Objection Letter

Town and Country Planning Act 1990

Town and Country Planning (Permission in Principle) Order 2017

Town and Country Planning (Permission in Principle) (Amendment) Order 2017

10 November 2026

LPA Ref: DC/26/1678

Scheme: Scheme described as 'Permission in Principle for the construction of a two storey dwelling with new vehicle access from Bashurst Hill, creation of driveway and car parking' (henceforth referred to as "the proposal")

Site: Wildacres, Bashurst Copse, Itchingfield, West Sussex, RH13 0NZ

MDP Ref: KM01v4

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1. INTRODUCTION

1.1 This objection letter has been written on behalf [redacted] (our clients) who are strongly opposed to the proposal identified above. The relevant site is shown below.

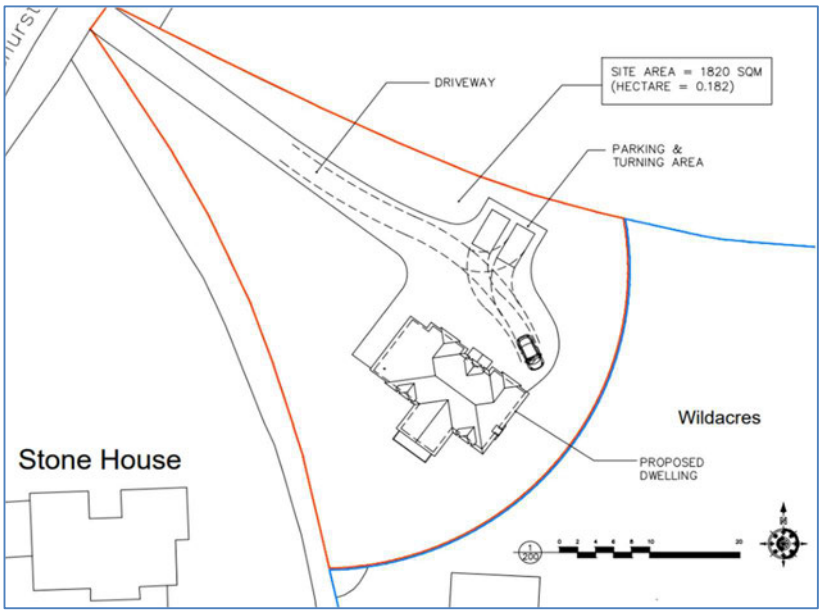

Figure 1: Site to which objection relates.

1.2 This document identifies the fundamental issues associated with PiP proposal DC/26/1678 and respectfully seeks to support and steer the LPA toward the only reasonable conclusion; refusal.

2. SUMMARY OF MAJOR POINTS OF OBJECTION

2.1 The four (4) main points of the objection are as follows:

(1). The application site is not a suitable location for housing, and does not accord with local or national planning policy concerning the delivery of housing;

(2). The proposal would harm the character and appearance of the area, including trees;

(3). The proposal would harm the living conditions of the occupants of nearby properties in terms of loss of privacy;

(4). The proposal would harm the integrity of The Mens Special Area of Conservation.

2.2 In summary, the proposal would not be a suitable location for a dwelling in accordance with local and national planning policy. The land use and extent of development would cause substantial harm to the character of the countryside, including by virtue of the loss of established trees *inter alia*. The scheme would cause harm to the living conditions of the occupants of neighbouring properties in terms of loss of privacy and would fail to preserve the integrity of The Mens Special Area of Conservation (SAC).

2.3 As such, the proposal would conflict with the local and national policies and there are no material considerations that outweigh this. The scheme is not 'sustainable' development for which the 2026 National Planning Policy Framework ('the Framework') provides a presumption in favour.

3. BACKGROUND - LEGAL AND POLICY ENVIRONMENT

Overarching Legislative Context

3.1 The aim of permission in principle is to give up-front certainty on the core matters underpinning the basic suitability of a site but based on the minimum technical detail. Section 150 of the Housing and Planning Act 2016 inserted s58A and s59A into the Town and Country Planning Act 1990 and also amended s70 to facilitate this.

3.2 The scope of permission in principle in this case is limited to 3 considerations according to the Planning Practice Guidance (PPG) (paragraph: 012 Reference ID: 58-012-20180615). These are:

- Location;
- Land use; and
- Amount of development.

3.3 The regulations do not restrict consideration to these matters. However, s59A (12) of the 1990 Act requires that due regard is taken on any guidance issued by the Secretary of State. As the Planning Practice Guidance (PPG) is clear on what should be considered, it is advised that this approach should be closely followed. Therefore, only issues relevant to these 'in principle' matters should be

assessed at this stage. These must be considered in the light of the Planning and Compulsory Purchase Act 2004.

Planning and Compulsory Purchase Act 2004 and Relevant Policies

3.4 In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, this application should be considered against the provisions of the adopted Development Plan, unless material considerations indicate otherwise.

3.5 In this instance, key policies are found within the Horsham District Planning Framework (HDPF) (2015) and the Barns Green and Itchingfield Neighbourhood Plan 2024-2031 (NP) which was 'made' on 08 October 2025.

