The Planning Inspectorate

Appeal Decision

Site visit made on 24 April 2023

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st August 2023

Appeal Ref: APP/Z3825/W/22/3303603
Marlpost Meadows, Bonfire Hill, Southwater, West Sussex RH13 9BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs M Ellis against the decision of Horsham District Council.
- The application Ref DC/22/0495, dated 8 March 2022, was refused by notice dated 3 May 2022.
- The development proposed is construction of chalet style detached dwelling.

Decision

1. The appeal is allowed and planning permission is granted for erection of a chalet style detached dwelling at Marlpost Meadows, Bonfire Hill, Southwater, West Sussex RH13 9BU in accordance with the terms of the application, Ref DC/22/0495, dated 8 March 2022, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are:

   a) whether the site represents a suitable location for housing, having regard to its accessibility to services and facilities;

   b) the effect of the proposal on the integrity of the Arun Valley Special Protection Area, Special Area of Conservation and Ramsar site, with particular regard to water neutrality; and

   c) whether any harm in respect of the above issues would significantly and demonstrably outweigh the benefits of the scheme.

Reasons

Suitability of location for housing

3. The appeal site comprises part of the garden to Marlpost Meadows. This property forms part of a small cluster of dwellings near the junction of Marlpost Road and Bonfire Hill, in rural surrounds to the west of Southwater. In policy terms, the site lies in the countryside, outside of any designated built-up area boundary. Policy 26 of the Horsham District Planning Framework (2015) (HDPF) seeks to protect the countryside against inappropriate development by ensuring that any proposals are essential to their countryside location. The appeal scheme is not being advanced as a rural worker dwelling and there is no other evidence to suggest that a new home is essential in this location. As such, there is a clear conflict with HDPF Policy 26.

4. Policy 4 of the HDPF has been cited on the decision notice. This policy supports settlement expansion outside of built-up area boundaries, provided that the site is allocated in the Local Plan or in a Neighbourhood Plan and adjoins an existing settlement edge. The appeal site does not meet either of these criteria and therefore the proposal cannot rely upon Policy 4 for support.

5. The appellant contends that the site is sustainably located due to its proximity to Southwater which is identified within Policy 3 of the HDPF as a Small Town/ Larger Village. Settlements at this tier on the hierarchy are acknowledged to have a good range of services and facilities, strong community networks and local employment provision, together with reasonable rail and/or bus services. The sustainability credentials of Southwater are confirmed by the fact that Policy 2 of the HDPF allocates a strategic site for 600 dwellings on its western edge. This development, which was partially built at the time of my visit, lies approximately 850m from the appeal site at its closest point.

6. The site lies roughly 1.5km from the village centre of Southwater. This area, centred around Lintot Square, contains a wide range of services and facilities which include shops, a public house, library and health centre. The trip takes less than 3 minutes by car and slightly longer by bicycle. Although it would be possible for residents of the proposed dwelling to make the journey on foot, the lack of pavements and street lighting along Bonfire Hill and Church Lane would function as a deterrent, notwithstanding the option to use the Downs Link and other public rights of way as an alternative.

7. There can be no doubting that the proposal would lead to some additional vehicle journeys. However, the harm in this regard would be tempered by the short distance to the village centre. There would be options to use more sustainable transport modes. The poor provision for pedestrians weighs against the proposal, but walking remains a realistic possibility in daylight and good weather. Overall, I consider that occupants of the proposed dwelling would have reasonably good access to services and facilities in a higher order settlement.

Water neutrality (incorporating Appropriate Assessment)

8. The appeal site falls within the Sussex North Water Supply Zone. Natural England has raised concerns over the impact of groundwater abstraction on a number of designated sites which include the Amberley Wild Brooks Site of Special Scientific Interest (SSSI) and Pulborough Brooks SSSI. These form part of the Arun Valley Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site. These 'European sites' are legally protected for their wintering birds, wetland habitats, a rare snail species, invertebrates and several rare and uncommon aquatic and wetland plants.

9. Natural England is undertaking work to establish the condition of the SSSIs that make up the European sites. However, based on water levels, the present indication is that the sites' condition is Unfavourable. Some areas have been shown to be linked hydrologically to a layer of rocks from which water is currently being abstracted, and in other locations the hydrological link cannot be ruled out. Consequently, it is impossible to eliminate the possibility that the existing public water supply abstraction within the Supply Zone is having an adverse effect on biodiversity. Any further development which requires an increase in water abstraction would be likely to have an adverse impact on the European sites. This includes modest developments such as that proposed, due to their in-combination effects with other plans and projects.

10. Natural England is working in partnership with relevant authorities to develop a strategic long-term approach, but in the interim its advice is that schemes may only proceed where it can be demonstrated that they would be water neutral – in other words the proposed development should not result in a net increase in water consumption from the public supply.

11. The proposal would lead to an increase in water usage from the occupation of the new dwelling. The appellant has provided a Water Neutrality Report which sets out how 'reduce and re-use' measures would be incorporated to minimise water usage by future occupiers of the new dwelling. The remaining water demand would be offset by retrofitting the existing dwelling with the same features, including rainwater and greywater harvesting.

12. Natural England is content that, subject to agreement on drought storage capacity, the proposed water neutrality mitigation measures are sufficient to avoid an adverse impact to the integrity of the European Sites. The principles of mitigation are clear from the submitted report, but a detailed scheme would need to be secured by condition. This would be a pre-commencement condition to ensure that the existing dwelling is upgraded prior to any works commencing on the development. Subject to this, the scheme would meet the requirements of the Conservation of Habitats and Species Regulations 2017, Policy 31 of the HDPF and paragraph 180 of the National Planning Policy Framework (the Framework) to protect the biodiversity of European sites.

Other Matters

13. There is no dispute that the scheme would be acceptable in terms of its impact on the character and appearance of the area. The site is well contained by mature hedging along the boundaries, and this would ensure that the new dwelling is not a prominent feature of the street scene. In all probability, only the roof would be visible, and this would be viewed as part of the small cluster of houses which characterises this location.

Planning Balance

14. The Council concedes that it is unable to demonstrate a five-year supply of deliverable housing sites. The Annual Monitoring Report for 2021/22 indicates a supply of 4.0 years, which represents a significant shortfall. Paragraph 11 d) of the Framework states that in circumstances such as this, where the requisite housing land supply does not exist, the policies which are most important for determining the application should be deemed out-of-date. Permission should therefore be granted unless i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

15. The development would fall within the zone of influence of European sites, but the mitigation measures identified with the Water Neutrality Report would ensure that it does not harm the qualifying features of those sites. As such, the scheme falls to be considered against the second limb of Paragraph 11 d).

16. I have attached limited weight to the conflict with HDPF Policy 26 in respect of development outside of built-up area boundaries. The housing shortfall dictates that those boundaries are out of date. I consider that some weight can still be

given to the strategy set out within HDPF Policy 2, in terms of the general locations of new development, but the fact that a site may lie outside of the built-up area boundary does not, in and of itself, constitute a reason to refuse planning permission.

17. The proposal would increase the supply of housing in the District and help to address the identified shortfall in new homes. The benefits of a single dwelling are very modest, but cumulatively windfall sites have a significant influence on supply. The Framework explains that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. The land forms part of the curtilage of an existing dwelling in the countryside and it would qualify as previously developed land under the definition set out in Annex 2 of the Framework. The site has reasonably good accessibility to services and facilities within Southwater, despite its location outside of the built-up area.

18. In the overall planning balance, I conclude that there are no adverse impacts that would significantly and demonstrably outweigh the benefits. The proposal would therefore constitute a sustainable form of development in terms of the Framework, and this would be a material consideration sufficient to outweigh the conflict with the development plan arising from the location of the development outside of settlement boundaries.

Conditions

19. In addition to the standard commencement condition, I have attached a condition specifying the approved plans in the interests of certainty. To prevent harm to the integrity of European sites, a pre-commencement condition is necessary to secure details of the measures for reducing water demand, and to ensure that these measures are implemented and retained in perpetuity.

20. Policies 37 and 40 of the HDPF seek, amongst other things, to cut carbon emissions through the use of sustainable forms of transport and the provision of high-speed broadband access. Conditions are therefore necessary to secure an electric vehicle charging point and high-speed broadband infrastructure prior to first occupation of the new dwelling.

21. The Council has requested a condition to remove permitted development rights for the enlargement, improvement or alteration of the dwelling, additions to the roof and the provision of buildings etc incidental to the enjoyment of a dwellinghouse. However, advice with the Planning Practice Guidance states that conditions of this nature may not pass the test of reasonableness or necessity. In my view, the suggested condition cannot be justified.

Conclusion

22. For the reasons given above I conclude that the appeal should be allowed.

Robert Parker

INSPECTOR

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Drawing No. 6901 Rev A and Drawing No. 6905 Rev B.

3) No development shall commence on site until a detailed scheme for minimising water demand by occupants of the proposed dwelling and the existing dwelling known as Marlpost Meadows has been submitted to and approved in writing by the local planning authority. The scheme shall accord with the principles set out in the Water Neutrality Report (CGS Civils) dated 9 March 2022.

   No development shall commence on site until the measures for Marlpost Meadows have been completed in accordance with the approved details and a completion report which evidences the works undertaken (with photographs) submitted to the local planning authority.

