Statement of the Local Planning Authority

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APP/Z3825/W/24/3357209 – Jandola, New Hall Lane, Small Dole, BN5 9YH

This statement, together with the previously submitted questionnaire and accompanying documents, including the Officer's delegated report, forms the Local Planning Authority's statement of case. The purpose of this Statement is to respond to the appellant's appeal submission. The Council has determined the application against the relevant policies of the Horsham District Planning Framework (HDPF) (2015). The crux of the appeal relates to:

- Whether the location of the development is acceptable in principle;
- The scale, siting and layout of the proposal;
- The proposal's impact on the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites by way of increased water abstraction, and;
- The ecological impact of the proposal

Reason for Refusal One

The development would enable a residential use within a countryside location outside of the built-up area boundary of any settlement, on a site which has not been allocated for development within the Horsham District Planning Framework or an adopted Neighbourhood Plan. The development would be contrary to the overarching strategy and hierarchical approach of concentrating development within the main settlements and is not essential to its countryside location. There are no material considerations which outweigh this harm, and the proposal represents unsustainable development contrary to Policies 1, 2, 3, 4, and 26 of the Horsham District Planning Framework (2015), Policy 1 of the Henfield Neighbourhood Plan and the National Planning Policy Framework (2023).

The appellant appears to make the case that as the site is bounded with hedging and further hedging would be added to the boundary and proposed curtilage there would be no encroachment of the site to the north, beyond the existing boundary of Jandola. Aerial photos and the history of development along New Hall Lane (see reason for refusal two) demonstrate clearly that most development along the lane is relatively old and primarily agricultural or

commercial. While the existing hedging and the creation of additional hedging would create a boundary it is not considered by the LPA to be an existing defensible boundary. The proposal would result in an interruption to the linear ribbon of development through extending built form into a countryside location to the rear of the building line along New Hall Lane. The LPA also consider that the rear of the garden at Jandola is primarily green open space and would have more in common visually with its surrounding countryside location. As such that it would not be considered to be proposed within an existing defensible boundary and would not be considered to maintain or enhance the landscape character.

The appellant's statement also considers there to be a number of backland development sites to be present along the street, contesting the LPA's position. This matter is discussed further in the reason for refusal two. The appellant does also highlight the existing buildings within the site, to avoid repetition the LPA refer the inspector again to the reason for refusal two.

The appellants statement appears to query the weight given by the LPA to various policies and documents. The LPA consider this is well clarified in the conclusion section of the officer report.

The proposed development would not accord with the spatial strategy as set out in Policies 2, 3,4 and 26 of the HDPF. Nevertheless, given the housing shortfall, the conflict with these policies must be afforded a reduced weight.

Reason for Refusal Two

The scale, siting and layout would relate unsympathetically with the existing pattern of development and would represent overdevelopment of a backland setting. The proposal would result in a loss of the open rural character to the rear of the application site and would be in terms of scale and appearance, visually incongruous with the dwellings within the locality. Given the harm arising from the proposal, the development would be contrary to Policies 25, 32 and 33 of the Horsham District Planning Framework (2015).

The Appellant's Statement has included Appendix E indicating where they consider backland development has taken place. The LPA have looked at the planning history of these sites. Of the development highlighted in a blue circle no works related to the erection of new, not replacement dwellings, have been permitted within the lifespan of the existing Horsham District Planning Framework, as such these would have been decided under earlier planning policies. Many of the sites highlighted relate to agricultural, commercial or equestrian activities and frequently were granted permission prior to the year 2000. It is noted that Downley and Highdown (New Orchard) (some 98m north-east of the site) is located to the rear of the building line on the northern side of the street. However, the presence of further development to the north (development to the rear of buildings on the western side of Shoreham Road) lends these sites to more infill style of development compared to the present application which extends into the open countryside. The appellant also refers to The Beeches as being backland development. The LPA consider The Beeches while extending from the building line as extending from Old Shoreham Road, this was decided under DC/06/0633 not the current Framework. The LPA consider this development to appear as infill development given the presence of Downley and Highdown (New Orchard). Aerial imagery also reflects the development demonstrated by the planning history. Given this history the LPA would like to confirm their view remains that *"most development behind the defined residential building line*

comprises agricultural buildings, which is not considered out of the ordinary in a location such as this."