3.6 Other material planning policy considerations include the 2026 National Planning Policy Framework (henceforth referred to as 'the Framework' or 'the NPPF') and PPG. Key policies, as well as national guidance, relevant to this objection are set out below.

Horsham District Planning Framework

3.7 **Policy 2: Strategic Policy: Strategic Development** – The plans should focus development in and around the key settlement of Horsham, and allow for growth in the rest of the district in accordance with the identified settlement hierarchy. It should encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value.

3.8 **Policy 3: Strategic Policy: Development Hierarchy** - Development will be permitted within towns and villages which have defined built-up areas.

3.9 **Policy 24 – Environmental Protection** - The high quality of the district's environment will be protected through the planning process and the provision of local guidance documents.

3.10 **Policy 25: District Character and the Natural Environment** – The Natural Environment and landscape character of the District, including the landscape, landform and development pattern, together with protected landscapes and habitats will be protected against inappropriate development

3.11 **Policy 26: Countryside Protection** – Outside built-up area boundaries, the rural character and undeveloped nature of the countryside will be protected against inappropriate development. Any proposal must be essential to its countryside location, and in addition meet specified criteria.

3.12 **Policy 31: Green Infrastructure and Biodiversity** - Where development is anticipated to have a direct or indirect adverse impact on sites or features for biodiversity, development will be refused unless it can be demonstrated that:

i. The reason for the development clearly outweighs the need to protect the value of the site; and,
ii. That appropriate mitigation and compensation measures are provided.

3.13 **Policy 33: Development Principles** – Development must ensure that it is designed to avoid unacceptable harm to the amenity of occupiers/users of nearby property and land, for example through overlooking.

Barns Green and Itchingfield Neighbourhood Plan

3.14 **Policy 2: Biodiversity Conservation** – Development should seek to ensure and enable the protection, conservation and enhancement of the parish's biodiversity and ecology.

3.15 **Policy 11: Windfall Development** – Development proposals for residential development on unidentified sites within the Built-Up Area Boundary will be supported.

3.16 **Policy 12: Design of Housing** – Development should respect the character and scale of the surrounding buildings and landscape and not cause unacceptable harm to the amenities of existing nearby residents.

National Planning Policy Framework

Determining Development Proposals

3.17 **Policy DM3: Determining Development Proposals** - When considering development proposals, local planning authorities should, amongst other things, not refuse applications for development which should clearly be approved, having regard to their accordance with the development plan, the policies in this Framework and any other material considerations.

Achieving Sustainable Development

3.18 **S3: Presumption in Favour of Sustainable Development** - Decisions on development proposals should apply a presumption in favour of sustainable development. This means:

a. Policy S4 in this Framework should be applied when considering development proposals within settlements;

b. Outside settlements, policy S5 should be applied; and

c. In all locations, development proposals that accord with both an up-to-date development plan and the decision-making policies in this Framework should be approved without delay.

3.19 **Policy S5: Principle of Development Outside Settlements -** Only certain forms of development should be approved outside settlements, as set out in a specified list. These should be approved, unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in this Framework. Developments specified include:

- The redevelopment of previously developed land (including a material change of use) to residential or mixed-use including residential);
- Limited infilling within groups of houses; and
- Development which would address an evidenced unmet need (including, but not limited to, development proposals involving the provision of housing where the local planning authority cannot demonstrate a five year supply of deliverable housing sites or scores below 75% in the most recent Housing Delivery Test), and where the development would:

  i. Be physically well-related to an existing settlement (unless the nature of the development would make this inappropriate) and be of a scale which can be accommodated taking into account the existing or proposed availability of infrastructure;

  ii. or comprise major development for freight and logistics purposes which accords with policy E3.

Achieving Well-designed Places

3.20 **Policy DP3: Key Principles for Well-designed Places** - Development proposals should respond to their context (the history, character and features of their site and its setting), so that they integrate with and enhance their surroundings; such as through the arrangement of development plots and buildings, the use of materials and architectural features, and the restoration, reuse and integration of heritage assets.

Promoting Sustainable Transport

3.21 **Policy TR3: Locating Development in Sustainable Locations** - So that development is located where it can support sustainable patterns of movement, enable good accessibility for different users and make the most of existing and proposed transport infrastructure, development proposals should reflect specified principles, taking into account the vision for the site, the type of development and its location. Principles include taking opportunities to utilise existing or proposed transport infrastructure and opportunities in rural areas to improve walking and cycling. The Connectivity Tool should be used alongside other relevant quantitative or qualitative evidence in assessing the connectivity of particular locations proposed for development.

3.22 **Policy TR4: Street Design, Access and Parking** – Amongst other things, developments should ensure that the arrangement of streets and other routes help to create places that are safe, inclusive and attractive for all users and minimise the scope for conflict between pedestrians, cyclists and vehicles.

3.23 **Policy TR6: Assessing Transport Impacts** - Development proposals should be refused if they would have a severe adverse impact on the transport network (in terms of capacity and congestion, including cumulative impacts), or an unacceptable impact on highway safety; taking into account any mitigation measures proposed as well as any wider network improvements, including measures to support sustainable patterns of movement.

