

**Land south of Kingsfold  
Marringdean Road  
RH14 9HE**

**Permission in Principle  
Planning Statement  
0585**

## Contents

- 3 Introduction
- 3 Background
- 5 Planning matters
- 9 Planning balance

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## 1. Introduction

- 1.1 Permission in principle (*'PiP'*) is sought for one dwellinghouse (*'the Proposal'*) on land outlined in red at Kingsfold Marringdean Road, Billingshurst, West Sussex RH14 9HE (*'the Site'*). The applicant is Mr Kear (*'the Applicant'*). The Proposal Site covers 0.2 hectares of land, accommodating one dwellinghouses, with no more than 999m<sup>2</sup> of floorspace.
- 1.2 *The Site is entirely outside the built-up area of Billingshurst and is therefore in the countryside. It is recognised as a non-designated heritage asset within Flood Zone 1. No other relevant land use policy designations are identified.*

## 2. Background

### *Refusal DC/21/0880*

- 2.1 Planning application ref. DC/21/0880 sought permission to build a two-storey, four-bedroom detached dwelling and a detached garage or workshop, subject to this PiP. This was refused by notice dated 26 April 2022 (*'the 2021 Refusal'*). The reasons for the refusal were threefold.
- 2.2 The deciding officer (*'the Officer'*) concluded that the Site was in an unsustainable rural location, outside the defined Built-Up Area Boundary and not allocated for housing in either the Horsham District Planning Framework 2015 (*'HDPF'*) or the Billingshurst Neighbourhood Plan 2021 (*'the NP'*). The refusal notice highlighted conflict with HDPF Policies 1, 2, 3, 4, and 26. While the Officer acknowledged it could not demonstrate a five-year housing land supply and that paragraph 11(d) of the then Framework was relevant, it determined that the contribution of a single dwelling was too minor to outweigh the harm caused by policy conflict.
- 2.3 Natural England objected on water neutrality grounds. The application failed to demonstrate clearly that the development would be water-neutral. Without a credible mitigation or offsetting scheme, the Officer concluded that the proposal risked contributing to an existing adverse effect on the integrity of the Arun Valley Special Area of Conservation, Special Protection Area, and Ramsar sites, contrary to HDPF Policy 31, the Framework (2021), the Habitats Regulations, and the NERC Act 2006. The Officer also observed that no ecological information had been provided.

Consequently, they could not confirm that the development would not harm protected species or habitats or achieve measurable Biodiversity Net Gain, contrary to HDPF Policy 31 and the Framework (2021).

#### *Permission DC/24/1581*

- 2.4 Under the same policy framework, the Council's Planning Committee recently considered application ref. DC/24/1581 on 22 July 2025. This sought outline permission for up to 79 dwellings, including 35% affordable homes, with all matters reserved except for access. The committee resolved to permit the application, subject to the completion of a section 106 agreement, and the decision notice was awaiting the completion of legal formalities at that time.
- 2.5 The 2025 Committee Report recognised the same fundamental policy conflict as in 2022: the Site lay outside the Built-Up Area Boundary ('BUAB'), was not allocated, and its development breached HDPF Policies 4 and 26 and Billingshurst NP Policy Bill 1. However, the weight assigned to this conflict was different. By 2025, Horsham could demonstrate only a one-year housing land supply and had failed the Housing Delivery Test, triggering the Framework's presumption in favour of sustainable development at paragraph 11(d). The Facilitating Appropriate Development ('FAD') guidance dated 2022 also supported edge-of-settlement schemes that adjoin the BUAB, are proportionate in scale, and respect defensible boundaries. The committee regarded the countryside policy conflict as carrying only "*moderate negative weight*." The committee concluded that the adverse impacts did not significantly and demonstrably outweigh the benefits, and that permission should be permitted.
- 2.6 This decision is relevant because it brings the BUAB closer to the redline area of the 2021 Refusal, making the Site sustainable, resolving refusal reason 1, and allowing for the grant of planning permission.

#### *Going forward*

- 2.7 Given the one-year housing land supply and failed Housing Delivery Test, any conflict with HDPF Policies 4 and 26 carries limited weight, and the tilted balance applies. Proposals should ideally meet the Council's FAD criteria, which support non-allocated sites adjacent to settlements in principle. HDPF Policy 26 aims to protect the countryside by resisting new development unless considered essential to a rural location. However, the FAD does not address this situation where, under the FAD,

the urban area extends, bringing land adjoining that expansion into consideration. In this context, a carefully planned housing conversion would align with both the aim of Policy 26 and national policies supporting efficient land and building reuse. This is the basis of the Applicant's case.

