



The countryside charity
Sussex

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Attention: Case Officer Ms Nicola Pettifer

Horsham District Council

Parkside

Chart Way

Horsham

West Sussex

RH12 1RL

8 July 2024

CPRE Sussex representation objecting to

DC/24/0887

Hilland House New Road Billingshurst West Sussex RH14 9AA

Outline Application for redevelopment of the site to provide up to 117 private and affordable dwellings and parking together with an access from New Road, new landscaping and open space, an ecological and woodland park together with associated works, with all matters reserved except access.

CPRE Sussex asks that this application be refused for the reasons explained below under the main headings: Water Neutrality and Local Plan Policies.

WATER NEUTRALITY

“Due to limited storage and recharge to productive sandstone and limestone horizons within the Weald Clay Formation yields may decline over time”

“The key risk associated with a borehole which targets the Weald Clay Formation is that the desired yield may not be achieved or sustained over long periods of time”.

(WSP Borehole Prognosis Report, page 4)

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President: Lord Egremont

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1. As explained below whether Water Neutrality can be achieved and assured for the ‘duration of the development’ by abstracting potable water from the underlying Weald Clay Formation is questionable, and uncertain.

1.1 We therefore suggest that the Precautionary Approach to decision taking be applied, and the application refused.

2. The site falls within the Sussex North Water Supply Zone. Whether or not DC/24/0887 could achieve water neutrality is therefore a critical planning matter.

2.1 Natural England is concerned that abstraction of water within the North Water Supply Zone is having an adverse impact on the protected sites and habitats within the Arun Valley, including the Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site.

2.2 Natural England stipulates that new development within the zone should achieve water neutrality such that water use is equal to, or less than what it was before the development took place.

3 Potable water for DC/24/0887 would be abstracted from the underlying Weald Clay Formation by means of two boreholes.

3.1 The applicant’s Design and Access Statement states that the proposed scheme:

“Provides its own water resource through two site boreholes to achieve water neutrality” (page 2).

“The site is fully water neutral in line with Natural England’s September 2021 position paper” (page 42).

3.2 The applicant’s Planning Statement states that:

“The two private boreholes will provide potable water at sufficient capacity for the duration of the development. The ability to deliver a housing development with on-site water neutrality should be given significant weight” (paragraph 7.41), and

“the proposal at Hilland House can demonstrate water neutrality providing 117 new dwellings almost immediately and certainly within the 1-5 year period” (paragraph 6.7), and

“The application at Hilland House can satisfy the test of achieving water neutrality without any negative impact on water supply” (paragraph 7.39).

4. Crucially, however, WSP in their Borehole Prognosis Report: Northgate Properties, Land South of New Road, Billingshurst, West Sussex (Water Neutrality Statement Part 1 – Appendix 3, page 4):

“The key risk associated with a borehole which targets the Weald Clay Formation is that the desired yield may not be achieved or sustained over long periods of time”.

“Three of the four wells referenced in this report which target the Weald Clay Formation were recorded as disused; however, the reason for abandonment was not recorded”.

“The success of a borehole achieving the desired yield at the intended site location is dependent on intercepting productive sandstone/limestone beds of sufficient saturated thickness”.

“Due to limited storage and recharge to productive sandstone and limestone horizons within the Weald Clay Formation yields may decline over time” (page 4). **NOTE “yields may decline over time”.**

4.1 The applicant’s Hydrogeological Impact Assessment states that potable water for the development would be abstracted by means of two boreholes from confined sandstone layers within the underlying Weald Clay formation, which “is not designated as an aquifer so there is no indication of groundwater resource availability” (Water Neutrality Statement: Appendix 4 – Hydrological Impact Assessment, Boreholes at New Road, Billingshurst, page 20).

5. Whether Water Neutrality can be achieved and assured for the ‘duration of the development’ by abstracting potable water from the Weald Clay Formation to obviate the need for mains water supply is therefore questionable – and uncertain.

5.1 Failure to achieve water neutrality for the proposed scheme would be contrary to both HDPF Policy 31 Green infrastructure and Biodiversity and NPPF paragraph 182.