   The dwelling hereby approved shall not be occupied until the measures for that property have been completed in accordance with the approved details and a completion report which evidences the works undertaken (with photographs) submitted to the local planning authority.

   All measures shall be retained and maintained in full working order whilst each of the dwellings is occupied.

4) The dwelling hereby permitted shall not be occupied until provision has been made within the site for an electric vehicle charging point, in accordance with details that have been first submitted to and approved in writing by the local planning authority. The charging point shall be retained in working condition thereafter for the life of the development.

5) The dwelling hereby permitted shall not be occupied until the necessary in-building physical infrastructure and external site-wide infrastructure to enable superfast broadband speeds of 30 megabytes per second through full fibre broadband connection have been installed. The infrastructure shall be retained in working condition thereafter for the life of the development.

*** END OF CONDITIONS ***

n.j.a town planning Ltd

Applications & Appeals Services

PLANNING APPEAL

In respect of

Marlpost Meadows, Bonfire Hill, Southwater, Horsham



Appellants: Mr and Mrs M Ellis

LPA Ref: DC/22/0495

July 2022

Nikolas J. Antoniou BSc (Hons) DipTP MRTPI

NIKOLAS JAMES ANTONIOU

I hold a Bachelor of Science with Honours Degree and Post Graduate Diploma from the University of Wales, College of Cardiff, in City and Regional Planning and have been a Member of the Royal Town Planning Institute since 1999.

I have over 25 years of experience in Town Planning and have held senior positions in Local Government the most notable being Head of Development Control at Arun District Council. I have worked for national planning consultancies and also held the position of Planning Manager for a house building firm.

For a number of years I have been the Director of NJA Town Planning Ltd and undertake the full range of planning work across a wide geographical area serving the needs of private individuals, private estates and commercial businesses.

I am familiar with the appeal site, the Local Planning Authority and its policies.

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APPENDICES

Appendix NJA/1 – Horsham District Council Annual Monitory Report 2020/2021

Appendix NJA/2 – Government's Right to Build Register Monitoring 2016 - 2021

Appendix NJA/3 – Details of planning application DC/17/0902 – Part demolition of agricultural building and proposed conversion to a dwelling at Ridgelands, Kent Street, Cowfold.

Appendix NJA/4 – Details of planning application DC/19/0200 – Amendments including re-orientation of dwelling approved under application DC/17/0902 at Ridgelands, Kent Street, Cowfold.

Appendix NJA/5 – Details of planning application DC/21/1301 – Amendments including re-orientation of dwelling approved under application DC/17/0902 at Ridgelands, Kent Street, Cowfold.

Appendix NJA/6 – Details of application DC/21/0699, Moatfield Farm, Kings Lane, Cowfold

Appendix NJA/7 – Details of application DC/13/2245, Leechpool Cottage, Leechpond Hill, Lower Beeding

Appendix NJA/8 – Planning articles

1.0 INTRODUCTION

1.1 This appeal is against the refusal by Horsham District Council, as Local Planning Authority, of a planning application for the *"***Erection of a two storey chalet style detached dwelling.***"* At Marlpost Meadows, Bonfire Hill, Southwater, Horsham. NJA Town Planning Limited has been instructed by Mr and Mrs M Ellis to appeal against the refusal by the Council.

1.2 The appeal application was determined by the Council on 3rd May 2022 and it was refused for the following reasons:

1 The proposed development would be sited within an unsustainable location in the countryside, outside of a defined built-up area boundary, and on a site not allocated for housing development within the Horsham District Planning Framework, or a made Neighbourhood Plan. Furthermore, the proposed development is not essential to its countryside location. Notwithstanding the absence of a five-year land housing supply, and the provisions of the National Planning Policy Framework (2021) at paragraph 11(d), it is not considered that there are any material considerations in this instance which would outweigh harm arising from conflict with Policies 1, 2, 3, 4 and 26 of the Horsham District Planning Framework (2015) and Policy SNP1 of the Southwater Neighbourhood Plan (2019-2031).

2 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), Paragraph 180 of the National Planning Policy Framework (2021), its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

1.3 A copy of the formal decision notice is included with the appeal documentation.

1.4 In this Statement of Case, the Appellants will not repeat matters such as site description, planning history, details of the proposal etc., which have already been set out in detail in planning documentation and the Planning, Design and Access Statement submitted with the original planning application. This Statement of Case will consider the proposed development against the policies identified within the Council's reasons for refusal, any other relevant local plan policies together with the National Planning Policy Framework and other material planning policies and considerations.

1.5 The Planning Inspector is advised that the proposed dwelling is a self-build home to be built and lived in by the Appellants who presently live at Marlpost Meadows. This is material to the consideration of the proposed development and specifically having regard to the Council's first reason for refusal.

2.0 RELEVANT PLANNING POLICY

National Planning Policy Framework July 2021

2.1 Having regard to the Council's reasons for refusal, the following paragraphs of the NPPF are considered to be relevant to this appeal:

2.2 Paragraph 2 - ***'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements'.*** Paragraph 3 requires the NPPF to be read as a whole.

2.3 Paragraph 7 states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has the following three overarching objectives which are independent but need to be pursued in mutually supportive ways:

a) 'an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect

current and future needs and support communities' health, social and cultural well-being; and

c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy' (paragraph 8).

2.4 Paragraph 10 states ***'So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11)'.*** For decision-taking, paragraph 11 c) confirms that this means approving development proposals that accord with an up-to-date development plan without delay.

2.5 Where there are no relevant development plan policies or the relevant policies are out of date, paragraph 11 d) states that planning permission should be granted unless the policies of the Framework that protect areas or assets of importance provide clear reason for refusing the development proposed, or if any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework considered as a whole.

2.6 Footnote 7 of the NPPF confirms that protected areas include habitats sites (listed at paragraph 181 of the Framework), and/or sites designated as Sites of Special Scientific Interest (SSSI), land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty (AONB), a designated heritage asset (and other heritage assets of archaeological interest) and areas at risk of flooding or coastal change.

2.7 Footnote 8 of the NPPF confirms that policies that are most important for determining an application includes for applications involving the provision of housing, situations where the local planning authority cannot

demonstrate a five year supply of deliverable housing sites (with the appropriate buffer) as set out in paragraph 74 or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75%) the housing requirement over the previous three years.

2.8 Paragraph 12 of the Framework states that ***'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed'.***

2.9 Paragraph 15 requires the planning system to be genuinely plan-led with succinct, up-to-date plans providing a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities and a platform for local people to shape their surroundings.

2.10 In terms of decision-making, the Framework states at paragraph 38 that ***'Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible'.***

2.11 Paragraph 60 states ***'To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay'.***

2.12 Paragraph 62 requires the size, type and tenure of housing needed for different groups in the community to be assessed and reflected in planning policies, including ***'people wishing to commission or build their own homes'.*** Footnote 28 refers to Section 1 of the Self Build and Custom Housebuilding Act 2015 which requires local authorities to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. Local authorities are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self-build and custom-build properties could provide market or affordable housing.

2.13 Paragraph 68 requires planning policies to identify a sufficient supply and mix of housing sites including specific, deliverable sites for years one to five of the plan period and specific, deliverable sites or broad locations for growth for years 6-10 and where possible, for years 11-15 of the plan.

2.14 Paragraph 69 sets out that ***'Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built out relatively quickly'.***

2.15 Paragraph 74 requires strategic planning policies to include a trajectory illustrating the expected rate of housing delivery over the plan period. It states that ***'Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their***

local housing need where the strategic policies are more than five years old'.

2.16 Paragraph 75 confirms that a five year supply of deliverable sites (with the appropriate buffer set out at paragraph 74) can be demonstrated where it has been established in a *recently adopted plan, or in a subsequent annual position statement.*

2.17 Paragraph 79 states ***'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby'.***

2.18 Paragraph 80 states that ***'Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:***

a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
c) the development would re-use redundant or disused buildings and enhance its immediate setting;
d) the development would involve the subdivision of an existing residential dwelling; or
e) the design is of exceptional quality, in that it:
- ***is truly outstanding or innovative, reflecting the highest standards in architecture, and would help raise standards of design more generally in rural areas; and***

- ***would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area'.***

2.19 Paragraph 104 requires transport issues to be considered at the early stages of plan-making and development proposals. This is to ensure that (inter alia) the potential impacts of development on transport networks can be addressed.

2.20 Paragraph 105 acknowledges that ***'opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making'.***

2.21 Paragraph 111 makes it clear that ***'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'.***

2.22 Paragraph 119 of the Framework states that ***'Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions'.***

2.23 Paragraph 120 confirms that planning policies and decisions should (inter alia) ***'promote and support development of under-utilised land and buildings, especially if this would help meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure)'.***

2.24 Paragraph 123 – ***'Local planning authorities should also take a positive approach to applications for alternative uses of land which***

is currently developed but not allocated for a specific purpose in plans, where this would help meet identified development needs'.

2.25 Paragraph 124 – '***Planning policies and decisions should support development that makes efficient use of land…….'***

2.26 Paragraph 174 states that planning policies and decisions should contribute to and enhance the natural local environment by (inter alia) ***'recognising the intrinsic character and beauty of the countryside….'.***

2.27 Section 12 of the NPPF sets out the Government's criteria for achieving well-designed places. This includes the creation of high quality buildings and places with good design being a key aspect of sustainable development. The relevant provisions of Section 12 are noted within the Planning, Design and Access Statement.