### 3. Planning matters

- 3.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires the decision maker to take account of (a) the provisions of the development plan, (b) local finance considerations, and (c) any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act requires the determination of applications to be made per the plan unless material considerations indicate otherwise.
- 3.2 National policy is contained in the National Planning Policy Framework ('*Framework*'), updated in December 2024. Existing planning policies are set out within the Horsham District Plan ('*the LP*'). As previously commented, the emergent Local Plan is currently at Examination, and this process has been paused.
- 3.3 Case law has established that since development plans frequently contain several policies which pull in different directions, what must be considered is whether a Proposal complies with the development plan as a whole. In *Islington LBC v Secretary of State for Communities and Local Government* [2012] EWHC 1716 (Admin), the court stated:
- "These policies need to be seen as a whole rather than individually since the statutory question in s.38(6) requires a judgment as to whether proposed development accords with the Development Plan, not whether it accords with individual policies, a number of which may pull in a variety of different directions when applied to a particular proposal."*
- 3.4 In other words, policies should not be applied in an overly rigidly technical or overly formulaic manner. Instead, applications should be looked at holistically, with the positive merits of any Proposal balanced against any restrictions or limitations that may apply.

### *Principle of development*

- 3.5 The correct basis for decision-making is the Framework, not outdated, restrictive local policies. Paragraph 83 makes clear that planning decisions should enable “To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Therefore, paragraph 83 sets out a positive stance to approve schemes even when local countryside restraint policies oppose them.
- 3.6 HDPF Policy 26 is a restrictive countryside protection policy created in 2015, when the District could demonstrate a five-year housing land supply. Its main aim is to prevent “*inappropriate development*” in rural areas unless it is essential to a rural setting. Although it mentions re-use in supporting text, it has been interpreted as a blanket restriction in practice. However, Policy 26 has minimal relevance in the current situation for two reasons.
- 3.7 Horsham cannot demonstrate a five-year housing land supply and has failed the Housing Delivery Test, meeting only 62% of its requirement. Under Framework paragraph 11(d) and footnote 8, the policies most important for determining the housing supply – including Policy 26 – are deemed out-of-date. Inspectors have consistently confirmed in Horsham appeals that this reduces the weight of restrictive countryside policies, meaning the tilted balance applies.
- 3.8 Secondly, Policy 26 does not fully align with the Framework concerning the five-year housing land supply situation. While paragraph 83 encourages rural development, Policy 26 is more protective, allowing only narrow exceptions. According to paragraph 232 of the Framework, weight should be given based on the degree of alignment with national policy; in this case, Policy 26 is considerably less consistent and should be given less weight accordingly.
- 3.9 Non-compliance with HDPF Policies 1–4, even when current, does not prevent adherence to the Framework or new rural dwellings. Importantly, the five-year housing land supply context has changed entirely since Policy 26, which is outdated and conflicts with paragraph 83. This point should therefore carry significant weight in favour of reuse.
- 3.10 Therefore, national policy and recent appeal decisions strongly support new-build

development. The presumption in favour of sustainable development outweighs the minimal importance given to HDPF Policy 26. Since the Site will border the urban extension to Billingshurst, this provides strong reasons for granting planning permission.

### *Water neutrality*

- 3.11 Southern Water supplies Horsham District via its Sussex North Water Resource Zone ('WRZ'). This supply is sourced from abstraction points in the Arun Valley, which support sites of international importance, including Amberley Wild Brooks SSSI, Pulborough Brooks SSSI, the Arun Valley Special Protection Area ('SPA'), Special Area of Conservation ('SAC'), and Ramsar site. Natural England's Position Statement of 14 September 2021 confirms that abstraction is already negatively impacting the integrity of these habitats. Under Regulation 63 of the Habitats Regulations 2017, the competent authority must be convinced beyond a reasonable scientific doubt that any new development will not exacerbate this harm unless mitigation measures are in place.
- 3.12 Horsham District Council has historically argued that PiP cannot lawfully be permitted unless water neutrality is fully demonstrated at the point of determination, asserting that the Habitats Regulations Assessment cannot be postponed. That interpretation is excessively inflexible and conflicts with the Regulations and national case law. The courts (see *No Adastral New Town Ltd v Suffolk Coastal DC* [2015] and *People Over Wind v Coillte Teoranta* [C-323/17]) have confirmed that what is essential is the competent authority being able to establish, with sufficient certainty, that mitigation will be secured before adverse effects occur — not that every technical detail must be settled in advance.
- 3.13 The Planning Inspectorate has recently approved this approach. The Inspector addressed the same issue in APP/Z3825/W/23/3321658 (Land at Lower Broadbridge Farm, Broadbridge Heath, 7 March 2024). The Inspector determined that a Grampian condition combined with a unilateral undertaking—preventing commencement until water neutrality credits or offsetting were secured—provided the necessary legal certainty. The Inspector concluded:

