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Planning Inspectorate
c/o Gemma Carey
Appeals Case Officer
Team East 2
Planning Inspectorate

Dear Sirs,

RE: COMMENTS REGARDING IMPLICATIONS OF NPPF 2026 TO APPEAL

PINS Ref: 6007051

PROPOSAL: CHANGE OF USE OF BUILDING TO PROVIDE 9 C3 RESIDENTIAL UNITS

SITE: BENTLEY HOUSE, NORTH HEAHT LANE, INDUSTRIAL SITE, HORSHAM. RH12 5QE

Further to the receipt of the recent email dated 26th August 2026, please find enclosed comments regarding the implications of the adoption of the new National Planning Policy Framework (NPPF) on 17th August to the above appeal.

We have also been provided with a copy of the Council's response on this matter and where relevant include commentary to that affect.

Introduction

A new and updated version of the National Planning Policy Framework (NPPF) was brought into effect on 17th August 2026. Paragraph 1 of Annex A: Implementation states:

The policies in this Framework are material considerations which must be taken into account in decision-making from the day of its publication.

The changes to the NPPF are significant. The new NPPF has moved from a system of paragraphs to those concerning policies divided under relevant headers and sections. These are also split between policies which apply to plan making and those that apply to decision making.

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Paragraph 8 sets out that plan making policies should not be used when making decisions on development proposals.

Paragraph 3 of the NPPF makes it clear that the NPPF is a material consideration in decision making and that it should be read alongside the policies in the development plan. This includes, as set out in paragraph 7, the specification of weight to be given to certain benefits and limited circumstances in which it is expected that permissions be refused.

For the purpose of decision making, paragraph 2 of Annex A states:

Development plan policies (or parts of those policies) which are materially inconsistent with national decision-making policies in this Framework should be given very limited weight. The only exception to this is where they have been examined and adopted or made against this Framework. Other development plan policies should not be given reduced weight simply because they were adopted prior to the publication of this Framework.

It is self-evident that the Council's Development Plan was not examined and adopted against the 2026 Framework and, therefore, there is not only a necessity to consider the new policies of the NPPF but also to consider whether the relevant policies in the Development Plan themselves are materially inconsistent with those in the NPPF to the extent that they should only be afforded very limited weight.

In the context of the District this also raises potential challenges to the ongoing work for the emerging local plan. While those emerging policies will be considered in the context of the 2023 version of the Plan there is a genuine point that we contend will need to explore the implications of the 2026 framework as part of future hearing sessions. The principal question will be as to whether the new policies when adopted are materially inconsistent and therefore afforded only very limited weight.

As set out we do not intend this to be a comprehensive submission to cover all of the changes to the framework but only those of material relevance to the determination.

Key Relevant Changes

As set out the NPPF has moved away from paragraph numbers to a framework of policies; these continue to be divided into relevant sub sections or chapters. For the purposes of the appeal and the material changes the following are considered to be most relevant.

Section 3 – Decision-making policies

DM3 – Determining development proposals

DM4 – Emerging development plan proposals

DM6 – Use of planning conditions and obligations

Section 4 – Achieving sustainable development

S3 – Presumption in favour of sustainable development

S4 – Principle of Development within settlements

Section 5 – Meeting the challenge of climate change

CC2 – Mitigation of climate change

Section 6 – Delivering a sufficient supply of homes

HO7 – Meeting the need for homes

Section 7 – Building a strong, effective economy

E2 – Meeting the need for business land and premises

Section 12 – Making effective use of Land

L2 – Making effective use of land

Section 14 – Achieving well-designed places

DP3 – Key principles for well-designed places

DP4 – The design process

Section 15 – Promoting sustainable transport

TR3 – Locating development in sustainable locations

TR6 – Assessing transport impacts

Section 17 – Pollution, public protection and security

P3 – Living conditions and pollution

P4 – Impact of development on existing activities

Main Considerations

As set out not all of the new policy positions have a material change to submissions already made; in such circumstances we will provide limited commentary on those matters when compared to those aspects which are more detailed. Where relevant we will cross reference to matters already submitted giving reference to specific paragraphs within such,

In preparing the comments within this response we have also given reference to those comments made by the Council where they relate to the impact of the adoption of the new NPPF.