2.28 Section 14 of the NPPF requires the planning system to support the transition to a low carbon future in a changing climate and should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience. The planning system should also encourage the reuse of existing resources and support renewable and low carbon energy and associated infrastructure (paragraph 152). New development should avoid increased vulnerability to the range of impacts from climate change and the Framework recognises that development can help to reduce greenhouse gas emissions, such as through its location, orientation and design (paragraph 154). The Framework also supports the increased use and supply of renewable and low carbon energy and heat (paragraph 155).

2.29 When determining planning applications for renewable and low carbon development, local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy and

recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions (paragraph 157).

2.30 NPPF paragraph 179 requires the protection and enhancement of biodiversity and geodiversity. Paragraph 180 states that when determining planning applications, local planning authorities should avoid significant harm to biodiversity. If this cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort compensated for, then planning permission should be refused.

2.31 Development on land within or outside of a SSSI and which is likely to have an adverse effect on it (either individually or cumulatively in combination with other developments) should not normally be permitted. Development resulting in the loss of deterioration of irreplaceable habitats should also be refused.

2.32 Paragraph 181 sets out that SPA, possible SAC's and listed and proposed Ramsar sites should be given the same protection as habitats sites.

Planning Practice Guidance

2.33 The Government's Planning Practice Guidance (PPG) has been revised and updated since 2014 and it is to be read alongside the NPPF. Of particular note is the recognition within the PPG of the key role of rural housing and which confirms at paragraph 001 (Reference ID:50-001-20140306) that ***'A thriving rural community in a living, working countryside depends, in part, on retaining local services and facilities such as schools, local shops, cultural venues, public houses and places of worship. Rural housing is essential to ensure viable use of these local facilities'.***

2.34 In respect of self-build/custom-build developments, paragraph 16a of the PPG (Reference ID:57-016a-20210208) states that ***'Self-build or***

custom build helps to diversify the housing market and increase consumer choice. Self-build and custom housebuilders choose the design and layout of their home, and can be innovative in both its design and construction'.

2.35 The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding confirming that both are where an individual, an association or individuals or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals. The proposed development, to be built and lived in by the Appellants, falls within this definition.

Horsham District Planning Framework (2015)

2.36 The Council's decision notice refers to the following policies of the Horsham District Planning Framework (HDPF):

- Policy 1: Strategic Policy – Sustainable Development
- Policy 2: Strategic Policy – Strategic Development
- Policy 3: Strategic Policy – Settlement Hierarchy
- Policy 4: Strategic Policy – Settlement Expansion
- Policy 26: Strategic Policy – Countryside Protection
- Policy 31: Green Infrastructure and Biodiversity

2.37 It is also considered that the following HDPF policies are relevant to the appeal and which are referred to within this Statement of Case:

- Policy 15: Strategic policy – Housing Provision
- Policy 16: Strategic Policy - Meeting Local Housing Needs
- Policy 25: The Natural Environment and Landscape Character
- Policy 32: The Quality of New Development
- Policy 33: Development Principles
- Policy 35: Strategic Policy: Climate Change

- Policy 36: Strategic Policy: Appropriate Energy Use
- Policy 37: Sustainable Construction

Regulation 18 Draft Local Plan Consultation (February 2020)

2.38 The Council carried out public consultation on a new Local Plan, ending on 30 March 2020. The new Local Plan will set out updated policies for the District however at this stage, the consultation draft does not represent Council policy. Nevertheless, the following emerging policies are considered relevant to the appeal:

- Policy 1: Sustainable Development
- Policy 2: Development Hierarchy and Settlement Expansion
- Policy 3: Settlement Expansion
- Policy 14: Housing Provision
- Policy 25: Environmental Protection
- Policy 27: The Natural Environment and Landscape Character
- Policy 28: Countryside Protection
- Policy 33: Development Quality
- Policy 34: Development Principles
- Policy 37: Climate Change
- Policy 39: Sustainable Design and Construction
- Policy 42: Sustainable Transport

2.39 A copy of the draft Local Plan (Regulation 18 version) is submitted with this appeal.

Southwater Neighbourhood Development Plan (2020)

2.40 The Council's decision notice does not refer to the Southwater Neighbourhood Development Plan however as set out at paragraph 4.46 of the Planning, Design and Access Statement; the following policies are considered to be relevant to the proposal:

- SNP1: Core Principles
- SNP2: Proposals for Residential Development
- SNP9: Home Standards
- SNP10: Residential Space Standards
- SNP14: Adequate Provision of Car Parking
- SNP16: Design
- SNP17: Site Levels
- SNP18: A Treed Landscape

Relevant Legislation and Case Law

2.41 In considering the issue of the principle of the proposed development it is necessary to also consider the legal framework within which planning decisions are made.

2.42 Planning legislation holds that the determination of a planning application shall be made in accordance with the development plan unless material considerations indicate otherwise (as also confirmed at paragraph 2 of the NPPF). Specifically, section 70 (2) of the Town and Country Planning Act 1990 states that in dealing with an application for planning permission (or permission in principle), the authority shall have regard to the provisions of the development plan, including a post-examination draft neighbourhood development plan, any local finance considerations and any other material considerations (all so far as material to the application).

2.43 Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

'If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'

2.44 However, when considering whether or not a proposed development accords with a development plan, it is not necessary to say that it must accord with every policy within the development plan. The question is whether it accords overall with the development plan (Stratford on Avon v SSCLG [2014] JPL 104). Even if a proposal cannot be described as being in accordance with the development plan, the statutory test requires that a balance be struck against other material considerations. The Courts have emphasised that a planning authority is not obliged to strictly adhere to the development plan and should apply inherent flexibility: Cala Homes (South) Limited v SSCLG [2011] JPL 1458 and Tesco Stores Ltd v Dundee City Council [2012] 2 P.&C.R. 9.

2.45 More recently in Corbett v Cornwall Council [2020] EWCA Civ 508 the appeal court Judge emphasised the importance of considering the plan as a whole when he said;

'Under section 38(6) the members' task was not to decide whether, on an individual assessment of the proposal's compliance with the relevant policies, it could be said to accord with each and every one of them. They had to establish whether the proposal was in accordance with the development plan as a whole. Once the relevant policies were correctly understood, which in my view they were, this was classically a matter of planning judgment for the council as planning decision-maker'.

2.46 Paragraph 3 of the NPPF confirms that the Framework should be read as a 'whole' and the Government's PPG confirms that ***'Conflicts between development plan policies adopted, approved or published at the same time must be considered in the light of all material considerations, including local priorities and needs, as guided by the National Planning Policy Framework'.*** In respect of what constitutes a material planning consideration, the PPG states that this is one that is relevant to making the planning decision and that the scope of what can constitute a material consideration is very wide. However, in

general, the Courts have taken the view that planning is concerned with land use and public interest, so that the protection of only private interests (such as the impact of a development on the value of a neighbouring property or loss of private rights to light) could not be material considerations.

2.47 In respect of the construction/creation of new dwellings within the countryside and in consideration against paragraph 80 of the NPPF, the following two cases are considered as part of this appeal:

- Bramshill v Secretary of State for Housing, Communities and Local Government [2021] EWCA Civ 320

- Braintree District Council v Secretary of State for Communities and Local Government and Ors [2018] EWCA Civ 610

3.0 APPRAISAL OF THE APPEAL PROPOSAL

3.1 This section and the next examines the Council's delegated report to address the key planning issues and why the planning application was refused.

3.2 However, firstly it is important to set out the Council's present position in respect of housing land supply which provides an important context for the consideration of the appeal. In addition, an explanation of the self-build nature of the proposal is provided along with sustainable design and construction which are further, important material planning considerations to take into account in the planning balance.

Housing Land Supply

3.3 The NPPF sets out at paragraph 15 that the planning system should be genuinely plan-led and succinct and up-to-date plans should provide a positive vision for each area providing a framework for addressing housing needs and other economic, social and environmental priorities providing a platform for local people to shape their surroundings.

3.4 Paragraph 33 of the Framework requires local plans and spatial strategies to be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Specifically, ***'Reviews should be completed no later than five years from the adoption date of the plan, and should take into account changing circumstances affecting the area, or any relevant changes in national policy. Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future'.***

3.5 The present HDPF was adopted in 2015 and is now well over five years old. The Council is in the process of preparing a new Local Plan and a Regulation 18 version was published for consultation between February and March 2020. However, progress has been delayed due to the Government's changes to the NPPF in July 2021 and subsequent advice received from Natural England provided in a Position Statement published in September 2021 regarding water extraction and impact upon the protected Arun Valley (see paragraphs 3.70 – 3.72 below).

3.6 In the meantime, the HDPF policies in respect of housing provision (which in this case are most relevant for determining the application as per footnote 8 of the NPPF) are out-of-date because they are based upon assessments of housing need that are now not compliant with the NPPF. Furthermore, the Council is unable to demonstrate a five year supply of housing against local housing need, as required by paragraph 74 of the NPPF. This is confirmed in the Council's latest Annual Monitoring Report (AMR) 2020/21 (published 31 December 2021) which confirms a supply of just 4 years against the new housing requirement. A copy of the AMR is included with this appeal at Appendix NJA/1.

