Statement of the Local Planning Authority

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PLANNING INSPECTORATE REFERENCE	APP/Z3825/W/25/3360404
LOCAL PLANNING AUTHORITY REFERENCE	DC/24/1786

Town and Country Planning Act 1990

Planning appeal by Mrs Tina Tighe
Little Frylands , Wineham Lane, Wineham, West Sussex, BN5 9AW
Appeal to be determined by an Inspector appointed by the Secretary of State by way of **Written Representations**

The appeal proposal

The application sought permission for the "*Demolition of existing buildings on site and erection of 2no. two storey replacement dwellings. (Replacing the existing extant planning permission reference DC/22/2358 (Demolition of existing dwellings and buildings and erection 2no single storey dwellings with cycle and bin stores).*"

The application was refused by the Council on 14/01/2025 under delegated powers for the following reasons:

Reason 1:

"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).

Reason 2:

"The development would entail a scale, design and form of development which fails to reflect the rural character of the site and surrounding area, appearing unduly suburban and representing an incongruous form of development which would fail to preserve or enhance the character and appearance of this rural location. The proposal therefore represents an inappropriate form of development that would fail to protect, conserve or enhance the landscape character of the area, contrary to policies 25, 26, 28, 32 and 33 of the Horsham District Planning Framework (2015), and Policy 5 of the Wineham and Shermanbury Plan (2014-2031)."

Reason 3:

"Insufficient information has been submitted to establish the protection of the ecological and biodiversity interests of the site and whether suitable mitigations or enhancements are necessary and achievable, contrary to Policy 31 of the Horsham District Planning Framework (2015)."

The case for the local planning authority

This statement, together with the previously submitted questionnaire and Officer's delegated report, forms the Local Planning Authority's statement of case. The Officer's delegated report outlines the relevant local plan policies in full. The purpose of this Statement is not to reiterate the plan policies considered within the assessment but 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), in addition to the relevant requirements within

the Conservation of Species and Habitats Regulations 2017. The crux of the appeal relates to:

1. Whether the development would be water neutral.
2. Whether the proposed development would be acceptable design within its countryside location
3. Whether the development would result in potential to harm protected species

Reason for refusal 1:

The application site falls within the Sussex North Water Supply Zone as defined by Natural England. New development in this zone cannot be approved by a competent authority if it would have an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.

Natural England advises that plans and projects affecting these sites 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.

In respect of Water Neutrality, the appellant has submitted a Water Neutrality statement as part of the appeal process. This does not raise new or compelling evidence in support of their case or in rebuttal to the Council's reasons to refuse the application, and the council would remain of the view that the application does not demonstrate water neutrality. The application advances that the baseline usage was established under a previous application, which is not an extant or implementable permission. Furthermore, the baseline usage advanced within the appellant's appeal would not be accepted given that the baseline outlines a theoretical usage within the site, not an actual usage. Metered water bills are usually required to demonstrate an existing baseline usage, and in the circumstances where this is not possible, flow survey demonstrating the usage of each of the actual fixtures and fittings are to be presented as evidence alongside photos of the fittings, and evidence of occupation from the applicant to support the number of people that they outline are living within the existing dwellinghouses. It was evident during the officer's site visit and within the appellant's own submitted Ecological assessment that the buildings proposed for demolition are currently used for storage and stables. The baseline usage presented has not been supported by evidence sufficient to overcome the case officer's concern on this matter and the information within the appeal would be insufficient to satisfactorily demonstrate that the proposal would be water neutral.

The Local Planning Authority undertook an Appropriate Assessment and communicated their assessment of the WNS which was subsequently reviewed by Natural England. It was concluded that insufficient information had been provided to demonstrate with certainty that the 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.

The guidance is unambiguous on the council's website that water neutrality would need to be demonstrated and how to achieve this for various types of development. The council are positive and proactive where there is a presumption in favour of sustainable development, however in this instance, the LPA had made an assessment as the competent authority that the development had not demonstrated Water Neutrality for the reasons outlined within the delegated report. The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects) unless an appropriate assessment has

concluded that the plan or project will not adversely affect the integrity of the habitats site. As such the presumption in favour of sustainable development did not in this instance apply. Where Water neutrality is not demonstrated, proposals ***would*** amount to adverse harm to the designated sites identified (as detailed in the above paragraphs) and thus provide a clear reason in refusing the application.

It is not the intention of this Statement of case to reiterate the delegated report in entirety and whilst this report outlines the rationale of the LPA in response to the appeal information submitted, the LPA is now not the 'competent authority' as this has reverted post-determination to the Planning Inspectorate, we respectfully request the Inspector to consider the reasoning outlined within the officer's delegated report, review if the WNS provides the required certainty, and consult with Natural England. As such, the Inspector will reach their own conclusions with regards to Water Neutrality. The Local Planning Authority would not want to prejudice the due process of the competent authority however for the avoidance of doubt, the competent authority must consider the likely effectiveness of any mitigation measures, including (amongst other things) the contents of the appellant's water neutrality statement in addition, and whether the mitigation measures outlined are capable of meeting the conditions tests.