The appellant mentions Ridgecote and Pentland to the east of the appeal site and Dene Hollow and Brooklands as having similar plot sizes to that proposed. They also consider appropriate distances at the boundaries would be maintained. All of the aforementioned sites are set within their own plot, adjoining New Hall Road. These sites are not considered backland development, and are therefore within the defined development line with other properties adjoining either site of them. The proposal; however, has a different relationship with the countryside, directly abutting it, with no neighbours to the north, east and west, and set back from New Hall Lane. The LPA consider this results in the loss of open rural character and appearing visually incongruous with the dwellings within the locality.

The appellant also refers to DC/22/1339 which permitted *"Change of Use of part of former nursery to extended incidental residential curtilage for Highdown and erection of post and rail boundary fencing".* The LPA report for DC/22/1339 states *"While it is recognised that the proposed change of use would result in the loss of agricultural land and subsequent encroachment of the countryside, it is recognised that only a small proportion of land would be lost. The parcel of land in question would share a physical and visual relationship with the main residential dwelling due to the orientation of the site. The change of use of this small parcel of land is not considered to significantly impact the agricultural viability of the adjoining land, which would be retained for agricultural purposes. Furthermore, the use of this land for incidental residential amenity space would not result in a material intensification within the countryside location."* The LPA would also like to highlight that the land the change of use applied to was part of a disused nursery. This use contrasts considerably to the open countryside to the north and west of the appeal site. The addition of a new dwelling into the open countryside is also consider to have a significantly greater detriment than the use of part of a former nursery as residential curtilage.

It is noted that there are some ancillary residential buildings to the south and east of the application site, though these are of a small scale and would be viewed in the context of their host dwellinghouse. The design of the proposed dwelling would be far in excess of the scale of ancillary residential built form to the south and east.

It is appreciated that the application site is residential in nature, within the garden area of Jandola. The application site; however, is read visually as part of the rural character of the countryside something exacerbated by its countryside location outside of the built up area boundary. The introduction of built form in this locality, and particularly of this scale would extend beyond the parameters of the linear ribbon of open fields to the rear of the dwellings along New Hall Lane.

It is therefore advanced that the proposed dwelling would form an inappropriate backland development that would appear at odds with the prevailing character on the street. It is therefore considered that the proposal would be out of character with surrounding development, contrary to Policies 32 and 33 of the HDPF.

The proposed development, on a site within the countryside and not allocated for development, would be in conflict with the spatial strategy for housing within the development plan as set out in Policies, 2, 3, and 4 of the HDPF. In addition, the proposal would not meet any of the exceptions as identified within Policy 26 of the HDPF. The proposal would not

therefore provide a suitable location for housing with regard to the spatial strategy within the Development Plan. There are no material considerations that would outweigh this conflict and harm as identified.

Reason for Refusal Three

Insufficient information has been provided to demonstrate with a sufficient degree of certainty that the proposed development would not contribute to an existing adverse effect upon the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites by way of increased water abstraction, contrary to Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 185 and 186 of the National Planning Policy Framework (2023), thus the Local Planning Authority is unable to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority Habitats & Species).

The application site falls within the Sussex North Water Supply Zone as defined by Natural England which draws its water supply from groundwater abstraction at Hardham. Natural England has issued a Position Statement for applications within the Sussex North Water Supply Zone which states that it cannot be concluded with the required degree of certainty that new development in this zone would not have an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.

Natural England advises that plans and projects affecting sites where an existing adverse effect is known will be required to demonstrate, with sufficient certainty, that they will not contribute further to an existing adverse effect. The received advice note advises that the matter of water neutrality should be addressed in assessments to agree and ensure that water use is offset for all new developments within the Sussex North Water Supply Zone.