*“There would be no risk of the development proceeding unless the off-site water neutrality measures had been implemented to the satisfaction of the Council. As such, there is no reasonable scientific doubt that the proposed development would be*

*water neutral.*” (para. 43)

- 3.14 On that basis, the Inspector concluded that the scheme would not negatively impact the integrity of the Arun Valley SAC, SPA, and Ramsar site (para 44). The ability to utilise a Grampian condition at the Stage 1 PiP stage is explicitly supported by legislation and guidance. Article 5(2) of the Town and Country Planning (Permission in Principle) Order 2017 states that: “*Permission in principle granted by a local planning authority or the Secretary of State may be granted subject to conditions.*” Government guidance (PPG, Paragraph: 017 Reference ID: 58-017-20180615) confirms that conditions may be imposed on PiP if they meet the usual policy tests of necessity, relevance, enforceability, precision, and reasonableness. Grampian conditions—preventing the start of development until specified mitigation measures are in place—are well established as lawful and proportionate, especially where they are needed to comply with the Habitats Regulations. Importantly, such conditions are entirely suitable at the PiP stage because PiP does not authorise development to begin: it only establishes the principle, and the Grampian condition ensures that the subsequent Stage 2 Technical Details Consent cannot authorise commencement unless water neutrality has been demonstrated and secured.
- 3.15 This PiP submission follows the same lawful approach. It proposes that any consent should be subject to a Grampian restriction preventing development until water neutrality is achieved. This mitigation may be provided by the upcoming Sussex North Water Certification Scheme (‘SNWCS’, previously SNOWS), private offsetting such as retrofitting existing properties, or on-site technical solutions. Each route is credible and realistic, and the risk that no offset solution will exist is minimal given the Council’s active collaboration with Natural England and Southern Water to implement SNWCS.
- 3.16 The correct legal and policy stance is that PiP can be permitted subject to a Grampian condition and an obligation preventing commencement until water neutrality is achieved. This approach complies with the PiP Order 2017, is supported by government guidance, and aligns with case law under Regulation 63. As in Broadbridge Heath, there is no credible scientific doubt that the development can proceed in a water-neutral way. Therefore, water neutrality does not bar granting Permission in Principle for this Site.
- 3.17 Alternatively, if the Council disagrees on a Grampian condition, development cannot begin until the TDC is permitted. The Council manages all aspects, including layout,

design, access, drainage, landscaping, and water neutrality. At this stage, the Council can — and often will — impose detailed conditions similar to full permission. The application forecasts water usage and, subject to conditions, will demonstrate water neutrality at the TDC stage.

#### 4. Planning balance

- 4.1 The starting point is that the Proposal conflicts with HDPF Policies 4 and 26 and Billingshurst Neighbourhood Plan Policy Bill 1 because the site lies outside the BUAB and is not allocated for residential development. However, this conflict is limited in scope. The Council cannot demonstrate a five-year housing land supply and has failed the Housing Delivery Test, achieving only 62% of its requirement. Paragraph 11(d) of the Framework therefore applies, and the most important policies for housing supply are considered out of date. Under this paragraph, permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
- 4.2 The restrictive policies of the HDPF were formulated when the Council could demonstrate a full five-year housing supply, and are now inconsistent with the current national policy direction. The Framework encourages rural housing that supports the vitality of communities and gives considerable weight to the delivery of small and medium sites. The FAD guidance further recognises that small, well-located, edge-of-settlement schemes can contribute positively to local housing needs when contained within defensible boundaries and respect settlement character. The Site meets those criteria.
- 4.3 The issue here is that this site will be on the edge of the settlement once permission DC/24/1581 is permitted. The Site is physically and visually enclosed by existing development, with defensible boundaries on all sides, and the housing delivery position is significantly different from 2021 when the refusal of the 2021 Proposal was made. The development would make a modest but meaningful contribution to the District's housing supply in an area of severe shortfall. Paragraphs 73–75 of the Framework emphasise the importance of small and windfall sites in meeting housing need, and this Proposal directly supports that objective. The scheme would provide a high-quality dwelling in a sustainable location adjacent to the existing settlement, which will be established soon.

4.4 Applying that presumption, the adverse impacts of developing this enclosed edge-of-settlement site would not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. The Proposal, therefore, represents a sustainable form of development, and PiP should be given.