Pollution, Public Protection and Security

3.24 **Policy P3: Living Conditions and Pollution** – Amongst other things, development proposals should be appropriate for their location, taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, whether these effects are on or off-site; and whether this is as a result of the development itself or the product of preexisting conditions in its vicinity.

Conserving and Enhancing the Natural Environment

3.25 **Policy N2: Improving the Natural Environment** – Amongst other things, developments should minimise any adverse impacts on biodiversity and include features which support priority or threatened species.

4. DETAILED DISCOURSE ON POINTS OF OBJECTION

(1) Unsuitability of Site Location for Housing

Policy Context

4.1 Policies 2 and 3 of the HDFP and Policy 11 of the NP seek to make effective use of developed land and focus developments to within the built-up areas of towns and villages. Policy 26 of the HDFP states that, outside built-up area boundaries, the rural character and undeveloped nature of the countryside will be protected against inappropriate development. Any proposal must be essential to its countryside location, and in addition meet specified criteria.

4.2 In terms of national planning policy, Policy S5 of the Framework states that only certain forms of development should be approved outside of settlements, as set out in a specified list. These should be approved, unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in this Framework.

4.3 Taking everything together, the main objectives of the strategy shown by the above policies are to promote housing to meet identified needs and to restrict developments in countryside locations. This objective is to ensure that the character of the countryside is preserved and to provide future residents with suitable homes and convenient access to services and facilities so that they support the vitality and viability of communities and minimise environmental harm resulting from travel.

Supporting Points of Objection

Local Plan-led Housing Strategy

4.4 By the Applicant's own admission (paragraph 5.5 of its Planning Statement), the site falls within the countryside and outside of any area that could be called a settlement under the definition of this term provided within the Framework.

4.5 Indeed, even if one considered this site against the relevant tests in case law *Julian Wood v SSCLG and Gravesham Borough Council [2014] EWHC 683 (Admin)*, the site must still be considered to fall in the countryside. The site comprises part of the garden at 'Wildacres' that is covered by established trees. It has a distinctly verdant character. It is also a considerable distance away from anything that could be described as the nucleus of a settlement and instead falls within a pocket of well-screened, loosely-knit, residential units in the countryside.

4.6 The immediate area is distinctly rural in character. Residential buildings, their gardens and boundary treatments are not readily perceptible when on the ground at the site.

4.7 For these reasons, the site has no affiliation with anything that could be defined as a settlement. On the contrary, it has a close affiliation with the open countryside, and it is in this context that one experiences it on the ground. As such, the site does not fall within a settlement under the tests of the aforementioned case law.

4.8 Taking the above into account, the site would be outside of a settlement, contrary to the aspirations of the Council's strategic housing policies. It would not meet any of the exceptions specified under Policy 26 of the HDFP for development here.

National Planning Policy – Outside of a Settlement

4.9 Policy S5 of the Framework only permits certain forms of development outside of settlements. These should be approved, unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in the Framework. Developments specified are explored below.

The Redevelopment of Previously Developed Land (PDL)

4.10 Policy S5 1. d. permits the redevelopment of PDL to residential or mixed-use including residential. PDL is defied at Annex B of the Framework as:

"*Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the* ***curtilage*** *of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed. Previously developed land excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed but where provision for restoration has been made through development management procedures (including development related to minerals extraction, waste disposal by landfill and renewable and low carbon energy development, where provision for restoration exists); land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape."*

4.11 It is acknowledged that the courts (*Lee Valley Regional Park Authority) v Broxbourne BC [2015] EWHC 185 (Admin*)) found that *"…the flexibility in the NPPF for previously developed land may not require every part of the application site to have been previously developed land…"* Nevertheless, in this case this part of the plot at Wildacres is heavily wooded. It is divorced from the main external amenity areas and the dwelling itself it is highly unlikely to serve the property in any useful or meaningful way. Consequently, the site does not fall within the 'curtilage' of Wildacres, with regard to the tests set out in *Sinclair-Lockhart's Trustees v Central Land Board [1950] 1 P&CR 195, Methuen-Campbell v Walters [1979] 1 QB 525* and *HM Attorney-General ex rel Sutcliffe & Rouse & Hughes v Calderdale BC [1983] JPL 310.*

4.12 It follows that the site simply cannot represent PDL, it is not in the *curtilage* of developed land. To say otherwise would be perverse. A collection of trees away from the main garden cannot be intimately linked to the dwelling. This part of the site is therefore 'garden' land. Outside of the dwelling's curtilage, it cannot meet the definition of PDL under the Framework.

4.13 The exception for development in the countryside at Policy S5 1. d. of the Framework is not met.

Limited Infilling Within Groups of Houses

4.14 Policy S5 1. e. of the Framework permits limited infilling within groups of houses in the countryside. The development plan defines infilling as:

"The use of vacant land and property ***within a built-up area*** *for further development."*

4.15 It has already been established, and conceded by the Applicant, that this is not a built-up area. It is the countryside, with the area comprising a pocket of loosely-knit dwellings that do not even constitute a settlement. Immediately, the proposal fails the definition of infilling therefore cannot be run through Policy S5 1. e. of the Framework.