3.7 Prior to the publishing of the latest AMR, a number of planning appeals had found a lack of a five year supply of housing including the following:

- New House Farm, Horsham (Inquiry) – Appeal decision published 30 July 2021 4.3 years' supply.
- Rascals Farm, Southwater (Hearing) – Appeal decision published 02 August 2021 4.2 years' supply.
- Sandy Lane, Henfield (Hearing) – Appeal decision published 19 August 2021 4.2 years' supply.
- Sandy Lane, Henfield (Inquiry) – Appeal decision published 07 October 2019 4.8 years' supply.

3.8 As the present HDPF is out-of-date in respect of the provision of housing and given that the Council is unable to demonstrate a five year supply, the Council's housing policies, including those which relate to the

settlement boundaries and the Council's spatial strategy (specifically policies 2, 3, 4, 15 and 26) should be given less weight in the decision making process.

3.9 Instead, consideration should be given to NPPF paragraph 11 which requires plans and decisions to apply a presumption in favour of sustainable development. For decision-taking, this means approving proposals that accord with an up-to-date development plan without delay. Where (as in this case) there are no relevant policies, or the policies which are most important for determining the application are out-of-date, paragraph 11 d) states that planning permission should be granted unless:

i. 'the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when considered against the policies in this Framework taken as a whole'.

3.10 As the HDPF is now over five years old and because the Council cannot demonstrate a five year supply of housing, the tilted balance at paragraph 11 d) of the NPPF is engaged and the proposed development should be considered against the presumption in favour of sustainable development.

3.11 Whilst the application site is located within the countryside, it is *not* situated within a protected countryside landscape such as an Area of Outstanding Natural Beauty (AONB), Green Belt or National Park (NPPF footnote 7) and as such there is no conflict with NPPF paragraph 11 d) (i).

3.12 In respect of paragraph 11 d) (ii), this Statement confirms that there are no adverse impacts of granting planning permission for the proposal that would significantly and demonstrably outweigh the benefits of the provision of a new home in a sustainable location as proposed. Significant

weight should therefore be given to the provisions of paragraph 11 d) in this case.

Self-Build Home

3.13 The proposed dwelling is a self-build home to be occupied by the Appellants and it is specifically designed as a long term home to meet their changing needs as they grow older. The Appellants presently live in the adjacent dwelling, Marlpost Meadows which they would move out of, thereby freeing it up potentially for a family. The proposed dwelling is also of an adaptable, and therefore sustainable design that would be able to meet the future needs of the Appellants.

3.14 Paragraph 62 of the NPPF requires the size, type and tenure of housing needed for different groups in the community to be assessed and reflected in planning policy. This includes ***'people wishing to commission or build their own homes'*** such as the Appellants. As set out, footnote 28 to paragraph 62 refers to Section 1 of the Self Build and Custom Housebuilding Act 2015 which requires local authorities to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. Local authorities are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand.

3.15 The Council's website states that as of 04 May 2022 there are 149 entries on the Council's Self Build and Custom Build register of which 108 are Horsham residents. However the Council has only granted planning permission for four self-build plots up to January 2022 (see schedule at Appendix NJA/2 – the Government's Right to Build Registers monitoring data for 2016-2020/21 also available to view at https://www.gov.uk/government/publications/self-build-and-custom-housebuilding-data-2016-2016-17-2017-18-and-2018-19).

3.16 In addition, the Council's latest AMR confirms that out of the Council's sources of housing supply for the five year period 1st April 2021 to 31st March 2026, windfall provision accounts for 605 new homes. This amount is significant in its contribution to the overall supply of homes within the District and it can be assumed that a proportion of windfall sites are developed by self-builders/custom builders. As such, the importance of the provision of self-build/windfall homes should not be underestimated in the cumulative contribution towards the supply of new homes within the district.

3.17 The Planning Portal advises that self-build projects account for 7-10% of new housing in England each year (around 12,000 homes) and it is reiterated that the Government's PPG acknowledges that self-build or custom build homes help to diversify the housing market and increase consumer choice. Self-build and custom housebuilders choose the design of their own home, and can be innovative in its design and construction.

3.18 The HDPF does not incorporate a policy that specifically refers to self-build or custom-build homes however policy 16 does require development to provide a mix of housing sizes, types and tenures to meet the needs of the district's communities as evidenced in the latest Strategic Housing Market Assessment.

3.19 The draft Local Plan (Regulation 18) at page 49 recognises that housing should be available to all and it notes that self and custom-build projects are a mechanism that can help housing to be more affordable (in recognition of the high median house prices in the district, around 14 times higher than the average annual earnings). Paragraph 6.47 of the draft Local Plan sets out that the Council aims to satisfy the demand for self and custom-build plots by requiring strategic allocations to deliver the required number of serviced plots (policy 16) but will also consider *appropriate proposals on smaller scale sites* and in Neighbourhood Plans.

3.20 Whilst there is no adopted local plan policy in place, the provision of self-build/custom-build homes are supported by the Framework and paragraph 62 is a material consideration in the determination of this appeal. Such homes play an important role in helping to tackle the housing crisis, with projects cumulatively making a significant contribution to meeting housing need and increased choice and variety in the type of new homes. This is even more important at this present time given the historic rise in inflation which has seen higher costs of raw materials, fuel and energy. These higher costs, combined with supply chain issues mean that construction has become costlier which may impact upon the longer term provision of homes, making it even more difficult for the Government to secure its aim to build 300,000 homes per year by the mid 2020's. There is as such a need to apply a more flexible approach to planning policy especially where there is a clear under provision and high need for new homes, such as within the Horsham district.

Climate Change and Sustainable Construction

3.21 Paragraph 152 of the NPPF requires the planning system to support the transition to a low carbon future in a changing climate. In particular, new development should be planned in ways that avoid increased vulnerability to the range of impacts arising from climate change and to help reduce greenhouse gas emissions. This can include for example through *location, orientation and design* (paragraph 154). The NPPF also encourages proposals for renewable and low carbon development (paragraph 158).

3.22 HDPF Policy 35 sets out that development will be supported where it makes a clear contribution to mitigating and adapting to the impacts of climate change and to meet the district's carbon reduction targets. Development must be designed to mitigate the effects of climate change and to adapt to the impacts of climate change. In addition, HDPF Policy 36 requires all development to contribute to clean and efficient energy in Horsham and HDPF Policy 37 encourages sustainable construction.

3.23 The Government has committed to reduce the country's greenhouse-gas emissions to net zero by 2050. As part of this promise, the Government has set a target to cut emissions by 78% by 2035 compared with 1990 levels and for all of the UK's electricity to come from clean energy sources by this point. Speaking to reporters ahead of the COP 26 conference in Glasgow in October 2021, Boris Johnson said ***"We can get to complete clean energy production by 2035".***

3.24 As set out within the NPPF, the planning system plays a significant role in adapting to climate change, however the Royal Town Planning Institute (RTPI) recognises that Planners currently lack the resources, policies and powers to make the significant impact that is now essential to meet the Government's 2050 net zero target.

3.25 In June 2019, the RTPI launched a 'Resource Planners for Climate Change' campaign calling on the Government to take radical climate actions around buildings and transport. The Committee on Climate Change (CCC) Net Zero UK report (May 2019) demonstrated that there has been comparatively little or no progress in reducing carbon emissions of buildings or of surface transport. However, the planning system forms a fundamental part of the solution especially as the CCC considers that housing accounts for about 14% of the UKs greenhouse-gas emissions, mostly because of gas-boiler heating systems and poor insulation.

3.26 The planning system is therefore crucial in the provision of energy efficient homes, the installation of renewable energy technology (both within existing and new development and stand-alone provision) and the reduction of vehicle emissions including through the sustainable location of new development and use of electric vehicles.

3.27 For the reasons described within this statement at Section 4 the appeal site is sustainably located in close proximity to local services and facilities thereby reducing reliance on the use of the private car. In addition, the proposed dwelling has been carefully and specifically designed to ensure

that it is environmentally sustainable in its construction and future occupation. In this respect, the dwelling will have an electric vehicle charging point it is possible to incorporate renewable energy technology into its construction (the details of which may be secured by condition). The Appellants would also consider installing a pond-source heat pump to heat and cool the new dwelling. Furthermore, the dwelling will be constructed to be energy and thermally efficient and water efficient products and water reusing technologies will be installed, as set out within the Water Neutrality Statement submitted with the planning application and this appeal.

3.28 The Council states on its website that it is committed to tackling climate change and has three key projects dedicated to creating a 'cared-for' environment in the Horsham District. This includes a commitment to reducing carbon emissions, meeting the Council's target to become carbon neutral by 2030 from direct emissions and from indirect emissions by 2050, to support the protection and enhancement of wildlife within the District and to support communities through the Community Climate Fund (for projects that reduce carbon emissions).

3.29 HDPF policies 35, 36 and 37 together with the provisions of the NPPF provide a mechanism for helping the Council reach its net zero targets. The proposed dwelling will help to set a standard of design for new homes within the District and recognises the shift in focus which puts the environment and climate change at the heart of design and the planning process.

