



The countryside charity  
Sussex

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Attn. Case Officer: Mr Giles Holbrook

Horsham District Council  
Parkside  
Chart Way  
Horsham  
West Sussex  
RH12 1RL

7 December 2021

Dear Mr Holbrook,

Representation submitted for and on behalf of CPRE Sussex objecting to:

**DC/21/2429**

**Southmill House Mill Road West Chiltington Pulborough West Sussex RH20 2PZ**

**Outline Application for the demolition of a single dwelling and erection of 18 dwellings with provision of new vehicular access, all matters reserved except access**

Our concerns, and reasons for objecting to this application are explained below.

**1. Contrary to the applicant's Planning and Affordable Housing Statement (PAHS), paragraph 5.4.1, the Council's annual target is 897 dwellings per year, as determined by the Standard Method, not 920 per year as stated in the PAHS.**

1.1 That the current annual target for the district is 897 houses per year was agreed at the Appeal Inquiry Appeal Ref: APP/Z3825/W/21/3266503 Land south of Newhouse Farm, Old Crawley Road, Horsham, and confirmed by the subsequent Appeal Decision (which was to refuse the application) at paragraph 50.

**2. The application is predicated on a questionable presumption, stated in the applicant's Planning and Affordable Housing Statement, paragraphs 5.4.3 and 7.6, that the application cannot be refused because Horsham District Council is currently unable to demonstrate a 5-year housing-land supply.**

2.1 However, even where development plan policies are rendered "out of date" by housing land shortfalls, they remain "potentially relevant" to the application of the tilted balance, and decision-makers "are not legally bound to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, 3 February 2021. See below paragraph 3).

2.2 This was made clear in Horsham District by the Appeal Decisions:

Land South of Newhouse Farm, Horsham (“Newhouse Farm”) (APP/Z3825/W/21/3266503), decision date 29 July 2021, and

Land north of Sandy Lane, Henfield, West Sussex (APP/Z3825/W/20/3261401, decision date 19 August 2021).

2.3 Notwithstanding the absence of a 5-year land supply, the deciding Inspectors determined that harm would significantly and demonstrably outweigh the benefits. The appeals were dismissed.

**3. The dismissal of the two appeals, despite the absence 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.

3.1 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.

3.2 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.

3.3 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).

**4. The application is contrary to HDPF Policy 4 Strategic Policy: Settlement Expansion because the greater part of the site is outside of the village’s built-up boundary, as are all 18 proposed dwellings, and the site is neither allocated in the HDPF nor in a Neighbourhood Plan.**

4.1 How Policy 4 should be interpreted is explained by the Planning Inspector who decided Land north of Sandy Lane, Henfield, West Sussex, (APP/Z3825/W/20/3261401, decision date 19 August 2021).

4.1.1 The Inspector states at paragraph 11 of the appeal decision 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 in order 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'.

4.2 Although the applicant's Design and Access Statement (DAS) states, at paragraph 3.01, that 'The site is located within the built-up area of West Chiltington', the plan of the site published in the DAS, and the applicant's 'Proposed Site Plan' show that by far the greater part of the site is outside of the built-up boundary, as are all 18 proposed dwellings.

4.3 Furthermore, the DAS states, at paragraph 2.02, that the 'The defined "Built UP Boundary" subdivides the plot, with a bungalow within the BUP and the remaining land adjacent and bordering the boundary'.

## **5. The site is neither allocated in the Horsham District Planning Framework nor in a Neighbourhood Plan.**

5.1 The application would undermine the spatial strategy, which is predicated on planned expansion of existing settlements through the Local Plan or neighbourhood planning.

## **6. The application is contrary to HDPF Policy 25 Strategic Policy: The Natural Environment and Landscape Character.**

6.1 How Policy 25 should be interpreted and applied is explained by the Planning Inspector who decided Land north of Sandy Lane, Henfield, West Sussex (APP/Z3825/W/20/3261401, decision date 19 August 2021), paragraph 46:

'Paragraph 174 b) of the NPPF 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'

6.2 If permitted the proposed development would breach West Chiltington's built-up boundary and extend the built-up area into the gap that separates the two parts of West Chiltington settlement, West Chiltington village and West Chiltington Common.

6.3 The resulting encroachment into the countryside between would result in material harm to the appearance of the area, in particular having regard to the individual settlement characteristics, including the separation of the two parts of the West Chiltington settlement.

