concerned, it was recognised at the outset by the applicant that there was presently run-off from the site, downhill towards the gardens of properties in Sunte Close and that those properties currently experienced a considerable degree of standing water at times of heavy rainfall. Consequently, therefore, it was proposed that rainwater runoff from the development would all be collected into a new surface water storage scheme, which would radically reduce the amount of run-off from the site into adjacent gardens. An underground surface water storage tank was proposed to be located under the large open space area in the centre of the development. Further land drains were also to be located within open grassed areas to further aid drainage of these areas and provide an improvement to the reduction in standing water in the rear of neighbouring properties.

6.39 The Council's Drainage Engineer eventually raised some concerns over detailed elements of the drainage proposals and requested further information by way of clarification. In particular, whether or not a pumping station might be required for the storage tank and whether the storage tank might be affected by high groundwater levels. He also queried what impact the storage tank could have on the roots of existing trees shown to be retained and the potential damage such tree roots could cause to the tank. Before the applicant was able to provide such clarification, Council Officers chose to refuse planning permission; hence the basis for inclusion of Refusal Reason No.4.

6.40 Given the significant fall in level between the centre of the appeal site where the proposed drainage tank would be situated and the rear gardens of properties in Sunte Close, which is approximately 3m, there would be no need for any pumping station.

- 6.41 The proposed storage tank would be located outside the root protection zones of all of the retained trees and adequate root protection measures could easily be incorporated around the new tank to ensure it was protected from root damage from any of the proposed new tree planting.
- 6.42 In light of all the original and additional evidence presented in this regard, I am hopeful this matter can be satisfactorily resolved via a SoCG, in advance of any appeal Hearing.

***Provision of a signed s106 POA to guarantee the provision of affordable housing and the payment of all necessary community infrastructure enhancement contributions – LPA Refusal Reason No.5:***

- 6.43 Community Infrastructure Levy (CIL) contributions were requested by the LPA, in accordance with the Council's adopted Supplementary Planning Document "Development and Infrastructure" and in accordance with policies G3, R3 and H4 of the Mid Sussex Local Plan, NPPF guidance and Regulation 122 of the Community Infrastructure Levy Regulations 2010. The payment contributions that were specifically required were: a Kickabout Area (at Hickmans Lane/Haywards Heath Recreation Ground) - £4,073; Primary Education enhancements - £48,904; Secondary Education enhancements - £52,634; Library service enhancements - £4,835; and TAD enhancements - £44,598. In total, the cumulative sum of all requested contributions amounted to £155,044.
- 6.44 Prior to the LPA refusing the application, the applicant had previously expressed a willingness to make all of those required contributions (having provided a draft s106 POA before the Council would accept validation of the application) and that remains the case today. Accordingly, a signed s106 POA will be prepared in advance of the appeal Hearing, which will be referred to in the SoCG and contributions would become payable upon the success of this appeal, the grant of planning permission and the eventual commencement of development.

***Other Issues:***

- 6.45 Concerns had been raised by some Third Parties that the proposal could have been in conflict with a 1967 Legal Agreement between the land owner and WSCC. That Legal Agreement prevented the owner from erecting or permitting any buildings or structures (or caravans) on the land and using the land for any purpose other than as private garden or pasture.

- 6.46 The original purpose of that Agreement was to ensure that the land was only used in the manner prescribed, so that the setting of Sunte House was preserved. Whilst such an Agreement is a consideration, given that the District Council was not party to that Agreement, it carried no weight in their determination of the planning application merits. In the event that this appeal is successful and permission is granted, it is accepted that the land owners would probably need to arrange with WSCC for a release of the covenant (as they have done previously in connection with other planned urban extensions of the town in the vicinity of Sunte House) or make a separate application to the Lands Tribunal to vary or remove the restrictive covenant imposed by that Agreement.
- 6.47 Other issues raised during the consultation period by local resident objectors were considered by the LPA but were not deemed to be such as to warrant a refusal of permission. The LPA felt that, where relevant, they could be dealt with effectively by planning conditions or other legislation or were simply not material planning considerations. For example the application Sustainability Appraisal confirmed that the proposed development would achieve the requisite 10 per cent of its energy requirements from renewable sources, which would be achieved via the use of PV roof panels; which could be controlled by condition.
- 6.48 With regard to the Council's 'Informative' on its refusal decision letter, the appellant states that it does not agree with the meaning expressed. The reality was that the Planning Officers did not engage with the appellant at all after receiving the application to discuss concerns or to consider any of its desired design amendments. Despite the clear and persistent shortfall in housing land supply, the previous erosion of much of Sunte House's original countryside setting, the progressive separation of the House from its second access route and all the clear benefits that would accrue from this proposed development, Planning Officers remained determined to resist development largely on grounds of a subjective assessment of the impact of development on the setting of Sunte House and then proceeded to add a plethora of other 'technical' reasons. In my opinion, such actions are not those of a positive or proactive Council.

## 7: CONCLUSION

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- 7.1 The development proposals for this modest residential development on the edge of Haywards Heath would, in my professional opinion, comply with all the relevant national guidance given in the NPPF and with the vast majority of the saved policy set out in the adopted but aged Mid Sussex Local Plan and relevant accompanying SPD.
- 7.2 Where there is conflict to policy C1 and a potential modest impact upon the southern aspect setting to Sunte House as a Grade II\* listed building, which might have represented a conflict with Local Plan policies B1 and B9, such impacts would be outweighed in my opinion by improvements to the setting of, and access to, the heritage asset, enhancements to a widened footpath beside Sunte House to improve the public realm, benefits that would accrue from helping to rectify an acknowledged significant shortfall in housing land supply at the District's principal settlement, by financial gains in the form of s106 POA contributions to community infrastructure provision and New Homes Bonus funding for the new dwellings and especially the affordable dwellings, and surface water drainage enhancements designed to relieve existing flooding problems on a neighbouring residential development. There would be general adherence to most, if not all, other respects of the Development Plan and where the policy itself has already been acknowledged to be out of date and with reduced weight. I respectfully suggest that consent ought to be granted.
- 7.3 In my opinion, the appellant has demonstrated that, by virtue of all the documentary evidence submitted as part of their original planning application to Mid Sussex District Council together with all the arguments set out in this and the other two separate Design and Heritage Statements of Case, this appeal ought to be granted.
- 7.4 I humbly request, therefore, that this appeal be upheld and that conditional planning permission be granted for the development proposal.

## **APPENDICES**

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**Appendix 1 – Planning Application Decision Notice & Officer Report**

**Appendix 2 – Images of Site & Immediate Surroundings**

**Appendix 3 – Local Planning Histories of Relevance**

**Appendix 4 – Copies of all Application Documents & Plans & the supplemental Minor Revised Block Layout Plan**

**Appendix 5 – Appeal Decisions concerning the Relative Weight of Local Housing Policies**

**Appendix 6 – Extracts from the Mid Sussex District Plan Examination Evidence concerning Housing Strategy and Numbers and the Inspector’s decision letter that rejected its draft Plan**