Principle of Development

The presumption in favour of sustainable development is now set out under Policy S3. For those developments, such as this, within settlements it directs decision making to Policy S4.

Policy S4 states:

1. Development proposals within settlements 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.

There is no dispute that the application site is located within a settlement. The new test within S4 is effectively to require a permanent application of the ‘tilted balance’ previously reserved for those which engaged with Paragraph 11d) of the previous version of the NPPF.

When the appeal was made and throughout its determination the former paragraph 11d) had been engaged principally owing to the significant and chronic under provision of housing within the district. To this extent, Policy S4 does not change the application of this tilted balance in that the development should be approved *unless the benefits of doing so would be substantially outweighed by any adverse impacts*. We have continuously provided commentary on the balancing exercise and the application of the tilted balance notably in Section 5 of the previously submitted *Final Comments* (May 2026).

These conclusions largely remain unchanged, though we do highlight the significance in the changes of the removal of footnote 7 and in its place the wording of S4.2. set out below. This has in real terms altered the balancing exercise requiring engagement with these to be undertaken before determination is reached. It is recognised that reasonably the same considerations and views may arise from such but given the changes to the balance, particularly when read alongside other policies, there is a need for reassessment.

Policy S4 continues to state:

2. In applying policy S4, the circumstances in which the benefits of approving development are likely to be substantially outweighed by adverse effects include (but are not restricted to) situations where the development proposal would:

a. Have a substantial adverse impact in relation to:

- i. *The allocation or safeguarding of land or buildings for particular uses in the development plan, unless there is no reasonable prospect of an application coming forward for the allocated use, or there is evidence that the safeguarding is no longer appropriate; or*
- . The application of the policies in this Framework for existing recreational land and facilities (HC7), Local Green Space (HC8), areas of particular importance for biodiversity and geodiversity (N6), Protected Landscapes (N4) and development within residential curtilages (L2(1)(d)).*
- b. *Involve the whole or partial loss of undeveloped land which is used for a cemetery or burial ground; or for water storage and/or flood risk management (unless suitable compensatory provision is made that does not increase the risk of flooding either on or off-site); or*
- c. *Fail to comply with one of the national decision-making policies which state that development proposals should be refused in specific circumstances.*

In addressing these points, we highlight the following:

- The site is not allocated nor safeguarded for a particular use by a policy within an adopted development plan. We have also provided substantial evidence to indicate that there is no reasonable prospect of the employment use being brought forward within the building.
- The proposal does not impact on land designated or used for recreational land, local green space. The site is not of particular importance in terms of biodiversity and geodiversity, nor is it within a protected landscape or residential curtilage.
- The proposal does not impact on land used for a cemetery or burial ground, or for water storage and/or flood risk management.
- We do not consider, as set out below, there to be any relevant policies within the NPPF that state development proposals should be refused in specific circumstances.

Whilst we acknowledge that the list of points included within S4. 2. is not exclusive and can include other considerations, we consider it an initial strong indication on the matter of principle that the development is acceptable and that the benefits are unlikely to be substantial outweighed by the harm.

In relation to the Council's submission, we highlight that it does not at all reference Policy S4 nor has the Council in any previous submission engaged with a 'tilted balance.' We therefore find it surprising that the Council does not consider that the Framework materially alters the planning balance in this case. Quite evidently, Policy S4 does and we consider it unreasonable

that the Council has not sought to reassess such particularly noting the points to be made below.

Delivering a sufficient supply of homes

There is no dispute between the parties that Horsham District Council is currently unable to provide a sufficient housing land supply. The most recently published figure covering the period 2024 - 2025 projecting delivery equivalent to 1.7 years' worth of supply, a significant, sustained and chronic under delivery. Further the Housing Delivery Test results for 2025 which were published alongside the NPPF put Horsham's delivery at 44% well below the 75% required putting it amongst one of the worst performing authorities.

Evidently, therefore the delivery of 9 residential dwellings would make a contribution towards meeting and evidenced need of the community.