5.1.1 HDPF Policy 31 Green Infrastructure and Biodiversity, 4 a) and b), and 5, stipulate that permission will be refused where development is anticipated to have an adverse impact on biodiversity sites such as SPAs and SACs, unless appropriate mitigation measures are provided.

5.1.2 NPPF paragraph 182 stipulates that “The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.”

6. The 'Sussex North Water Neutrality Study: Part C – Mitigation Strategy Final Report November 2022' states that 'Setting a tighter standard for water efficiency does not guarantee that the eventual water-use in a development will be as expected, or that it will stay at the designed figure' (paragraph 101).

6.1 This cautionary advice is pertinent to DC/24/0887, which to achieve water neutrality would in addition to water abstraction by means of boreholes, incorporate in the design of homes water efficient fixtures and fittings and rainwater harvesting and recycling systems (Water Neutrality Statement Part 3: Appendix 5 – Water Usage Statement, paragraphs 1.4, 7.2; E: Fixtures and Fittings Specifications).

7. The application DC/24/0887 is for 117, not 100 dwellings.

7.1 The WSP report advises that “The client has stated that the purpose of the abstraction is for it to be used primarily for potable supply for approximately 100 new dwellings (Water Neutrality Statement Part 1 – Appendix 3, page 6).

LOCAL PLAN POLICIES

DC/24/0887 conflicts with the development plan as a whole

8. The application is predicated on the questionable presumption that the proposed scheme should be approved because Horsham District Council (HDC) is unable to demonstrate a 5-year housing land supply and its local plan is 'outdated' (Planning Statement paragraphs iii, 4.9, 6.3, 6.6, 7.8).

9. That the applicant’s presumption of automatic approval is questionable has been demonstrated in Horsham District by the Appeal Decisions APP/Z3825/W/20/3261401 Land north of Sandy Lane, Henfield, West Sussex (35 new dwellings including 35% affordable homes) Decision date 19 August 2021, and APP/Z3825/W/21/3281657 Longlands, West Chiltington Road, Pulborough, RH20 2EE (DC/20/2216: 4 dwellings). Decision date 18 March 2022.

9.1 Notwithstanding the lack of a 5-year housing land supply and Horsham’s ‘outdated’ local plan, both appeals were dismissed.

10. Attention is also drawn to the recent dismissal of Appeal Ref: APP/C1435/W/23/3331659 Land north of B2204, The Green, Ninfield TN33 9JE (WD/2022/2689/MAO erection of up to 72 dwellings including affordable and specialist housing). Decision date 15th April 2024.

10.1 Wealden, like Horsham, is unable to demonstrate a 5-year housing land supply, and its local plan is ‘outdated’.

10.2 Nevertheless, the Inspector who dismissed the Appeal considered that although ‘the policies that are most important for the determination of the application are deemed to be out of date, this does not mean they do not apply and overall, the proposal conflicts with the development plan as a whole’ (paragraph 36).

11. The dismissal of these appeals, despite the lack of a 5-year supply, is in line with the Court of Appeal ruling on two appeals by Gladman Developments Limited (3 February 2021): Gladman Developments Limited v Secretary of State for Housing, Communities and Local Government and Corby Borough Council and Uttlesford District Council. Neutral Citation Number: [2021] EWCA Civ 104. Case No: C1/2020/0542/QBACF. Date: 03/02/2021.

11.1 The Court of Appeal ruling emphasised that where a council lacks the required five-year housing land supply this may tilt the balance in favour of proposed residential schemes, but it does not render grants of planning permission automatic.

11.2 Gladman Developments argued that when the tilted balance is engaged due to a housing-land shortfall, decision-makers must assess

proposals against relevant policies in the NPPF and that local plan policies simply do not come into that exercise.

11.3 But the Court of Appeal ruled that even where development plan policies are rendered out of date by housing land shortfalls, they remain potentially relevant to the application of the tilted balance and decision-makers are not legally bound to disregard policies of the development plan when applying the tilted balance under paragraph 11d) ii (Court of Appeal ruling, paragraph 42).

12. The Inspector who dismissed APP/Z3825/W/21/3281657 Longlands, West Chiltington Road, Pulborough, RH20 2EE (DC/20/2216) considered that although the HDPF “is over five years old and the Council is unable to demonstrate a five-year supply of deliverable housing sites”, and ‘the proposed houses would be surrounded by existing development, the policies in the HDPF set out an overall strategy for the pattern and scale of places in line with the National Planning Policy Framework” (paragraph 10).