Case Studies

3.30 The following case studies are considered to be relevant to the appeal scheme having regard to the location of new residential development:

1. Ridgelands, Kent Street, Cowfold (HDC) (Appendices NJA/3, 4, and 5)

3.31 The site of Ridgelands is located within the countryside, approximately 2 miles to the south east of Cowfold (a 'Medium Village' as per HDPF policy 3). In 2017, under application reference DC/17/0902, the Council granted planning permission for the part demolition and conversion of a building at Ridgelands to a dwelling. The Case Officer's report is not available to view online and whilst it is noted that the description of development refers to the part demolition/conversion of a barn, the key consideration relating to the site's location within the rural area and its appropriateness to accommodate a new dwelling in terms of access to local services and facilities is relevant to the appeal scheme at Marlpost Meadows. Notably, Marlpost Meadows is located in a much more sustainable location, within walking distance of Southwater which is within the 'Small Town/Larger Village' category of HDPF policy 3.

3.32 Furthermore, the barn at Ridgelands comprised an open sided structure and its appearance would be significantly altered in its conversion to a dwelling. The Council also later granted two subsequent planning permissions (DC/19/0200 and DC/21/1301) for amendments to the original permission which included the reorientation of the dwelling. Of note, the plans submitted with application DC/19/0200 show that the proposed dwelling would be re-sited, thereby appearing to result in the creation of a new build dwelling and not the conversion of an existing building to a dwelling.

2. Moatfield Farm, Kings Lane, Cowfold (HDC) (Appendix NJA/6)

3.33 A further permission of relevance is application DC/21/0699 where the Council granted planning permission for the conversion of two agricultural buildings to form two dwellings at Moatfield Farm, Kings Lane, Cowfold. The proposed residential use was found to be acceptable in comparison

to a possible/hypothetical commercial use, notwithstanding the site's distance from the main transport network and access via a long track. Again, the appeal site at Marlpost Meadows is in a more sustainable location in terms of its proximity to a settlement boundary.

3. Leechpool Cottage, Leechpond Hill, Lower Beeding (HDC) (Appendix NJA/7)

3.34 In 2014 under application reference DC/13/2245 the Council granted planning permission for the construction of two dwellings on a site situated outside but adjacent to the settlement boundary of Lower Beeding (a 'Smaller Village' as per HDPF policy 3). Planning permission was granted at a time that the Council could not demonstrate a five year supply of housing. As a result, the Case Officer's report notes that ***'The starting point for the determination of this application is the fact that the Authority does not have a 5 year housing land supply, and the proposed development would make a small contribution towards meeting the housing needs of present and future generations. An assessment must therefore be made as to whether the proposal can be considered to be sustainable development in terms of the economic, social and environmental roles set out in the NPPF'.***

3.35 The Case Officer's report also states that ***'The lack of a five-year housing land supply thereby renders all policies relevant to the supply of housing as out of date and places the Local Planning Authority in a position whereby the presumption in favour of sustainable development applies under paragraph 49 of the Framework. This entails that those policies relevant to the supply of housing, which in such cases as this extends to the countryside restraint policies of DC1 and CP5 of the Horsham District Local Development, need to be applied flexibly.***

The more flexible application of the countryside restraint policies, where the presumption in favour of sustainable development

applies, requires the LPA to grant planning permission for such residential development outside of the built-up area boundary, unless there are significant and demonstrable adverse impacts that outweigh the benefits of the proposal, when assessed against the policies in the Framework as a whole'.

3.36 Whilst the case of Leechpool Cottage was considered against the relevant policies of the Council's former planning policies, prior to the adoption of the present HDPF in 2015 and the 2012 version of the NPPF, the overriding principles of the present NPPF remain the same especially in respect of the provision of new homes and the requirements of paragraph 11 d).

4. Housing Land Supply

3.37 Three articles from Planning Magazine which relate to the issue of housing land supply are included at Appendix NJA/8.

3.38 The article dated 25 April 2022 relates to an appeal which allowed the construction of up to 70 dwellings on the edge of a village in West Sussex. The Planning Inspector found the Council's Local Plan, dating from 2015, to be out of date in terms of the settlement boundaries and the quantum of housing required. The Council's housing land supply was considered to be 4.6 years and the Planning Inspector found that although some harm to the landscape and character and appearance of the area would result and that the site does not adjoin a settlement boundary, the site was not unsustainably located in relation to local services and employment.

3.39 The article dated 22 April 2022 relates to an appeal that granted planning permission for four custom self-build homes on garden land on the edge of a Worcestershire village. Although the Council could show a housing land supply of over seven years and that it had granted sufficient suitable permissions to meet the needs of applicants on the local register of custom-builders, the appellant challenged whether the permissions were

specifically restricted to serviced self-build and custom-building plots. The Planning Inspector agreed and found that it was uncertain whether the Council was meeting demand for such plots and fulfilling its duty in this respect. The Planning Inspector subsequently found the site to be sustainably located and that the proposed development would not encroach into the surrounding countryside. The appeal was allowed on the basis of the tilted balance and the absence of relevant development plan policies relating to self-build and custom-build housing.

3.40 The article dated 14 May 2020 refers to an appeal which allowed the construction of dwellings within the Gloucester countryside. The Council could not demonstrate a five year supply of housing with a 'substantial' shortfall. The Planning Inspector noted that even the small number of houses proposed would be a public benefit and boost the supply of housing whilst utilising a small site. In applying the tilted balance at NPPF paragraph 11 d), the Planning Inspector concluded that the proposal was sustainable development and allowed the appeal.

3.41 The following section provides an appraisal of the Case Officer's report (in bold italics) in reference to the planning policies most relevant to the appeal:

Case Officer's report

Principle of Development:

The application site is located outside of a designated built-up area boundary and is therefore within a countryside location.

Policy 2 of the Horsham District Planning Framework (HDPF) sets out the main growth strategy, focusing development in the main settlements. The application site is situated outside of any of the defined settlements as categorised under Policy 3 of the HDPF, and therefore is considered to be in a countryside location in policy terms.

Policy 4 of the HDPF outlines that the expansion of settlements outside the built-up area are supported where the site is allocated in the Local Plan or in a Neighbourhood Plan and adjoins an existing settlement edge; the level of expansion is appropriate to the scale and function of the settlement type; the development is

demonstrated to meet the identified local housing needs; the impact of development individually or cumulatively does not prejudice comprehensive long term development; and the development is contained within an existing defensible boundary and the landscape and townscape character features are maintained and enhanced.

The HDPF outlines that the proposed settlement hierarchy is the most sustainable approach to delivering housing; with new development focused in the larger settlements of Horsham, Southwater and Billingshurst; with limited new development elsewhere, only where it accords with an adopted Neighbourhood Plan. Specifically, Policy 3 of the Horsham District Planning Framework seeks to retain the existing settlement pattern and ensure that development takes place in the most sustainable locations as possible.

3.42 HDPF policies 2, 3 and 4 are fully acknowledged and referred to within the Appellants' Planning, Design and Access Statement. It is reiterated that in this case, because the HDPF is over five years old and as the Council cannot demonstrate a five year supply of housing as required by the NPPF, limited weight should be given to the housing related policies of the HDPF (specifically policy 15) including to the Council's development strategy set out at HDPF policies 2, 3, 4 and 26. The tilted balance at paragraph 11 d) of the NPPF is engaged and the proposal should be considered against the principles of sustainable development.

3.43 It is however important to note that the Council's strategic development strategy set out at HDPF policy 2 includes support for the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of a high environmental value. This is also supported by Section 11 of the NPPF which requires planning policies and decisions to promote an effective use of land in meeting the need for homes and other uses, whilst safeguarding and improving the environment and ensuring safe and healthy living conditions. Specifically, paragraph 119 of the Framework encourages as much use as possible of previously-developed or 'brownfield' land.

3.44 The appeal site forms part of the residential garden area of Marlpost Meadows. Paragraphs 5.40 – 5.42 of the Planning, Design and Access

Statement set out that the appeal site falls within the NPPF's definition of previously developed land, referencing the case of Dartford Borough Council v The Secretary of State for Communities and Local Government & Ors [2017] EWCA Civ 141. This confirms that residential gardens *outside* of a 'built up area' should be considered as previously developed land having regard to the definition set out at Annex 2 (Glossary) of the NPPF. As such, weight should be given to the fact that the proposed development will make efficient use of previously developed land, as supported by the NPPF and HDPF (in accordance with the principles of sustainable development).

Paragraph 79 of the NPPF states that "to promote development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby."

3.45 The NPPF is clear in its support for the provision of new rural housing and the sustainable development of rural areas and paragraph 79 recognises the importance of such housing in supporting the vitality and viability of villages. The NPPF does not specifically state that new housing within the countryside is unacceptable.

Paragraph 80 of the NPPF continues that "planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

a) ***there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;***
b) ***the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;***
c) ***the development would re-use redundant or disused buildings and enhance its immediate setting;***
d) ***the development would involve the subdivision of an existing residential dwelling; or***
e) ***the design is of exceptional quality, in that it:***
is truly outstanding or innovative, reflecting the highest

standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area

The term "isolated" is not defined within the National Planning Policy Framework, but case law has confirmed that it should be given its ordinary objective meaning of remote and far away from other places, buildings and people, and separate or remote from a settlement, services, and facilities. The application site is located amongst a small cluster of existing residential dwellings and given is not "isolated" in its truest sense. The site would though be highly dependent upon vehicles to access necessary services, with opportunities for walking into the nearest settlement of Southwater limited by the lack of any street lighting of pavements.