4.16 That said, for completeness, an assessment has been made by this Practice on behalf of our clients. In this case, there is no continuously built up frontage along this part of the eastern side of the carriageway. A large open field bounds the site to the north. Consequently, even if the proposal met the definition of infilling in the development plan, which it does not, it simply does not fill a gap between development.

4.17 For a plethora of reasons, the exception for development in the countryside at Policy S5 1. e. of the Framework is not met.

Policy S5. j. of the Framework

4.18 Policy S5. j. of the Framework permits development in the countryside which would address an evidenced unmet need (including, but not limited to, development proposals involving the provision of housing where the local planning authority cannot demonstrate a five year supply of deliverable housing sites or scores below 75% in the most recent Housing Delivery Test), and where the development would:

i.) Be physically well-related to an existing settlement (unless the nature of the development would make this inappropriate) and be of a scale which can be accommodated taking into account the existing or proposed availability of infrastructure; or

ii.) Comprise major development for freight and logistics purposes which accords with policy E3.

4.19 The Council's current land supply position is acknowledged. That said, it is noted that the Council's emerging Local Plan has produced a draft five-year supply calculation of 7.4 years for 2026/27. However, at present, there is an unmet need for dwellings.

4.20 Nevertheless, to successfully proceed when tested against Policy S5. j. the site must be physically well-related to an existing settlement. It has already been conceded that this area is not a settlement. As such, it cannot relate well to any settlement, it is not within one and is 1.5 miles away from Broadbridge Heath/Horsham.

4.21 Indeed, the Itchingfield Neighbourhood Plan Examiner's Report provides useful context in this respect. It identifies Barns Green as the principal settlement within the parish, Itchingfield as a small hamlet, and specifically recognises that other residential properties are scattered throughout the parish, particularly around Bashurst Hill. The wider parish is predominantly rural in character.

4.22 Consequently, the existence of sporadic residential development in the vicinity of the application site should not be confused with the presence of an established village or coherent settlement.

4.23 The relevant consideration is whether the proposed dwelling would form part of, or represent a logical continuation of, an established settlement's built form. The proposal should not be regarded as settlement-related development merely because it would be positioned amongst other isolated residential properties.

4.24 Rather, the proposal risks further extending and consolidating sporadic residential development within the countryside, incrementally eroding its rural character and reinforcing a dispersed pattern of development which does not contribute to the established settlement structure of the parish.

4.25 As such, even in circumstances where the initial pre-conditions of Policy S5. j. of the Framework were met, subsequent pre-conditions would fail.

Access to Services and Facilities

4.26 The Council's overarching housing strategy promotes sustainable transport use. Furthermore, Policy TR3 of the Framework states that the Connectivity Tool should also be used to inform such an assessment.

4.27 The Connectivity Tool shows that the site has a score of 29. This is depicted below.



Figure 2: Connectivity score for site (source: Government's Connectivity Toll Lite 2026).

4.28 Such a score shows that the site is divorced from transport options. Indeed, the site falls within the lowest national distribution percentage (between 0-10%) for public transport, walking, cycling, shopping, education and health.

4.29 The site is considerably divorced from all services required for day-to-day living. Future occupants would be required to travel long-distance via unlit, narrow, carriageways to services. As well as being in a poorly accessible area overall, non-motorised users would therefore also likely be discouraged from making long, well-screened, journeys into adjacent settlements. This would be particularly so during inclement weather conditions.

4.30 This site proposal is entirely contrary to the spatial strategy and the Framework insofar as it seeks to reduce private car usage to achieve a net-zero transport network, improve air quality and address the climate emergency.

Overall Conclusion – this scheme is not a suitable location for housing

4.31 Taking everything together, the site indisputably falls within the countryside. This housing development has not been advanced by the development plan and the site is not allocated for residential use. This scheme is therefore entirely contrary to the plan-led approach to delivering housing growth. There are simply no development plan policies that support this residential development in an open countryside location.

4.32 The development fails to meet any of the specified exceptions for development outside of a settlement boundary within the Framework. Furthermore, the site has a very low Connectivity Tool score and is divorced from services. Future occupants would be highly reliant on private vehicles for transport.

4.33 Consequently, the site is not a suitable location for housing in 'principle' terms. The scheme is therefore contrary to Policies 2, 3 and 26 of the HDFP, Policy 11 of the NP and Policies S5 and TR3 of the Framework.