**7. The application is contrary to HDPF Policy 26 Strategic Policy: Countryside Protection because it is not essential to its countryside location and does not meet any one of the four criteria specified by the policy.**

7.1 Policy 26 seeks to protect the rural and undeveloped nature of the countryside against inappropriate development. 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.

7.2 The proposed scheme is not essential to its countryside location and does not meet any one of the four criteria specified by the policy.

**8. Bird species breeding, nesting, and foraging on the site have not been identified and recorded. Whether birds listed in Schedule 1 of the Wildlife and Countryside Act, Section 41 of the Natural Environment and Rural Act 2006 and red and amber list birds of conservation concern breed, nest, forage, hunt, or visit the site has not been determined.**

8.1 The applicant's Ecological Impact Assessment states, at paragraph 4.3.17, that

'There is nesting habitat in the hedgerows and scattered trees that may be utilised by nesting birds. The area overall is likely to be of site value to breeding/foraging birds'.

8.2 Which bird species breed, nest and forage there are not identified, and there is no stated intent to provide the proposed development either with nesting boxes, or enhancements that would support and attract wild birds.

8.3 This omission is cause for considerable concern because:

- the fifth review of Birds of Conservation Concern in the UK, Channel Islands and Isle of Man, **published December 2021**, shows 'a continuing decline in the status of our bird populations in total, 70 species (29% of those assessed) are now on the Red list, up from 36 species in the first review in 1996,
- the review also presents the second International Union for Conservation of Nature (IUCN) Regional Red List assessment of extinction risk for Great Britain, which shows that 46% of 235 regularly occurring species, and 43% of 285 separate breeding and non-breeding populations, are assessed as being threatened with extinction.

(The status of our bird populations: the fifth Birds of Conservation Concern in the United Kingdom, Channel Islands and Isle of Man and second ICUN Red List assessment of extinction risk for Great Britain, December 2021).

8.4 A bird survey to identify bird species that breed, nest and forage on the site is needed for this application, and should the application be approved dwellings should be fitted with bird boxes. We suggest for swallows, house martins and swifts because:

'Many of our aerial insectivores are in trouble. Both Common Swift and House Martin move from the Amber to Red list in BoCC5 owing to severe population declines of 58% (1995 to 2018) and 57% (1969 to 2018) respectively. The former is IUCN Endangered, the latter Near Threatened. The causes of Common Swift decline are unclear and more robust evidence is needed, but the loss of traditional nest sites is likely to be a contributory factor'.

(The status of our bird populations: the fifth Birds of Conservation Concern in the United Kingdom, Channel Islands and Isle of Man and second ICUN Red List assessment of extinction risk for Great Britain, December 2021, page 740).

**9. No mention is made in the applicant's DAS of the requirement for biodiversity net gain, and the applicant's Ecological Impact Assessment advises, at paragraph 3.5.6, only that: 'Enhancement has been proposed to ensure that the development represents a net gain in biodiversity in accordance with National Policy'.**

**9.0.1 How much net gain would be achieved in consequence of the proposed 'enhancements' is not stated. It needs to be determined and at the very least it should be 10%.**

9.1 Please note the guidance given under the heading 'How can biodiversity net gain be achieved?' in Natural England and Defra 'Guidance Natural environment Explains key issues in implementing policy to protect and enhance the natural environment, including local requirements', that

**'Care needs to be taken to ensure that any benefits promised will lead to genuine and demonstrable gains for biodiversity. Discussions with local wildlife organisations can help to identify appropriate solutions, and tools such as the Defra biodiversity metric can be used to assess whether a biodiversity net gain outcome is expected to be achieved. Planning authorities need to make sure that any evidence and rationale supplied by applicants are supported by the appropriate scientific expertise and local wildlife knowledge'.**

When assessing opportunities and proposals to secure biodiversity net gain, the local planning authority will need to have regard to all relevant policies, especially those on open space, health, green infrastructure, Green Belt and landscape. It will also be important to consider whether provisions for biodiversity net gain will be resilient to future pressures from further development or climate change, and supported by appropriate maintenance arrangements'.

Paragraph: 023 Reference ID: 8-023-20190721

In conclusion, CPRE Sussex asks that DC/21/2007 be refused for the reasons explained above.

Yours faithfully,

Dr R F Smith DPhil, BA (Hons), FRGS  
Trustee CPRE Sussex

Copy to Chair CPRE Sussex