13. How and why the Inspector who dismissed APP/Z3825/W/20/3261401 Land north of Sandy Lane, Henfield, West Sussex (DC/20/0427) interpreted and gave weight to HDPF policies and Henfield Neighbourhood Plan (HNP) and HDPF policies, despite the lack of a five-year supply, is also pertinent to DC/24/0749 notably HDPF Policy 4 Strategic Policy: Settlement Expansion, Policy 25 District Character and the Natural Environment, and Policy 26 Countryside Protection.

14. DC/24/0887 is contrary to HDPF Policy 4 Strategic Policy: Settlement Expansion because the site is outside of Billingshurst’s built-up boundaries and is neither allocated in the HDPF, nor in Billingshurst’s Neighbourhood Plan.

14.1 How Policy 4 Strategic Policy: Settlement Expansion should be interpreted is explained by the Planning Inspector who decided APP/Z3825/W/20/3261401 (paragraph 11).

14.2 The Inspector considered that

“Policy 4 sets out the circumstances under which development will be permitted outside of built-up area boundaries. The use of the term ‘and’

within the policy is a clear indicator that proposals should meet all five criteria to be acceptable”.

“The first criterion stipulates that the site should adjoin an existing settlement edge and should also be allocated in the Local Plan or in a neighbourhood plan”.

“On plain reading, the policy does not permit unallocated sites outside of built-up area boundaries”.

“The appellant’s interpretation would undermine the spatial strategy which is predicated on planned expansion of existing settlements through the Local Plan or neighbourhood planning”.

14.3 Accordingly, DC/24/0887, if permitted, would undermine the spatial strategy for the district, which is predicated on planned expansion of existing settlements through the Local Plan or neighbourhood planning.

15. DC/24/0887 is contrary to HDPF Policy 25 Strategic Policy: The Natural Environment and Landscape Character, because it would change the site’s character to the detriment of the area’s intrinsic character and beauty, and Billingshurst’s rural setting.

15.1 The applicant’s Planning Statement states that “the Council recognises the site does not lie within or near a protected landscape” (paragraph 7.2).

15.2 However, how Policy 25 should be interpreted and applied where a site is not a valued landscape within the meaning of NPPF paragraph 174 a) is explained by the Planning Inspector who determined APP/Z3825/W/20/3261401.

15.3 The Inspector states “The Council is not contending that the site is a valued landscape within the meaning of paragraph 174 a) of the Framework. However, paragraph 174 b) of the Framework recognises the intrinsic character and beauty of the countryside. Policy 25(1) of the HDPF is consistent with national policy in seeking to protect, conserve and enhance landscape and townscape character, taking into account individual settlement characteristics. In harming the rural setting of the village, the proposal would conflict with this policy” (paragraph 46).

15.4 DC/24/0749 conflicts with Policy 25(1) because it would urbanise and therefore harm Billingshurst's rural setting.

16. DC/24/0887 is contrary to HDPF Policy 26 Strategic Policy: Countryside Protection.

16.1 The Inspector who determined APP/Z3825/W/20/3261401 gave weight to Policy 26 in his decision to refuse the appeal (paragraphs 12 and 47).

16.2 The Inspector advised that "Policy 26 seeks to protect the rural and undeveloped nature of the countryside against inappropriate development. In order to be acceptable, a proposal outside of settlement boundaries must be essential to its countryside location and it must meet one of the four criteria. Although it is suggested that the proposal would enable the sustainable development of rural areas, there is no compelling evidence to persuade me that major housing schemes should be deemed acceptable in principle under this policy" (paragraph 12).

16.3 Policy 26 states that outside built-up area boundaries, the rural character and undeveloped nature of the countryside will be protected against inappropriate development, and that any proposal must be essential to its countryside location and must additionally meet one of four identified criteria, none of which are met by DC/24/0887.

CPRE Sussex asks that DC/24/0887 be refused for the compelling reasons explained above.

Yours faithfully,

Dr R F Smith DPhil, BA(Hons), PGCE, FRGS

Trustee CPRE Sussex

Copy to Chair CPRE Sussex