4.34 The Applicant attempts to suggest that the Council's development plan is out-of-date. However, in *Peel Investments (North) Ltd v Secretary of State for Housing, Communities and Local Government [2019] EWHC 2143 (Admin)*, it was held that the passage of time is not sufficient to conclude a policy is out-of-date; whether a policy is out-of-date depends on its substantive consistency with the Framework and current circumstances. In *Wynn-Williams v Secretary of State for Communities and Local Government [2014] EWHC 3374 (Admin)*, it was confirmed that the age of a development plan is irrelevant when assessing whether policies are out-of-date. Furthermore, in *Gladman Developments Ltd v Daventry District Council [2016] EWCA Civ 1146*, it was found that policies adopted years prior (in that case, from an older local plan with an expired timeframe) could still legally function and be applied, provided they remained consistent with higher-level Framework policies.

4.35 In this case, the relevant policies are consistent with the Framework. They are not of an age that would render them out-of-date despite predating the latest iteration of national policy. The weight given to the identified conflict with policies should not be tempered to any meaningful degree.

(2) Harm to the Character and Appearance of the Area (Land Use and Amount)

Context

4.36 As identified, the application site is located within a predominantly rural landscape at Bashurst Copse, characterised by dispersed residential properties, mature trees, established hedgerows and areas of woodland. The prevailing character is one of sporadic built development set within a verdant, heavily vegetated landscape, rather than a cohesive or consolidated settlement.

4.37 The existing trees within the site are identified as 'ancient woodland' on the Council's planning policy maps as shown below and an on the accompanying aerial view.

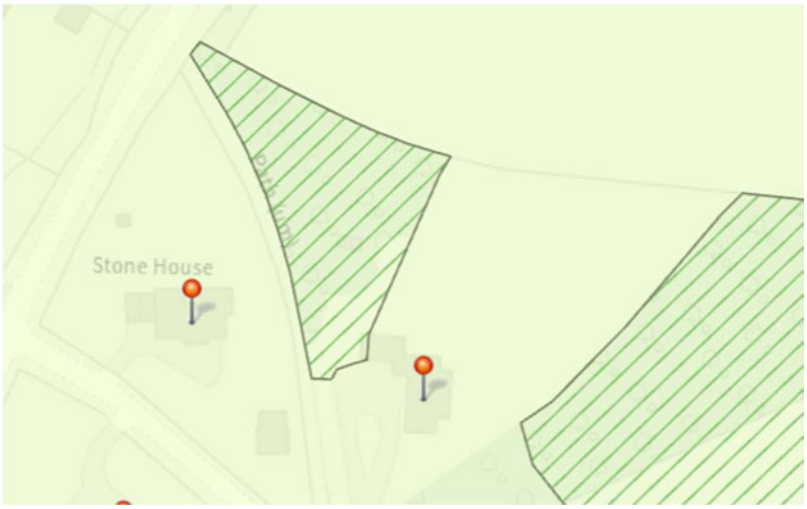

Figure 3a: Site shown to comprise ancient woodland on planning policy maps.



Figure 3b: Aerial view of proposed site vicinity (Google maps accessed 06 Nov 2026).

4.38 The Applicant disputes this. Regardless of the formal designation, the trees at and surrounding the site make an important contribution to this delicate rural character. They provide substantial natural screening, soften the appearance of built development and maintain the established balance between buildings and open, vegetated space. Collectively, they contribute to the wooded landscape character and help preserve the site's rural identity and its relationship with the surrounding countryside.

Supporting Points of Objection

4.39 The proposed development would introduce a sizeable dwelling, boundary treatment, garden areas, hardstanding and other residential paraphernalia such as parked vehicles. As such, it would contribute to the unacceptable urbanisation of the countryside. The land use and amount of development, would intensify the built and domestic appearance of the site, eroding the rural character and verdant quality of the surrounding area. Rather than responding positively to the established character of this countryside location, the proposal would further consolidate sporadic residential development and introduce an increasingly suburban character into the rural landscape.

4.40 This harm would be compounded by the loss of existing trees required to facilitate the development. The mature trees within the site make an important contribution to the area's character and appearance, providing visual screening, softening built form and maintaining the established wooded character of the locality. Tree removal would erode the landscape structure, reduce visual containment and expose development within a landscape where trees and vegetation are fundamental to its rural identity. The proposal would therefore result in an unacceptable erosion of local character and appearance, contrary to the development plan's objectives for protecting the countryside, landscape character and existing trees and vegetation.

4.41 These concerns are substantially reinforced since the trees at the site constitute ancient woodland. Policy N6 of the Framework specifically states that development proposals which would result in the loss or deterioration of irreplaceable habitats, including ancient woodland and ancient or veteran trees, should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists. The national policy protection applies irrespective of whether the habitat is formally designated. Furthermore, Natural England's standing advice identifies that both direct and indirect impacts must be considered, including root damage, soil compaction, changes to drainage, increased disturbance, lighting and the effects of adjoining residential development.

4.42 At a local level, Policy 31 of the HDFP specifically identifies ancient woodland as an irreplaceable habitat and establishes that development likely to have a direct or indirect adverse impact upon such habitats will be resisted.

4.43 As identified, the introduction of residential development within or in close proximity to this woodland would risk damaging its existing ecological and landscape value, both through the loss of trees and the indirect effects associated with construction and subsequent residential occupation. The introduction of domestic activity, lighting, access, parking and ongoing management pressures could further compromise the woodland's ecological integrity and rural character.