Policy HO7 of the NPPF states:

In applying the policies in this Framework, substantial weight should be given to the benefits of providing homes which will contribute towards meeting the evidenced accommodation needs of the community, as identified through needs assessments prepared for the area of the local planning authority and other relevant evidence. This includes, but is not limited to, homes needed for different groups assessed under policy HO1.

Critically, for the purposes of the appeal Policy HO7 removes any ambiguity about the degree of weight that should be given to the benefits of providing homes. Submissions had been made to this between paragraphs 4.10 – 4.20 of the *Final Comments* (May 2026) with the weight afforded at that time being significant. There can now be no dispute over the degree of weight to be given to such matters, and this is now *substantial*. We highlight that this weight is made regardless of the number of units being provided too.

In respect of the Council's comments, whilst we recognise that they have included reference to Policy HO7 and the substantial weight afforded by the policy the submission continues in the same paragraph to reference *moderate weight in favour*. This, when also read in conjunction with those comments regarding the planning balance, we contend, continues to highlight an unreasonable approach by the Local Planning Authority to the appeal proposal.

Building a strong, effective economy

We recognise that there is no disagreement between parties that the existing building is within a lawful office use. The key matter of contention between the Council's position and that of

the appellant is whether the loss of the employment space is justified and whether its loss result in sufficient harm to (as per S4) substantial outweigh the benefits of the scheme.

Policy E2 of the NPPF states:

1. To support business growth, substantial weight should be given to:

a. The economic benefits of proposals for commercial development which allow businesses to invest, expand and/or adapt; especially where this would support the economic vision and strategy for the area, the implementation of the Industrial Strategy, support improvements in freight and logistics and/or reflect proposals for Industrial Strategy Zones and AI Growth Zones; and

b. Benefits for domestic food production, animal welfare and/or the environment which can be demonstrated through proposals for development for farm and agricultural modernisation.

We do not consider this to be a significant change from that of the previous NPPF. Whilst this is the case, for the purposes of S4 we consider it critical to highlight that it does not include a clear reason for refusal (S4. 3.) and therefore does not meet this threshold.

It is noted that the Council's commentary considers that this policy reinforces the importance of retaining suitable employment premises. We dispute that this policy read in isolation does that. The NPPF is clear that it must be read as a whole, and as will be explored later in this submission, other policies recognise the need to reuse underutilised buildings, such policies do not include exceptions to employment sites.

Notwithstanding this, significant submissions have been made repeatedly to date that Bentley House does not have any realistic prospect of being occupied for commercial purposes. The property has remained vacant for a number of years and despite best marketing efforts continues to do so. It has been highlighted consistently, though not acknowledged by the Council, that a number of other restrictions on the site are prohibitive to such. We continue to assert that it is non-sensical to take a position that simply because a site remains physically capable of accommodating a use that this should justify a setting aside of the evidence as presented.

In respect of Policy E2. we do not consider it relevant to the determination of the application.

Making effective use of Land

We have previously made representations (4.16 - 4.18, 4.35 – 4.37 of Final Comments) regarding the weight to be afforded to the re-use of the underutilised land.

As with Policy HO7 the new Policy L2 prescribes the weight to be given to certain benefits. It states (of relevance):

Substantial weight should be given to the benefits where a development proposal would achieve one or more of the following:

b. Making better use of vacant and underutilised land and buildings (such as: by bringing back into residential use empty homes and other suitable buildings; converting space above shops; redeveloping underutilised retail and business sites; and building on or above service yards, lock-ups, car parks and other transport infrastructure which are no longer required);

This, we highlight, as with HO7, now specifies that substantial weight should be given to those benefits.

The Council in their submission recognise that the building is currently vacant and that the proposal would involve the re-use of the existing building. The Council also acknowledge that this policy is strengthened by the revised Framework.

This is also our position, namely, that the benefit of the re-use is to be afforded greater weight than previously (now defined as substantial). We also contend that the proposal would make a better use of a clearly vacant and underutilised building and would comply with at least one of the examples included in the policy.