Given that the appellant did not demonstrate water neutrality, an appropriate assessment (Appendix 1) did not conclude that the proposal would not affect the integrity of the designated sites. Therefore, the presumption in favour of sustainable development does not apply. Accordingly, the requirement of paragraph 39 of the NPPF is not applicable in terms of the Council's approach in determining the application. The Council therefore upholds its decision to not allow the submission of further information in support of the application.

Turning to the matter of whether the Water Neutrality Statement provided at appeal is acceptable, as this matter has now been passed to the Planning Inspector to determine, the Planning Inspectorate is now the 'competent authority'. The onus thus falls on the Inspector to undertake an appropriate assessment in consultation with Natural England.

In the absence of a strategy to demonstrate water neutrality through the incorporation of on-site measures and appropriate offsetting actions, there is no certainty that the proposal will not contribute further to the existing adverse effect on the Arun Valley SAC, SPA and Ramsar sites, contrary to policy 31 of the HDPF and NPPF paragraph 193. Therefore, if the Planning Inspector is to agree with the appellant's view with regards to the three other reasons for refusal and is minded to allow the appeal on this basis, then (as the competent authority) the Inspector must undertake an appropriate assessment and the likely effectiveness of any mitigation measures, including (amongst other things) the contents of the appellant's Water Neutrality Statement that has now submitted as part of the appeal, in consultation with Natural England. If Natural England object to the strategy advanced, then the appeal should be dismissed on these grounds. In the case that the Inspector is minded to agree with the reasons

for refusal: the Habitats Regulations dictate that Natural England should be consulted in any case (21-day period), though their comments are not necessary for determination.

Reason for Refusal Four

Insufficient information has been provided to demonstrate that the proposed development would have no adverse impact on protected species and its habitat, and to establish how the development will contribute to measurable Biodiversity Net Gain, contrary to Policy 31 of the Horsham District Planning Framework (2015) and Paragraphs 180 and 186 of the NPPF.

The Ecologist consulted on the application noted that the Goat Willow and other mature trees on site have been assessed to have potential roost features. It was unclear whether these trees are to be felled and what the mitigations or definite roost features are. The LPA also consider that suitable landscaping condition and precautionary methods for Great Crested Newts conditions are required. The full consultation comments from both the Ecologist and District Newt Licencing Officer have been added to Appendix 2 and Appendix 3.

The Appellant's Statement clarifies the trees that are proposed to be removed. The LPA's Ecologist, Arboriculturist and District Newt Licensing Officer have not had the opportunity to consider the application. Therefore, the LPA cannot attest that the information and mitigation provided is suitable. However, it has been recommended the Inspector add a relevant condition should they agree with the appellant.

Appeal Information

The appellant has highlighted a number of appeals to the Inspector. This LPA response has used the according LPA code, as has been used by the Appellant.

The LPA wish to begin by stressing that DC/19/0532 was located within the built-up area boundary of Small Dole, as such the compliance with the material decisions varied considerably from that required under the proposal subject to this appeal.

Turning to DC/23/0235, this proposal was considered to be infill development, not backland development as the proposal site is considered under this appeal.

Looking at the information provided for the appeal of DC/22/2250 and DC/22/0495 the appellant appears to contest the weight the council gave to housing supply. The appellant considers that the information provided as part of this appeal shows the proposal to be water neutral and therefore, the tilted balance contained in paragraph 11(d) of the NPPF is engaged. As highlighted above while the LPA have been provided a further Water Neutrality Statement it is for the Inspector to decide whether the proposal is considered water neutral. At this stage therefore the LPA do not consider that this tilted balance has been engaged. The council consider they have given appropriate weight to the housing land supply position. The council remain of the view that the proposal would only provide a small contribution to housing and this would not outweigh the proposal conflict with the spatial strategy, impact on protected species and Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites.

Conclusion

The Council remains of the view that the scheme as submitted would be contrary to the relevant policies of the Horsham District Planning Framework and NPPF. The Inspector is therefore respectfully requested to dismiss the appeal.