4.44 There is no compelling evidence demonstrating that the site is unaffected by ancient woodland, nor a robust assessment of direct and indirect impacts, therefore the proposal should not be considered acceptable. The woodland is identified on the Council's planning policy maps as ancient woodland, hence the development would result in its loss or deterioration, and therefore the proposal should be refused *de facto* on this basis and in accordance with national policy. No replacement planting or biodiversity net gain provision could adequately compensate for the loss or deterioration of this irreplaceable habitat.

Overall Conclusion – Harm to the Character and Appearance of the Area (Land Use and Amount)

4.45 Taking everything together, the proposed development's residential land use and the amount of development would result in an unacceptable urbanisation of this rural countryside location, harming the established character and appearance of the area through the introduction of additional built form, domestic activity and the loss of mature trees and the destruction of ancient woodland, an irreplaceable habitat afforded significant protection by national and local planning policy. There is no evidence to demonstrate that the woodland would remain unaffected, the proposal therefore gives rise to unacceptable landscape and ecological impacts.

4.46 Accordingly, the development would conflict with Policies 24, 25 and 31 of the HDFP, Policy 12 of the NP and Policy DP3 of the Framework.

(3) Harm to Living Conditions

4.47 The proposed development would give rise to an unacceptable loss of privacy for neighbouring residential occupiers. The introduction of an additional large dwelling and its associated residential activity would increase the potential for overlooking and mutual overlooking, particularly in an

otherwise rural setting where properties currently benefit from a greater degree of spatial separation and privacy.

4.48 The positioning, scale and relationship of the proposed dwelling, together with its windows, garden areas and external amenity space considered under technical details consent stage, have the potential to introduce direct and intrusive views towards neighbouring properties and their private gardens and swimming pool. This would undermine the existing levels of privacy enjoyed by neighbouring residents and result in an increased sense of overlooking and loss of residential amenity.

4.49 The more dispersed pattern of development characteristic of this locality makes the preservation of privacy particularly important. The proposal would introduce a more intensive residential relationship between properties than is characteristic of the surrounding area. Accordingly, the land use and amount of development would fail to safeguard the reasonable privacy and living conditions of neighbouring occupiers, contrary to Policy 33 of the HDFP, Policy 12 of the NP and Policy P3 of the Framework.

(4) Harm to Integrity of Special Area of Conservation

UK Law and Statute

4.50 The application site is close to The Mens Special Area of Conservation (SAC) (well within the 10km Zone of Influence). This SAC is a designated European wildlife sites of considerable biodiversity value. It is protected by European Law and UK law. Regulation 63 of The Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations") requires that the competent authority, in this case the Council's Officer, *"before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which:*

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of that site,

must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives."

4.51 In essence, the Council cannot make any decision on this development until likely significant effects are discounted and, if they do exist, before an Appropriate Assessment (AA) is performed to show

there would be no harm to the integrity of a designated European site. To do otherwise would breach European law.

Likely Significant Effects

4.52 When determining if likely significant effects (LSE) or adverse effects on the integrity of a site would arise, conclusions must adhere with the precautionary principle. The courts have given the word 'likely' a much wider definition than an ordinary reading of the word might suggest. Cases[1] have put it beyond doubt that the correct approach is to look for effects that 'such a risk exists if it cannot be excluded on the basis of objective information that the plan or project will have significant effects on the site concerned' and 'in the case of doubt about the absence of significant effects … an assessment must be carried out'. An effect is therefore likely where there is only a risk, or a mere possibility, of it occurring. Moreover, case law[2] has also confirmed that 'significant' set a 'very low' *de minimus* threshold excluding only those developments that have 'no appreciable effect on the site'. One cannot rely on mitigation to screen out LSE.

4.53 Additional residents at this site could clearly result in increased recreational pressures at the nearby SAC, which is a popular recreational location. This alone would result in a likely significant effect.

Inability to Perform an Appropriate Assessment

4.54 Accordingly, the competent authority (the Council) must perform an AA to address whether this proposal would adversely affect the integrity of the identified European site. The process of considering the potential effects of a plan or project on sites protected under the Habitats Regulations is generally referred to as a Habitats Regulations Assessment (HRA). This has not been performed for this proposal.

4.55 Given the absence of an HRA, there are no details of; the qualifying features and conservation status of each feature that may be affected, the proposal's impact on the integrity of the protected site and mitigation measures that may be necessary.

4.56 Overall, on the limited information provided, the Council simply cannot perform a suitable AA for this scheme and cannot discharge its statutory duty under the Habitats Regulations.

[1] *1) Landelijke Vereniging tot Behoud van de Waddenzee (Case C-127/02) [2004] ECRI-7405 ('Waddenzee'),*
2) R (Loader) v Secretary of State for Communities and Local Government [2012] EWCA Civ 869 and
3) R (Bateman) v South Cambridgeshire DC [2011] EWCA Civ 157.