The Council's statement sets out that they do not consider that Policy L2 overrides the need to assess whether the loss of employment floorspace is justified in planning terms. They also state that the fact a building is vacant does not, in itself demonstrate that it is no longer needed or capable of supporting employment activity.

It is our position that if the NPPF is read as a whole that we agree that Policy L2 does not override other considerations. Where we dispute the reasoning is in how this is dealt with. Clearly Policy L2 sets out that substantial weight is to be given to that benefit, it is then a matter of planning judgement and balance in line with Policy S4 as to the outcome of the balancing exercise. The weight to be afforded to the benefit, as with HO7, however, cannot be disputed.

Again, on this basis we find the Council position regarding planning balance, namely, that it does not need to be revisited, to be unreasonable.

From our own perspective in this instance owing to the suite of evidence about the continued long-term vacancy of the building is overwhelming. We have already set out at length the various factors which have limited the success of the marketing exercises. This evidence will

need to be considered in the balancing exercise to judge the amount of weight to be afforded to any adverse harms. For the avoidance of doubt, it has not been the appellant's position that there are no adverse harms from the proposal; it has been their position that these harms should, owing to the evidence available, be afforded only limited weight and do not substantially outweigh the benefits of the scheme.

Achieving well-design places

The general aim of Policies within the NPPF in terms of design remains unchanged; principally they seek to deliver high-quality development that is appropriate to the area. The new Policies within the NPPF, however, provide a framework for analysis of such. Further, Policy DP3 3 clearly states that development is to be refused on design grounds (owing to a conflict with DP3 1 or 2) that this is clearly justified.

Given the nature of the proposal, we do not consider that the rewording of the NPPF has fundamentally altered those submissions already made in respect of the appeal proposal in this regard. We do not consider, in line with Policy S4, that those policies for refusal are engaged in the determination of this application.

Promoting sustainable transport

Again, we do not consider that the policies in relation to sustainable transport have materially altered where of relevance to this application. All we wish to highlight in relation to Policy TR3 is that the site is within a sustainable location which would limit the need to travel by private car and would provide a genuine choice of transport modes for residents.

Pollution, public protection and security

This new section of the NPPF is expansive and covers a range of different considerations including, of relevance to this proposal, consideration of amenity and the interaction between different uses.

Within this context Policy P3 sets out, of relevance that:

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. In assessing the potential effects of pollution, consideration should be given to the potential sensitivity of the site, and its intended occupiers and users, as well as that of the environment and population in the

surrounding area (including where certain groups could be particularly vulnerable to its effects, such as children and older people).

2. *Within this context development proposals should:*

a. Provide healthy living conditions for occupiers and users in terms of adequate access to light and avoiding exposure to levels of air, noise, artificial light or other sources of pollution which could have an unacceptable adverse effect on health and the quality of life. Where necessary suitable mitigation measures should be incorporated to secure acceptable living conditions;

b. Not give rise to, or contribute to, an unacceptable level of access to daylight and sunlight for neighbouring residents and occupiers, or unacceptable levels of air, noise, artificial light, water, soil or other forms of pollution on or beyond the site. Adverse impacts of this nature should be avoided where possible, or else mitigated to an acceptable degree. Where possible, opportunities should be taken to reduce pollution affecting the wider area (such as through traffic and travel management or improved external lighting);

d. Mitigate and reduce to a minimum potential adverse impacts resulting from noise, not result in levels of noise exposure which would have a significant observed adverse effect, and maintain the character of tranquil areas (those areas that have remained relatively undisturbed by noise from human sources and are prized for their recreational and amenity value for this reason);

Separately, Policy P4 sets out policies to ensure that the relationship between existing and proposed users does not result in unreasonable restrictions being placed on them and that they should be able to integrate with one another effectively.

It is noted that the Council consider P4 to strengthen the concerns they have expressed regarding the interrelation between a residential use and commercial use within the estate. We have already made extensive submissions regarding this notably between paragraphs 4.64- 4.81 and again between 4.83 – 4.93 of the *Final Comments* (May 2026).