Southwater Neighbourhood Plan - SNP1 'Core Principles', and SNP2 'Proposals for Residential Development' seek to positively support and encourage residential development within the (defined) built-up boundary of the Parish rather than outside of built up areas in the countryside. As detailed above, the application site is located outside any built up area boundary and does not form part of an allocated site within the SNP.

3.46 Paragraphs 5.17 – 5.39 of the Planning, Design and Access Statement refer to the location of the appeal site and its suitability to accommodate a new dwelling as proposed. It is reiterated that the site is sustainably located, less than 1 mile from the centre of Southwater which is one of the main settlements within the district. Furthermore, HDPF strategic allocations for housing to the west of the settlement will bring the existing settlement boundary much closer to the application site.

3.47 Within Southwater there are a range of local services and facilities including shops, restaurants, cafes, schools, a doctor's surgery, a sports club, a country park, a village hall, library, public houses and a business park. There are also a number of bus stops in the village that provide regular services to Horsham and the wider area.

3.48 Occupiers of the proposed dwelling (the Appellants) will be able to easily access the local services within Southwater which is a short walk away.

Distance to amenities is less than 1 mile however the Post Office and the Tipsy Fox Pub in Southwater are just half a mile away. The distance to Southwater sports Club, the Village Hall and the Church is 0.2 miles and The Bax Castle Pub is 0.8 miles away. Whilst it is acknowledged that there is no footpath from the site all of the way into Southwater (one start/ends on Church Lane at the church) there are walkable verges along the lane along with a number of PRoWs in the locality which lead into Southwater. This includes links to the Downs Link which is a short distance away to the north/north east of the site. Maps showing possible walking routes are included at page 26 of the Planning, Design and Access Statement.

3.49 Therefore, whilst the application site is not located within a defined settlement boundary, this does not mean to say that the site is unsustainably located simply by definition. Importantly, the NPPF paragraph 105 requires the planning system to actively manage patterns of growth but states that it should be recognised that ***'opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making'.*** This implies that some flexibility should be applied to assessing proposals for new development within rural areas which is particularly relevant when considering the proposal against the benefits of allowing some rural housing to help support the longer term vitality and viability of rural communities (NPPF paragraph 79).

3.50 Notwithstanding this, the scale of development is small (just one dwelling) and the proposal will not result in a significant increase in vehicle movements within the rural area. In this case, the day to day needs of the occupiers of the proposed dwelling may be met either by walking or cycling as described or by short journeys which does not represent an unusual pattern of vehicle movements in the rural area.

3.51 The NPPF primarily seeks to avoid the creation of *isolated* homes within the countryside (paragraph 80). The application site is not situated within

isolated countryside, not only due to its proximity to Southwater and local services and facilities as described, but also in terms of its proximity to other built form.

3.52 In this respect, the proposed dwelling would be situated adjacent to a small cluster of dwellings situated close to the Bonfire Hill/Marlpost Road junction. There are also other residential properties along Bonfire Hill leading to Church Lane and Southwater. Therefore, given the proximity to other residential development, the proposed dwelling will not appear out of keeping with the context of the surroundings.

3.53 In this regard, the Court of Appeal Judgement of Braintree District Council v Secretary of State for Communities and Local Government (2018) which found that the term 'isolated' within the NPPF should be given its ordinary objective meaning, such as being "far away from other places, buildings or people; remote" (Oxford Concise English Dictionary) providing a spatial consideration. This enables a balance to be provided between protecting the countryside and supporting the vitality of rural communities, accepting also that flexibility has to be provided account for the differences between rural and urban areas requiring people to travel by car.

In this countryside location, the proposal is also considered against Policy 26 which seeks to protect the countryside against inappropriate development unless it is considered essential and appropriate in scale; whilst also meeting one of four criteria. This criteria includes: supporting the needs of agriculture or forestry; enabling the extraction of minerals or the disposal of waste; providing for quiet informal recreational use; or enabling the sustainable development of rural areas. The proposed development does not meet any of this criteria, nor is it considered to be essential to the countryside location, and does not therefore comply with Policy 26 of the HDPF.

3.54 It is reiterated that HDPF policy 26 should be given less weight on the basis of the Council's present lack of a five year supply of housing and the need to consider the proposal against the principles of sustainable development set out within the NPPF. Nevertheless, Policy 26 must be understood in the context of the supporting text at paragraph 8.18 of the

HDPF which states *'The Council is seeking to identify the most valued parts of the district for protection, as well as maintain and enhance this natural beauty and the amenity of the district's countryside. It is considered important that the unique characteristics of the district's landscapes are retained, and where practicable, enhanced. It will be necessary to ensure that development proposals take into account the key characteristics of the landscape character areas'.*

3.55 It is not considered that the application site which is enclosed and situated adjacent to other built form, is particularly important in its contribution to local or wider landscape character. Given this context, the proposed construction of one dwelling, of a high-quality, traditional design is not considered to be inappropriate or harmful to the visual amenities of the countryside landscape in this instance. Furthermore, the Council has raised no objections to the design of the proposed dwellings or in respect of its impact upon the countryside landscape (see paragraphs 3.66 – 3.67 below).

3.56 In terms of the policy's requirement for new development to be 'essential' to its countryside location, as set out, the NPPF recognises the importance of new rural housing to support the vitality and viability of villages (paragraph 79). Therefore the continued provision of such homes, in sustainable locations such as the application site, is arguably essential to the communities that live in rural areas. In this respect, the proposal complies with criterion 4 of policy 26 and again, it is also of a small scale, just one dwelling, that is appropriate to the countryside character and location.

3.57 Similarly, the proposal for just one dwelling will neither individually, nor cumulatively lead to a significant increase in the overall level of activity in the countryside. Furthermore, the proposed dwelling will be a 'self-build' to be occupied by the Appellants who are already part of the local community. The proposal does not conflict with the overall aims and intentions of policy 26 to protect the countryside.

Two recent appeal decisions relating to applications DC/20/0470 (Newhouse Farm, Horsham) and DC/20/0695 (Rascals Farm, Southwater) indicated a housing land supply of between 4.2 - 4.3 years. Since these decisions, which demonstrated the Council's lack 5-year housing land supply, there have been further appeal decisions for single dwellings located outside the built up area boundaries which have been dismissed at appeal. Some examples include the application site, DC/20/2086 (Lancasters Cottage, Partridge Green) and DC/20/2128 (Marringdean Barn, Billingshurst). In considering these appeals, the Planning Inspector made specific reference to the lack of the Council's 5 year housing supply and acknowledged that the proposals would make effective use of previously developed land, contribute to housing in the District and could make an important contribution to meeting the housing requirement of an area as small sized sites are often built-out relatively quickly. In both these appeal decisions the Planning Inspector's concluded in the planning balance that whilst some economic advantages would arise from the construction of the proposed dwelling, the benefits would be limited by the modest scale of the development for a single dwelling. Similarly, this proposal would provide a single dwelling, where the benefit to the Council's housing land supply would be limited when considered in the planning balance and would not outweigh the conflict identified with policies 2, 3, 4, and 26 of the Horsham District Planning Framework (2015).

As the site is located outside of any defined built-up area boundary, Policies 3 and 4 of the HDPF are of significant weight in the determination of the application. As stated within Policy 3 of the HDPF, development will be permitted within towns and villages that have defined built-up areas; with development in the countryside more strictly controlled through the provisions of Policy 4. This policy states that development outside of built up areas will only be supported where the site is allocated in the Local Plan or in a Neighbourhood Plan and adjoins a settlement edge. As detailed above, the application site is not identified in the Local Plan and is not allocated within an adopted Neighbourhood Plan. Further, the location of the site would create a dependency on private vehicles to access surrounding settlements and services.

The proposed development would therefore be in conflict with the spatial strategy for housing within the development plan as set out in Policies, 2, 3, and 4 of the HDPF. In addition, the proposal would not meet any of the exceptions as identified within Policy 26 of the HDPF. The proposal would not therefore provide a suitable location for housing with regard to the spatial strategy within the Development Plan. While noted that the proposal would be a windfall unit of housing as set out in Policy 15, this would be outweighed by the overriding policy conflict as set out above.

3.58 The appeals referred to above were determined in January 2021 (Marringdean Barn) and September 2021 (Lancasters Cottage). Both appeals were determined before the Council published its latest AMR in December 2021 which demonstrates since these appeals, the Council's housing land supply has dropped further to 4 years. Whilst the Planning Inspectors gave less weight to the contribution of just one new dwelling towards housing land supply, now over a year later from the first appeal at Marringdean Barn, the Council is in a worse position in that the gap between housing need and housing supply has increased and the emerging Local Plan is further delayed.

3.59 It is reiterated that the cumulative contribution of windfall housing provision, in sustainable locations such as the appeal site, should be considered more favourably under the context of NPPF policy 11 d) given the overall contribution towards helping to meet local housing need. It is therefore respectfully asked that this appeal is considered against the current context of housing land supply within the district and in particular the growing lack of supply. This is especially because the Council has not identified any other harm in this case, apart from in respect of water neutrality.