Yours sincerely,

Alice Johnson
Planning Officer
Horsham District Council

List of Suggested Conditions

Should the Inspector be minded to allow the appeal, then the following conditions are suggested on a without prejudice basis:

1. **Standard Time Condition**: The development hereby permitted shall begin before the expiration of three years from the date of this permission.

   Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. **Plans Condition**: The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule below.

Plan Type	Description	Drawing Number	Received Date
Supporting Statement	Great Crested Newts	Great Crested Newts	14.08.2024
Supporting Statement	Preliminary Ecological Assessment	Preliminary Ecological Statement	14.08.2024
Supporting Statement		Water Neutrality Statement	14.08.2024
Floor plan	Proposed first	2404JA_R4_201	14.08.2024
Floor plan	Proposed ground	2404JA_R4_200	14.08.2024
Block plan	Proposed	2404JA_R4_100	14.08.2024
Location plan		2404JA_R4_000	14.08.2024
Elevation & Floor plan	Proposed garage	2404JA_R4_205	14.08.2024
Elevation plan	Proposed	2404JA_R4_204	14.08.2024
Elevation plan	Proposed	2404JA_R4_203	14.08.2024
Roof plan	Proposed	2404JA_R4_202	14.08.2024

3. **Pre-Commencement Condition:** No development shall commence until a scheme of mitigation and recommendations for the protection of any protected species, bats and Great Crested Newts have been submitted to and approved in writing by the local planning authority.

All mitigation and enhancement measures and/or works shall be carried out in accordance with these details.

Reason: As these matters are fundamental to safeguard the ecology and biodiversity of the area in accordance with Policy 31 of the Horsham District Planning Framework (2015), and to enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

4. **Pre-Commencement Condition:** No development shall commence until a drainage strategy detailing the proposed means of foul and surface water disposal has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

   Reason: As this matter is fundamental to ensure that the development is properly drained and to comply with Policy 38 of the Horsham District Planning Framework (2015).

5. **Pre-Commencement Condition**: No development shall commence until a Biodiversity Enhancement Strategy for Protected and Priority species has been submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

   5.1. Purpose and conservation objectives for the proposed enhancement measures;
   5.2. detailed designs to achieve stated objectives;
   5.3. locations of proposed enhancement measures by appropriate maps and plans;
   5.4. persons responsible for implementing the enhancement measures;
   5.5. details of initial aftercare and long-term maintenance (where relevant).

   The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

   Reason: As these matters are fundamental to safeguard the ecology and biodiversity of the area in accordance with Policy 31 of the Horsham District Planning Framework (2015), and to enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

6. **Pre-Commencement Condition:** No development shall commence until a lighting design scheme for biodiversity has been submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

   All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the

scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: As these matters are fundamental to safeguard the ecology and biodiversity of the area in accordance with Policy 31 of the Horsham District Planning Framework (2015), and to enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

7. **Pre-Commencement (Slab Level) Condition:** No development above ground floor slab level of any part of the development hereby permitted shall take place until a schedule of materials and finishes and colours to be used for external walls, windows and roofs of the approved building(s) has been submitted to and approved by the Local Planning Authority in writing and all materials used in the construction of the development hereby permitted shall conform to those approved.

   Reason: As this matter is fundamental to enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality in accordance with Policy 33 of the Horsham District Planning Framework (2015).

8. **Pre-commencement (slab level) Condition**: No development above ground floor slab level shall commence until full details of the water efficiency measures and rainwater/greywater harvesting system required by the water neutrality strategy (received 10/12/2024) have been submitted to and approved in writing by the Local Planning Authority.

   Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites in accordance with Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 193 of the National Planning Policy Framework (2024), and to allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

9. **Pre-Occupation Condition**: No part of the development hereby permitted shall be occupied until a fire hydrant(s) to BS 750 standards or stored water supply (in accordance with the West Sussex Fire and Rescue Guidance Notes) has been installed, connected to a water supply with appropriate pressure and volume for firefighting, and made ready for use in consultation with the WSCC Fire and Rescue Service. The hydrant(s) or stored water supply shall thereafter be retained as such.