In respect of the application of P4, however, we highlight that the policy itself does not provide a reason for refusal as referenced within Policy S4. On the contrary, P4.2. sets out scenarios in which there could be harm and how this can be addressed. Although it is our position that the two uses are compatible we, notwithstanding that point, make the following points based on P4.2.

- The potential impacts are noted within existing submissions. These principally relate to noise and disturbance for operational activities and how this would interact with the proposed residential use.

- The Council's own Environmental Health Officer has suggested conditions to address the potential noise impact through mitigation. It is clear from the wording of the proposed condition that this can be undertaken prior to occupation of the development. We also highlight that the appellant has been willing to accept this as a pre-commencement condition too. The appellant is aware of the obligation that these conditions would need to be discharged prior to the first residential use of the building.
- We also highlight that there are existing conditions on the industrial estate which minimise the potential impact; these include conditions relating to hours of work, hours in which machinery can be used, and control of uses.
- The current site is already substantially located within a residential area and there are no concerns currently raised such as statutory noise, nuisance etc.

In light of such, we would highlight that the Council does not appear to have fully engaged with the necessary parts of P4 and continues to raise concerns in conflict with that of their own expert consultees.

Other Matters

For the purposes of decision making the policies set out within Section 2 are material to how the appeal should be determined. Of particular relevance to this appeal is those points covered under DM4 which considers the weight to be given to the policies of an emerging plan.

Earlier this month (August 2026), commentary has been provided on the weight to be given to such. These were made prior to the publication of the new NPPF and the commentary regarding main modifications was made under such circumstances.

Of note to this application, we recognise that Policy DM4 does not alter three points of that much be considered when determining the weight to be given to emerging policies.

We would, however, highlight that DM4 1.C. states that one of the tests is the *degree of compliance of the relevant policies in the emerging policies with the policies for plan-making in this Framework*. This, in line with the wording of Annex A paragraph 2, brings into question the next steps for the adoption of the new local plan.

In this context, we highlight that as part of the main modifications we would consider it reasonable that emerging policies are reviewed in light of the new NPPF as well as those policies within the 2023 version. The reason for such being that it would be ineffective to propose the adoption of policies which would be afforded *very limited weight* when these no longer align with the new NPPF.

For the purposes of the main modifications regarding Policy 30 we have identified a material inconsistency, a submission on such has been submitted as part of that process. A copy of this is provided at Appendix A for reference by the Inspector.

In light of the new NPPF therefore on this basis we contend that only very limited weight should be given to the emerging policies within the plan, which is contrary to the position taken by the Council.

Conclusion

As set out above the changes to the NPPF both in wording of relevant policies and the impact that its adoption has on existing development plan policies is significant. For the purposes of this appeal proposal, we contend that it fundamentally alters the various weightings of policies to be given when considered in the balance exercise.

Policy S4 now requires the permanent application of the tilted balance that proposals should be approved unless the benefits are *substantially outweighed by any adverse effects, when assessed against the national decision-making policies* in the Framework. In relation to S4 we do not consider that any of the relevant policies engaged provide a clear reason for refusal that would likely the benefits.

Changes to policies such as HO7 and L2 have strengthened the weight to be afforded to such benefits with these now being *substantial*. The result of such is that there will be an inherent need to reconsider the weight to be given to any identified benefits and identified adverse harms. We consider that when applying these balances, the conclusions made in Section 5 of the *Final Comments* (May 2026) are strengthened and there is an even clearer justification for the grant of permission.

As set out, we find it unreasonable that the Council have not sought to reconsider the planning balance and continue to afford *moderate weight* to the delivery of housing. This is further exemplified in the balancing exercise carried out by the Council which concludes that in their opinion *the adverse impacts of the proposal outweigh its benefits*. This is not the balancing exercise required of S4.

For the avoidance of doubt, it remains our position that the benefits of the proposal are not substantially outweighed by any adverse effects. We consider the adverse effects to be well evidenced and justified so as to reduce the weight to be given to such to the extent that they clearly do not outweigh, yet alone substantially outweigh, the benefits of the scheme

In light of such we respectfully request the appeal be allowed and planning permission granted.

Yours sincerely,

Matt Smith
D&M Planning Ltd