[2] *Sweetman v An Bord Pleanála (Case C-258/11) [2014] PTSR 1092, [2013] 3 CMLR 16.*

Overall Conclusion – Failure to Discharge Statutory Duty Relating to European Sites

4.57 Taking everything together, there can be no doubt that additional housing would result in likely significant effects to the identified European site as a result of additional recreational pressure. In the absence of a HRA, the Council cannot perform an AA and therefore cannot properly understand the consequences of this. It therefore cannot fulfil its legal duty under the Habitats Regulations as there is insufficient information to conclude, beyond reasonable scientific doubt, that the proposal would not adversely affect the integrity of a European site.

4.58 Permission therefore cannot legally be given in the absence of this information, which cannot be requested via a condition. The scheme should be refused on this basis alone as one cannot assess the development against the requirements of Policy 31 of the HDFP, Policy 2 of the NP and Policy N6 of the Framework.

Other Material Considerations

Other Decisions Referenced by the Applicant

4.59 The Applicant seeks to justify the proposal by reference to a number of previous planning appeal decisions and permissions for residential development elsewhere within Horsham District that have very limited value or relevance. The decisions made are not directly comparable to the current proposal and do not establish a general acceptance of residential development within the countryside. Each of the decisions must be considered in the context of its individual circumstances, including the site's relationship with an established settlement, its physical characteristics, the nature of the proposed development and the particular planning considerations which informed the decision maker's conclusions.

4.60 In particular, the appeal decision relating to Land East of Spring Gardens, Washington (DC/26/0035), is materially different. The Inspector expressly recognised that the site was embedded within a substantial and cohesive group of houses, occupying a defined gap between two existing dwellings and directly fronting Spring Gardens. The proposal was therefore considered to represent limited infilling within an established group of houses. The Wildacres site, by contrast, occupies a large and secluded plot within a dispersed rural environment. The proximity of individual dwellings does not establish that the site forms part of a similarly cohesive group or that its development would constitute genuine infilling. Indeed, the Spring Gardens decision demonstrates that the Inspector undertook a detailed assessment of the physical relationship between the site

and surrounding built form, rather than simply relying upon the presence of nearby residential properties.

4.61 Similarly, the appeal decisions at Thornhill Stables, Coolham (DC/24/1486) and Cowfold Lodge Cottage, Cowfold (DC/22/2250), do not provide a direct precedent. Although both proposals were allowed having regard to the significant housing shortfall within the District, the Inspectors acknowledged the conflict with relevant countryside and locational policies. In the case of Cowfold Lodge Cottage, the site was close to Cowfold, a recognised medium-sized village with an established range of services and facilities, and the Inspector considered that the proposed dwelling would not be unduly prominent or inappropriate in its particular rural setting. These decisions demonstrate that the housing shortfall is a material consideration in the planning balance, but does not establish that the adverse impacts arising from development at any countryside location should be accepted.

4.62 The Marlpost Meadows decision (DC/22/0495) is also distinguishable. That site formed part of the curtilage of an existing dwelling and was considered to constitute previously developed land. Importantly, the Inspector also identified reasonably good accessibility to the services and facilities of Southwater. The decision therefore hinged upon its particular site circumstances and accessibility, rather than establishing that any land within the curtilage of an existing countryside dwelling is suitable for further residential development.

4.63 The appeal concerning Land North of Cowfold Road, Coolham (DC/24/1966), is particularly unhelpful to the Applicant's case. The Inspector found that the site was closely related to the settlement of Coolham and that its development would consolidate the settlement rather than represent an encroachment into the countryside. The site benefited from proximity to a primary school, village hall, public house and bus services, with pedestrian access facilitated by existing footways. The Inspector also found that the proposal would not harm the character and appearance of the area. These are materially different circumstances from Wildacres, which is located within a dispersed rural environment and does not benefit from the same physical or functional relationship with an established settlement.

4.64 The Horsham Golf Club appeal (DC/23/1178) is even less comparable. That decision concerned a substantial strategic development of up to 800 dwellings, together with a local centre, sports and leisure facilities and associated infrastructure, situated between Horsham and Southwater. The Inspector's conclusions reflected the strategic scale of the proposal, its relationship with two major settlements and the pressing need to identify significant housing sites to address the District's

housing shortfall. It cannot reasonably be leveraged to justify an additional dwelling within an otherwise dispersed countryside location such as Wildacres.

4.65 The Applicant also refers to the permission in principle granted at Butlers, Tower Hill (DC/26/0735). However, the Council's own Planning Statement acknowledges that this site is within the settlement of Tower Hill, albeit outside its defined built-up area boundary. It is therefore fundamentally different from Wildacres, which is not physically integrated with an established settlement. The decision is consequently of no relevance to the principal locational concerns arising in this case.

4.66 Finally, the appeal decision at Silver Birches, Bashurst Hill, is not a comparable precedent for the proposed development. That appeal related solely to the creation of a gravel driveway and new access, rather than the construction of an additional dwelling. Furthermore, the Inspector's conclusion concerning ancient woodland was informed by specific evidence that the affected parcel had long formed part of domestic gardens, had not been subject to the relevant ground survey and had undergone extensive works which had fundamentally altered its nature. The Inspector found that the particular driveway proposal would have a benign effect on its ecological integrity. That finding cannot be extrapolated to justify a new dwelling and associated residential development at Wildacres, particularly where the potential effects upon existing trees and ancient woodland require separate and careful consideration.