   Reason: In accordance with fire and safety regulations in accordance with Policy 33 of the Horsham District Planning Framework (2015).

10. **Pre-Occupation Condition**: No dwelling hereby permitted shall be first occupied until evidence has been submitted to and been approved in writing by the Local Planning Authority that the approved water neutrality strategy for that dwelling has been implemented in full. The evidence shall include the specification of fittings and

appliances used, evidence of their installation, and completion of the as built Part G water calculator or equivalent. The installed measures shall be retained as such thereafter.

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites in accordance with Policy 31 of the Horsham District Planning Framework (2015), Paragraph 193 of the National Planning Policy Framework (2024), and to allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

11. **Pre-Occupation Condition:** No part of the development hereby permitted shall be occupied until details of secure and covered cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. No dwelling (or use) hereby permitted shall be occupied or use hereby permitted commenced until the approved cycle parking facilities associated with that dwelling or use have been fully implemented and made available for use. The provision for cycle parking shall thereafter be retained for use at all times.

    Reason: To ensure that there is adequate provision for the parking of cycles in accordance with Policy 40 of the Horsham District Planning Framework (2015)

12. **Pre-Occupation Condition:** No part of the development hereby permitted shall be occupied until the car parking spaces (including garages where applicable) necessary to serve it have been constructed and made available for use in accordance with approved block plan. The car parking spaces permitted shall thereafter be retained as such for their designated use.

    Reason: To provide car-parking space for the use in accordance with Policy 40 of the Horsham District Planning Framework (2015).

13. **Pre-Occupation Condition:** No part of the development hereby permitted shall be occupied until details for the provision for the storage of refuse and recycling facilities have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided prior to occupation (or use) of the development hereby permitted and thereafter be retained for use at all times.

    Reason: To ensure the adequate provision of recycling facilities in accordance with Policy 33 of the Horsham District Planning Framework (2015).

14. **Pre-Occupation Condition**: No part of the development hereby permitted shall be occupied until a scheme for the provision of electrical vehicle charging points has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed prior to first occupation of the development and shall thereafter remain as such.

Reason: To provide electric vehicle car charging space for the use in accordance with Policies 35 and 41 of the Horsham District Planning Framework (2015) and the WSCC Parking Standards (2019).

15. **Pre-Occupation Condition:** No part of the development hereby permitted shall be first occupied until full details of all hard and soft landscaping works shall have been submitted to and approved, in writing, by the Local Planning Authority. The details shall include plans and measures addressing the following:

    Details of all existing trees and planting to be retained
    Details of all proposed trees and planting, including schedules specifying species, planting size, densities and plant numbers and tree pit details
    Details of all hard surfacing materials and finishes
    Details of all boundary treatments
    Details of all external lighting

    The approved landscaping scheme shall be fully implemented in accordance with the approved details within the first planting season following the first occupation of any part of the development. Unless otherwise agreed as part of the approved landscaping, no trees or hedges on the site shall be wilfully damaged or uprooted, felled/removed, topped or lopped without the previous written consent of the Local Planning Authority until 5 years after completion of the development. Any proposed or retained planting, which within a period of 5 years, dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

    Reason: To ensure a satisfactory development that is sympathetic to the landscape and townscape character and built form of the surroundings, and in the interests of visual amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015)

16. **Regulatory Condition**: No part of the development hereby permitted shall be occupied until the necessary in-building physical infrastructure and external site-wide infrastructure to enable superfast broadband speeds of 30 megabits per second through full fibre broadband connection has been provided to the premises.

    Reason: To ensure a sustainable development that meets the needs of future occupiers in accordance with Policy 37 of the Horsham District Planning Framework (2015).

Appendix One

Please see attached Appropriate Assessment labelled Appendix One.

Appendix Two

Please see attached comments from the District Newt Licensing Officer labelled Appendix Two.

Appendix Three

Please see attached comments from the Ecologist labelled Appendix Three.