3.60 The Case Officer's report states that the proposal conflicts with HDPF policies 2, 3, 4 and 26 due to the site's location outside of a settlement boundary. Specifically that the site would not provide a suitable location for housing with regard to the spatial strategy of the development plan. However, this analysis does not take into account the fact that the present HDPF is over five years old and although acknowledged, insignificant weight is given here to inability of the Council to demonstrate a five year supply of housing as required by the NPPF.

3.61 The above appraisal is also in conflict with the concluding part of the Case Officer's report which in contrast confirms that:

1. As the Council cannot currently demonstrate a five year supply of housing, for the purposes of decision making, the presumption in favour of sustainable development within paragraph 11 d) of the NPPF applies.
2. HDPF policies 2, 4 and 26 are out of date and now carry only moderate weight in decision making.

3.62 As the Case Officer's report accepts that only 'moderate' weight can be given to the Council's housing and spatial strategy and having regard to the provisions of NPPF paragraph 11 d), it is reiterated the proposal must be considered against the principles of sustainable development set out within the Framework.

3.63 In this respect, it is demonstrated that the application site is not located within isolated countryside and it is not remote from other built form. The occupiers of the proposed dwelling will form part of a well-established local community and the NPPF recognises the importance of new dwellings within the rural area, helping to sustain the vitality and viability of local services and facilities.

3.64 Occupiers of the proposed dwelling will be able to access local services and facilities within a short distance and the proposed dwelling is close to other built form. The application site is also well screened in places by hedgerows and trees and the new dwelling, which has been sympathetically designed, will not appear as a prominent structure within the countryside or out of keeping with its surroundings (the Council has raised no objections in this regard).

3.65 Whilst located within the countryside, the site is not located in one of the specifically defined protected areas described at footnote 7 of the NPPF. The proposal will make a small but important cumulative contribution towards housing provision within the district and this fact weighs heavily in favour of the proposal. This Statement therefore demonstrates that in consideration of all matters, there are no impacts of the proposal that

would either significant or demonstrably outweigh the benefits of the provision of a new (self-build) home when considered against the provisions of the NPPF as a whole.

Design and Appearance:

Policy 25 of the HDPF requires development to protect, conserve and enhance landscape character of the district, whilst Policy 26 of the HDPF requires development to protect, conserve and enhance the key features and characteristics of the landscape character area in which it is located including the development pattern of the area. Policy 32 of the HDPF requires development, to amongst other matters, complement locally distinctive character and heritage of the district and contribute a sense of place in the way that integrate with their surroundings and the historic landscape in which they sit. Policy 33 of the HDPF requires development, amongst other matters, to recognise any constraints that exist to ensure that the scale, massing and appearance of the development is of a high standard of design and layout, are locally distinctive, favour the retention of important landscape and natural features and create safe environments.

Paragraph 130 of the NPPF states that planning decisions should ensure that developments function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting; establish a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development; and create places that are safe, inclusive and accessible.

The introduction of an additional residential dwelling would lead to an increased presence of associated domestic paraphernalia, intensifying the pattern of surrounding development with the scale of the proposed dwelling. The dwelling proposed by this submission is though, of a design not offensive in relation to appearance of neighbouring dwellings and conditions could be imposed in relation to detailing, landscaping and to restrict permitted development. The proposed design and landscaping would have a broadly neutral impact on the existing character of the site and wider surrounding area, with no adverse impact on the setting of surrounding heritage assets. The proposed development is therefore considered to sufficiently accord with Policies 25, 32, 33 and 34 of the HDPF.

3.66 The Case Officer's report raises no objections in respect of the design of the proposed dwelling or its impact upon its surroundings, including the countryside landscape.

3.67 As set out within the Planning, Design and Access Statement the proposed dwelling respects the established scale of neighbouring development and the dwelling will fit comfortably within its surroundings. The overall design of the dwelling is high quality and its traditional appearance complements neighbouring development and rural character of the area. No harm would be caused to the setting of the site or to any countryside views and the proposal complies with the design policies of the NPPF and the relevant provisions of HDPF policies 25, 32, 33 and 34.

Amenity Impacts:

Policy 33 of the HDPF states that development will be required to avoid unacceptable harm to the amenity of occupiers / users of nearby property and land, for example through overlooking or noise, whilst having regard to the sensitivities of surrounding development

The scale and siting of the proposed dwelling in relation to neighbouring properties and land would not result in unacceptable harm to neighbouring amenity. It is considered that 'normal' occupation of the site for residential purposes would not be expected to result in significant potential for harmful levels of noise or disturbance. The amenity impacts of the proposal would therefore be considered acceptable and would accord with the above policy.

3.68 The proposed dwelling will be located close to other residential development however it is a sufficient distance away to ensure that there will be no harm caused to neighbouring residential amenity by way of harmful overlooking, overbearing appearance or loss of light. The proposed dwelling will also not result in any harmful noise and disturbance and overall complies with HDPF policy 33 in respect of amenity.

Highways Impacts:

Policies 40 and 41 of the HDPF promote development that provides safe and adequate access, suitable for all users.

The proposed dwelling would make use of an existing access associated with Marlpost Meadows, which also benefits from an additional separate access further to the east. The use of an existing access for the proposed dwelling would not be expected to represent a material intensification which would generate a highway safety concern, with no evidence available to suggest the access is currently operating unsafely. The proposed layout allows for sufficient on-site parking and manoeuvring space with ample space available for the storage of cycles. It is considered that subject to conditions the proposal would not have any adverse impacts on highways.

3.69 The proposal includes space for multiple vehicles to park (and turn). In terms of access, the existing access from the Bonfire Hill will be utilised to serve the proposed dwelling. This access is considered have suitable visibility and overall the proposal complies with Policies 40 and 41 along with Policy SNP14 of the Southwater Neighbourhood Plan.

Water Neutrality:

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

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

The application is accompanied by a Water Statement, which sets out that the current site has a water demand of 595.25 litres per day, which is in excess of that which, following efficiencies, would result

from both the existing and proposed dwellings (with a proposed figure of 582.4 litres per day put forward). The proposed efficiencies for the existing dwelling are based largely on the provision of a rainwater harvesting tank, as well as greywater harvesting, which would deliver the main bulk of the water saving. While these measures would (in part) need to be retrofitted within the existing dwelling, which does not form part of the application site, no substantial plans have been submitted which outline how such measures would be delivered within this neighbouring property. In the absence of such detail and of an appropriate mechanism which could secure in perpetuity the retention of such measures there is however no certainty of mitigation.

In the absence of an achievable strategy to demonstrate water neutrality through the incorporation of on-site measures and/or appropriate offsetting actions capable of achieving water neutrality, it is considered that there is no certainty that the proposal will not contribute further to the existing adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites. In such circumstances the grant of permission would be contrary to Policy 31 of the HDPF, NPPF paragraph 180 and the Council's obligations under the Conservation of Habitats and Species Regulations 2017.

3.70 Paragraphs 6.18 – 6.20 of the Planning, Design and Access Statement refer to the issue of water neutrality and a full report addressing the matter was submitted to the Council for consideration alongside the planning application. The Water Neutrality Statement confirms that the proposed dwelling will incorporate water efficient devices to toilets, taps, and showers/baths. A number of outdoor mechanisms can be installed such as a water butt together with smart metering. In addition, water reusing technology will be installed including rainwater harvesting and greywater recycling.

3.71 It is also proposed to retrofit 'reduce and re-use' measures within the existing dwelling, Marlpost Meadows. This will involve the retrofitting of existing fittings and installing a rainwater harvesting tank. As a result of all water saving a re-using measures, the overall water demand of both dwellings will be reduced and the site will become water neutral providing a betterment over the existing water demand.

3.72 Marlpost Meadows is within the same ownership as the appeal site and it is shown within the blue edge of the site location plan. This provides a mechanism to apply a condition requiring the submission of further details to the Council if required, or to require the proposed development to be completed in accordance with the details set out within the Water Neutrality Statement. Given that the proposed development would be water neutral when taking into account off-setting measures within Marlpost Meadows, the proposed development will not place any further undue pressure upon the integrity of the Arun Valley protected sites. There is as such no conflict with HDPF policy 31, paragraph 180 of the NPPF or the Conservation of Habitats Regulations 2017.

Conclusions:

The Council cannot currently demonstrate a five-year supply of deliverable housing sites therefore for the purposes of decision making the presumption in favour of sustainable development within Paragraph 11(d) of the NPPF applies. Paragraph 11(d) states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

In this instance Policies 2, 4 and 26 are considered out of date and as determined by recent appeal inspectors now carry only moderate weight in decision-making. The application site has not been allocated for development within the Southwater Neighbourhood Plan. The development would therefore be in conflict with the Policy 4 of the HDPF and Policy SNP1 of the Neighbourhood Plan in this regard.

The benefit of housing carries significant weight, however the contribution of 1 no. dwelling to the Council's supply would be very modest. While the current housing shortfall is a material consideration of significant weight, the benefits arising from the modest contribution of 1 no dwelling to the Council's housing supply would not significantly outweigh the conflict with the Local Plan when read as a whole. Furthermore, the benefit of the housing also does not outweigh the absence of a strategy to demonstrate water neutrality, and there is no certainty that the proposal would not contribute further to the existing adverse effect

on the integrity of the Arun Valley SAC, SPA and Ramsar sites. In such circumstances the grant of permission would be contrary to Policy 31 of the HDPF, NPPF paragraph 180 and the Council's obligations under the Conservation of Habitats and Species Regulations 2017. Such harm runs contrary to paragraph 180 of the NPPF and would lead to adverse impact that significantly and demonstrably outweigh the benefits of the housing. The application is therefore recommended for refusal on this basis.