Reason for refusal 2:

The appellant as part of the appeal process has submitted plans to illustrate the design, scale and appearance of the proposed dwellings. The Officer would like to bring to the attention of the Inspector the differences between the application under DC/22/2358 which entailed dwellings of a modest scale (comprising 2x2-bed units with accommodation on ground floor level only), designed to reflect a rural vernacular expected within a countryside location and with no related outbuildings. The appellant in their submitted Design and Access statement outlines that a similar design to that proposed currently has been approved within the locality, however, given the site circumstances, appearance and planning history differ, the current appeal is considered on its own merits. The current appearance of the application site is rural in character, both due to the modest built form on site, the use of the site as stables and storage and its verdant site boundary treatments and context to the rear of the application site. The current proposal materially differs to the previous permission, with the scale and massing of the proposed dwellings larger and of greater proportion at first floor and roof height than what was previously approved.

The assessment under the officer's report is still considered relevant to the appeal submission documents and would entail a greater degree of built form on the site. The permission in this instance would result in harm to the countryside character due to the increase in scale, form and incongruous visual appearance which goes above and beyond what was considered acceptable under DC/22/2358. It is noted that this previous permission included pre-commencement conditions which have not been approved and the time to implement this has now passed. Given the above, the proposal would appear as a disproportionate addition to the site when considered against what the applicant's outline as existing dwellings.

The Design and Access statement has been considered and outlines that as part of the permission, a condition could be included to revert one of the buildings back to a garage ancillary to Little Frylands. The condition offered would not outweigh the harm identified above and the reason for refusal would remain.

Reason for refusal 3:

No new or compelling evidence has been submitted as part of the appeal, with the submission reflecting that assessed under the planning application. The officer's report outlines that the proposal would be contrary to policies 31 of the HDPF. No assessment was made of whether the trees within the site would have bat roost potential and given that some of the trees within the site would have to be removed to allow the accesses, this assessment would need to be made to evidence that there is no need for further survey. The LPA remain of the view that the proposal would be contrary to policies 31 of the HDPF.

Conclusion

The Planning Assessment considers all planning policies and material considerations, and comes to a conclusion by balancing all matters. The Council considers all applications in a professional and impartial manner, and while not all will agree with the decision, it does not follow that as an application has been refused that the supporting information was not reviewed or understood. The Council are therefore of the view that the planning application was appropriately considered and determined.

The Council is firmly of the view that it has not behaved unreasonably nor put the Appellant to additional or wasted expense in the appeal process. Furthermore, the Council considers it to have been correct in refusing planning permission for the proposed development. The Council remain of the view that approving the scheme would conflict with core local and national planning policy.

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

1 **A List of the Approved Plans**

2 **Regulatory (Time) Condition:** The development hereby permitted shall be begun 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.

3 **Pre-Commencement Condition**: No development shall commence until the following components of a scheme to deal with the risks associated with contamination, (including asbestos contamination), of the site be submitted to and approved, in writing, by the local planning authority:

(a) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- Potentially unacceptable risks arising from contamination at the site.

The following aspects (b) - (d) shall be dependent on the outcome of the above preliminary risk assessment (a) and may not necessarily be required.

(b) An intrusive site investigation scheme, based on (a) to provide information for a detailed risk assessment to the degree and nature of the risk posed by any contamination to all receptors that may be affected, including those off site.

(c) The intrusive site investigation results following (b) and, based on these, a detailed method statement, giving full details of the remediation measures required and how they are to be undertaken.

(d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action where required.

The development shall thereafter be carried out in accordance with the approved details. Any changes to these components require the consent of the local planning authority.

Reason: As this matter is fundamental to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

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-Occupation Condition**: The dwelling hereby permitted shall not 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 proposal has been implemented in full. The evidence shall include the specification of fittings and appliances used, evidence of their installation, completion of the as built Part G water calculator or equivalent and water harvesting system installation. 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), Paragraphs 185 and 186 of the National Planning Policy Framework (2023), and to enable the Local Planning Authority to discharge its duties its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

6 **Pre-occupation Condition**: Prior to the first occupation of each dwelling, 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 shall be 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).

7 **Pre-Occupation Condition**: No part of the development hereby permitted shall be occupied until a plan showing the layout of the proposed development and the provision of car parking spaces for vehicles has been submitted to and approved in writing by the Local Planning Authority. The dwelling hereby permitted shall be occupied or use hereby permitted commenced until the parking spaces associated with it have been provided in accordance with the approved details. The areas of land so provided shall thereafter be retained for the parking of vehicles.

Reason: To ensure that adequate and satisfactory provision is made for the parking of vehicles clear of all highways in accordance with Policy 40 of the Horsham District Planning Framework (2015)

8 **Pre-Occupation Condition**: No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies and Policy 40 of the Horsham District Planning Framework (2015).

9 **Regulatory Condition**: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and/or any Order revoking and/or re-enacting that Order, no development falling within Classes A, AA, B, C, E, or F of Part 1, Class A of Part 2, or Class AD of Part 20 of Schedule 2 of the order shall be erected, constructed or placed within the curtilage of the development hereby permitted without express planning consent from the Local Planning Authority first being obtained.

Reason: In the interest of visual amenity and due to control the development in accordance with Policy 33 of the Horsham District Planning Framework (2015).

10 **Regulatory Condition**: All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance protected and Priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and Policy 31 of the Horsham Development Framework.