



The countryside charity  
Sussex

Campaign to Protect  
Rural England, Sussex Branch CIO  
Brownings Farm, Blackboys,  
East Sussex, TN22 5HG  
Tel 01825 890975  
e-mail [info@cpresussex.org.uk](mailto:info@cpresussex.org.uk)  
[www.cpresussex.org.uk](http://www.cpresussex.org.uk)

Attn.: Case Officer: Alison Dyson

The Planning Inspectorate  
Temple 3/J Kite Wing  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

8 March 2021

Dear Ms Dyson,

**APP/Z3825/W/21/3266503**

**DC/20/0470**

**FCP Land 4 Ltd**

**Outline application for the erection of 473 dwellings, with new access provided off the Crawley Road, with associated areas of open space and landscaping. All matters reserved apart from access.**

**Land South of Newhouse Farm, Old Crawley Road, Horsham, West Sussex RH12 4RU**

Our reasons for objecting to DC/20/0470 are explained in our representation to Horsham District Council, dated 13 March 2020.

In this representation we comment as a Third Party on the Appellant's 'Statement of Case Land south of Newhouse Farm, Old Crawley Road, Horsham', December 2020.

### **Housing Land Supply**

1. The Appellant's Appeal against Horsham District Council's refusal of DC/20/0470 is predicated on a presumption that the Council "*cannot currently demonstrate a 5 year supply of deliverable sites*" (Appellant's 'Statement of Case Land south of Newhouse Farm, Old Crawley Road, Horsham', December 2020, paragraph 3.9).

1.1. The Appellant's Statement of Case advises, at paragraph 4.4, that

*"The Council's latest Housing Land Supply position was published in December 2019 and covers the period from 2019 to 2024. This sets out that the Council can demonstrate 5.54 years supply. The appellant's assessment is that the Council cannot demonstrate a 5 year supply".*

The Appellant is here referring to the *Horsham District Council – Authority Monitoring Report 2018/19*, published in December 2019.

2. The *Horsham District Council - Authority Monitoring Report (AMR) 2019/20*, published December 2021, states that the council can demonstrate a 5.38 Years' Housing Land Supply

against the new five-year requirement for the District, determined by means of the 'Standard Method' (AMR Chapter 3 Housing, paragraph 3.17).

<https://www.horsham.gov.uk/planning/planning-policy/authority-monitoring-report>

### **Over delivery of housing well in excess of annualised target**

3. The AMR advises that between the start of the Plan (2011/12) and 2019/20, "against a target of 7,200 homes, 7,863 have been built". "This represents an over-delivery of 663 homes against the HDPF target in Policy 15" (AMR Chapter 3 Housing, paragraph 3.9).

### **Housing Delivery Test**

4. Horsham District Council has passed the government's 2020 Housing Delivery Test (results published 19 January 2021), which compares the net homes delivered 2017/18, 2018/19 and 2019/20 with the number of homes required over the same period.

4.1 For Horsham District, 3,572 homes (155%) were delivered against an over-the-period requirement for 2,297 homes. [Housing Delivery Test: 2020 measurement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/housing-delivery-test-2020-measurement)

### **Application of NPPF paragraph 11(d), criterion (i)**

5. The Appellant's Statement of Case, at paragraph 4.6, states that

*"The appellant will explain in the proof of evidence the implications of the lack of housing land supply for the assessment of the appeal proposal, and in particular that para 11 d) of the NPPF applies to the determination of the appeal."*

5.1 However, if the Council were unable to demonstrate a 5 year housing land supply, and Paragraph 11 d) of the NPPF were to be engaged, criterion 11 d) i would apply.

5.2 Paragraph 11 d) i states that "where the most relevant policies are considered out of date, permission should be granted unless:

*"the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed 6"*.

Footnote 6 clarifies that this includes development within an Area of Outstanding Natural Beauty.

5.3 Land South of Newhouse Farm, Old Crawley Road is located entirely within the High Weald Area of Outstanding Beauty, and the appellant accepts.