4.67 Overall, the cited decisions demonstrate that planning permission has been granted for residential development outside settlement boundaries in certain circumstances, following an assessment of the particular merits of each proposal and the applicable planning balance. They do not establish a general presumption in favour of further residential development within the countryside. Crucially, none of the decisions removes the requirement to assess the specific relationship of Wildacres with an established settlement, its contribution to rural landscape character, the potential loss of existing trees and the implications for neighbouring residential amenity. The current proposal must therefore be determined on its own merits, and the previous decisions do not overcome the substantive planning objections identified above or set a meaningful precedent. That said, it should be acknowledged that a scheme at Willow Cottage was withdrawn given potential adverse ramifications to ancient woodland following concerns from the Council in this regard.

Local Ecology

4.68 The proposed development raises significant concerns about the potential impact on the local ecology and biodiversity of this rural site. The surrounding area is characterised by mature trees, hedgerows, established vegetation and nearby woodland, which together provide valuable habitat and wildlife corridors. These features support local biodiversity by providing opportunities for nesting, foraging, shelter and movement between habitats. The site should therefore be considered in the context of the wider ecological network, rather than simply as a plot of land capable of accommodating a dwelling.

4.69 The construction of a new dwelling, access, driveway, parking and associated domestic garden would result in the loss or disturbance of existing vegetation and habitats. Construction activity would cause indirect harm through ground disturbance, soil compaction, changes to drainage, noise and lighting. In the longer term, occupation of the dwelling would introduce further pressures, including artificial lighting, domestic activity, garden management, boundary treatments and increased disturbance from people and pets. These effects would undermine the ecological value of the site and its contribution to the surrounding habitat network.

4.70 Particular care is needed in relation to the mature trees and any nearby woodland, including the effects on ancient woodland within the proximity. It is not sufficient to consider only the direct removal of trees or vegetation: development can also affect root protection areas, soil conditions, drainage and the sheltered, relatively undisturbed conditions on which woodland habitats depend. Any such impacts should be properly assessed before a principle of development can be considered.

4.71 Overall, the application does not demonstrate, with sufficient evidence, that the land use and amount of development for the proposed development can be accommodated without causing unacceptable harm to local habitats and wildlife. A robust ecological assessment should identify the habitats and species present, assess both direct and indirect impacts, and explain how those impacts would be avoided or adequately mitigated. It should also demonstrate how existing trees, hedgerows and other ecological features would be retained and protected throughout construction and subsequent occupation.

4.72 These matters should not simply be deferred to a later technical details stage if they affect whether the site is suitable for residential development in the first instance. The ecological

constraints of the site, and the ability to provide effective protection and mitigation, are relevant to the acceptability of the proposed location.

5. CONCLUSION

5.1 This application site falls outside of a settlement and is within the countryside. It is not allocated for housing and there are no other policies in the development plan that support a development of this scale and nature. Moreover, there are no exceptions in national policy for this type of development in the countryside. Consequently, this is not an acceptable location for housing.

5.2 Furthermore, the proposal would be divorced from services and facilities and future residents would be highly unlikely to reach these by foot or bicycle. Consequently, the scheme would not provide suitable access to requisite services and would not foster the use of public transport. On the contrary, residents would be heavily dependent on private vehicles.

5.3 As such, the proposal's location would contravene the Council's plan-led spatial strategy for the delivery of housing and therefore carries significant weight against the development.

5.4 Turning to landscape effects, the site is located within a rural and verdant setting. This scheme's land use and amount would substantially urbanise the site, exacerbated by the removal of a significant amount of good quality trees. This would wholly erode the contribution it makes to this rural setting, introducing a harsh, incompatible, urban development. Effects would not be well-contained or unobtrusive. Rather, the proposal's harmful visual effects would be readily apparent. Harm to the character and appearance of the area, including to ancient woodland, can only carry substantial weight against this scheme.

5.5 Furthermore, the proposal would harm the living conditions of occupants at nearby dwellings in terms of loss of privacy and would harm the integrity of a designated European wildlife site. Indeed, there is insufficient evidence to show there would be no harm to local ecology.

5.6 The weight given to the social benefit of one additional residential dwelling would be dwarfed given that the new unit would be divorced from services and contrary to the spatial housing strategy of the Council's own development plan. Only minor weight can be assigned to the provision of housing and any associated economic benefits which would occur over the short term only and long-term are negligible.

5.7 Furthermore, little or no weight can be assigned to the proposal's compliance with other policies in the development plan.

5.8 Taking the above into account, and in the overall planning balance, the proposal would clearly conflict with the Council's development plan. There are no material considerations which would outweigh such a finding.

5.9 Accordingly, the scheme's location, land use and amount are unacceptable and it is respectfully requested that the application be refused.

End of Objection

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