5.4 The appellant accepts that the appeal proposal would constitute major development in the AONB as set out in NPPF para 172 (Statement of Case, paragraph 5.21).

**APP/R3650/W/16/3165974: Longdene House, Hedgehog Lane, Haslemere GU27 2PH.**  
**Decision date: 10 January 2019.** And:

**Court of Appeal Ruling, 28 January 2021: R on the Application of Monkhill Limited v Secretary of State for Housing, Communities and Local Government & Waverley Borough Council.** Neutral Citation Number: [2021] EWCA Civ 74. Case No: C1/2019/1955/QBACF.

6. The refusal, and the grounds for the refusal, of Appeal Ref: *APP/R3650/W/16/3165974: Longdene House, Hedgehog Lane, Haslemere GU27 2PH*. Decision date: 10 January 2019, subsequently upheld by the Court of Appeal, 28 January 2021, is we suggest of relevance to APP/Z3825/W/21/3266503.

6.1 The appeal was made by Monkhill Ltd against the decision of Waverley Borough Council (WBC), to refuse the company's proposed development scheme, WA/2016/1226, within the Surrey Hills Area of Outstanding Natural Beauty:

*"Change of Use, extension and alterations to office building to provide 1 dwelling together with the erection of a detached garage; outline application, with access and landscaping to be determined, for the erection of up to 28 dwellings following demolition of 2 dwellings, glasshouses and outbuildings (as amplified by Flood Risk and Drainage Strategy Assessment)"*

6.2 In the Appeal Decision, the inspector explained at:

Paragraph 47. He had found *"that WBC cannot demonstrate a 5 year supply of deliverable housing sites, and so paragraph 11 d) is engaged by virtue of Footnote 7, Paragraph 11d) i. refers to the application of Framework policies that protect areas or assets of particular importance. The appellant argues that no such policies are engaged in this case. I disagree. In paragraph 11d) i. the reference to "protect" has its ordinary meaning to keep safe, defend and guard. It seems to me that that is precisely what paragraph 172 seeks to achieve with respect to landscape and scenic beauty in AONBs. This Framework policy for AONBs states that they have the highest status of protection in relation to conserving and enhancing landscape and scenic beauty, and that within AONBs the scale and extent of development should be limited. The inclusion of AONBs in Footnote 6 brings into play the whole of paragraph 172, not just that part which deals with major development, as the appellant's closing submissions seem to imply."*

Paragraph 48. *Given my findings about the effects on the character and appearance of the area, as set out above, I consider that applying Framework policies for the AONB here provides a clear reason for refusing the proposed development. So the provisions of paragraph 11d) i. disengage the tilted balance. Therefore, the planning balance in this case is a straight or flat balance of benefits against harm."*

6.3 The Appeal Decision and the Court of Appeal Ruling are submitted together with this representation.

**Court of Appeal Ruling, 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**

7. The Appellant's Statement of Case, at paragraph 5.4, states that

*"In terms of this reason for refusal – the appellant will demonstrate that the Council cannot successfully demonstrate a 5-year housing land supply and therefore the development would not be contrary to the Council's strategy for settlement expansion".*

7.1 However, the Court of Appeal ruling on two appeals by Gladman Developments Limited (3 February 2021) 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.

7.2 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*".

7.2.1 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)

7.3 The Court of Appeal ruling is submitted with this representation.

Yours faithfully,

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

Trustee CPRE Sussex

Copy to Director CPRE Sussex

Documents submitted with this representation:

1. APP/R3650/W/16/3165974: Longdene House, Hedgehog Lane, Haslemere GU27 2PH. Decision date: 10 January 2019.
2. Court of Appeal Ruling, 28 January 2021: R on the Application of Monkhill Limited v Secretary of State for Housing, Communities and Local Government & Waverley Borough Council. Neutral Citation Number: [2021] EWCA Civ 74. Case No: C1/2019/1955/QBACF.
3. 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.