Recommendation: Application Refused

3.73 The Case Officer's conclusions are addressed at Section 4 below. However, given that the tilted balance at NPPF paragraph 11 d) is engaged in this case, it is necessary to consider the proposal against the presumption in favour of sustainable development set out within the Framework. Therefore, having regard to the three key objectives of sustainable development set out at paragraph 8 of the NPPF, the proposed development complies as follows:

a) an economic objective – the proposal will make a small contribution to the local building industry and associated trades in creating the new dwelling. Furthermore, occupiers of the new dwelling will help to support local services and facilities. The proposal complies with the economic objective of sustainable development.

b) a social objective – the proposal provides a suitable site for the creation of a new dwelling in close proximity to local services and facilities including schools, public transport and community facilities. The proposal will also make a small but important cumulative contribution to the supply of new homes within the district (contributing towards the Council's windfall target) including through the provision of a self-build home as supported by the NPPF. The proposal complies with the social objective of sustainable development.

c) an environmental objective – The proposal makes efficient use of previously developed land and no harm will result to the visual amenities of the countryside landscape. The application site is not environmentally sensitive in type or location and water neutrality is

demonstrated. The design of the proposed dwelling will be environmentally sustainable and the location of the appeal site is in a sustainable position, in close proximity to the settlement of Southwater. The proposal will not result in unsustainable patterns of vehicle movements within the rural area. The proposal complies with the environmental objective of sustainable development.

5.1 CONCLUSIONS

5.1 As set out at Section 2, case law confirms when considering whether a proposal complies with a development plan, it is not necessary to say that it must accord with every policy of the development plan and the question is whether it accords with the development plan overall. In addition, paragraph 3 of the NPPF confirms that the Framework should be read as a 'whole' and the Government's Planning Policy Guidance (PPG) states that any conflicts between the development plan should be considered in light of all material planning considerations including local priorities and needs, as guided by the NPPF.

5.2 The Council's HDPF is over five years old and the Council's latest AMR confirms that it cannot demonstrate a five year supply of housing as required by the NPPF. As such, the titled balance set out at paragraph 11 d) of the Framework is engaged and the appeal scheme must be judged against the presumption in favour of sustainable development. Specifically, this Statement of Case confirms that the appeal site is not located within a 'protected' area and that there are no adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits of the provision of a new home, when considered against the policies of the NPPF as a whole.

5.3 NPPF paragraph 11 d) is referred within the conclusions of the Case Officer's report which acknowledges that as the Council cannot currently demonstrate a five year supply of housing sites, the presumption in favour of sustainable development applies and that HDPF policies 2, 4 and 26 are subsequently out of date. Therefore in this case, only limited weight can be given to the housing and spatial strategy policies of the HDPF (policies 2, 3, 4, 15 and 26) yet these policies (2, 3, 4 and 26) are relied upon within the Council's first reason for refusal. This relates to the site's alleged 'unsustainable' location within the countryside and the fact that the proposed dwelling is not 'essential' to such a location.

5.4 In response, this Statement confirms that the appeal site is situated close to the settlement of Southwater where there is a range of local services and facilities a short distance away and easily accessible to occupiers of the proposed dwelling (the Appellants). The new dwelling would not therefore be remote from day-to-day services and as it will be situated close to other built form, including residential properties, the site is not situated within 'isolated' countryside.

5.5 Given the context of the site's surroundings as described, and having regard to the high quality design of the proposed dwelling and boundary screening, the development would not appear out of keeping with its surroundings and no harm would be caused to the visual amenities of the countryside landscape. The Case Officer's report confirms that the '***The dwelling proposed by this submission is though, of a design not offensive in relation to appearance of neighbouring dwellings and conditions could be imposed in relation to detailing, landscaping and to restrict permitted development. The proposed design and landscaping would have a broadly neutral impact on the existing character of the site and wider surrounding area, with no adverse impact on the setting of surrounding heritage assets'.*** Notably, no objections are raised in terms of the resulting visual impact upon the countryside.

5.6 Furthermore, the proposal for just one dwelling will neither individually nor cumulatively lead to a significant increase in the overall level of activity in the countryside. Therefore, given that the primary purpose of HDPF policy 26 is to protect the countryside from inappropriate development, there is no conflict with the intentions of the policy.

5.7 In terms of whether the proposed dwelling is 'essential' to its countryside location, it is reiterated that the NPPF does not specifically exclude the construction of new dwellings in such locations and its policies recognise the importance of new housing to support the vitality and viability of villages (paragraph 79).

5.8 The proposal will make a small but important contribution towards the supply of new homes within the district and on a site that is classed by the NPPF as being previously developed. As the new Local Plan is delayed, windfall housing provision is of even greater importance in the supply of new homes. The cumulative contribution of such sites is key to help bridge the gap between (out-of-date) HDPF policy 15 and the future adoption of new housing policies. Furthermore, the provision of self-build homes is supported by the Government and which play an important role in the variety of new homes.

5.9 In respect of the Council's second reason for refusal, this appeal is accompanied by an updated Water Neutrality Statement which confirms that not only will the proposed development be water neutral, but it will provide a degree of betterment over the existing dwelling's water demand. The details of which may be secured by condition and as a result, the proposed development will not therefore result in any adverse effect upon the integrity of the internationally designated Arun Valley sites by way of increased water abstraction. The proposal raises no conflict with HDPF policy 31, paragraphs 179 and 180 of the NPPF, the Conservation of Habitats and Species Regulations 2017 (as amended) and S40 of the BERC Act 2006 (Priority Habitats & Species).

5.10 In summary, the proposed development complies with the principles of sustainable development set out within the NPPF and specifically, the site is sustainably located with the new dwelling resulting in no harm to the visual amenities of the countryside landscape. The proposal will make a small but important contribution towards the supply of new homes within the district.

5.11 Paragraph 38 of Framework sets out that decision makers at every level should seek to approve applications for sustainable development wherever possible and given that in this case the provisions of NPPF paragraph 11 d) apply (and which are complied with), it is respectfully asked that this appeal is allowed.

Horsham District Council

Mr Nikolas Antoniou
NJA Town Planning Ltd
The Beehive
City Place
Gatwick
RH6 0PA
undefined

Application Number: DC/22/0495

TOWN & COUNTRY PLANNING ACT, 1990 (as amended)
TOWN & COUNTRY PLANNING (Development Management Procedure) (England) Order 2015

On behalf of: Mr and Mrs M Ellis

In pursuance of their powers under the above-mentioned Act and Order, the Council hereby REFUSE to permit the works specified hereunder, that is to say:

Erection of a two storey chalet style detached dwelling.

Marlpost Meadows Bonfire Hill Southwater Horsham

as shown on Plan and Application Number DC/22/0495 submitted to the Council on 08/03/2022. The reasons for the Council's decision to refuse to permit the above works are specified hereunder.

1 The proposed development would be sited within an unsustainable location in the countryside, outside of a defined built-up area boundary, and on a site not allocated for housing development within the Horsham District Planning Framework, or a made Neighbourhood Plan. Furthermore, the proposed development is not essential to its countryside location. Notwithstanding the absence of a five-year land housing supply, and the provisions of the National Planning Policy Framework (2021) at paragraph 11(d), it is not considered that there are any material considerations in this instance which would outweigh harm arising from conflict with Policies 1, 2, 3, 4 and 26 of the Horsham District Planning Framework (2015) and Policy SNP1 of the Southwater Neighbourhood Plan (2019-2031).

2 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), Paragraph 180 of the National Planning Policy Framework (2021), its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

Schedule of plans/documents:

Plan Type	Description	Drawing Number	Received Date
Location plan		NONE	08.03.2022
Location & Block plan		6901	08.03.2022

Elevation & Floor plan	Proposed	6905 B	08.03.2022
Supporting Statement	Heritage	NONE	08.03.2022
Design & Access Statement		NONE	08.03.2022

Note To Applicant:
Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

Emma Parkes
Head of Development and Building Control

Date: 03/05/2022

ADDITIONAL INFORMATION

Right of Appeals
If you are aggrieved by the decision to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

You must appeal within 12 weeks of the date of the decision notice for a householder application or 'minor commercial' (shop front) development, and within 6 months for other types of planning applications. There are different timescale – usually 28 days – if an enforcement notice is/has been served for the same (or very similar) land and development. Please note, only the applicant possesses the right of appeal.

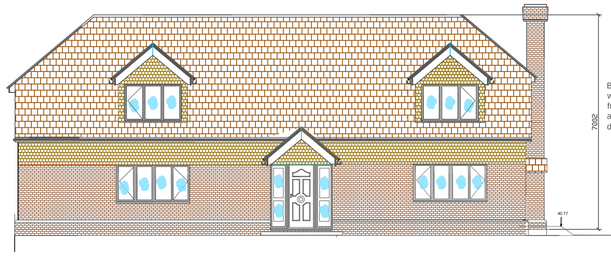
Appeals can be made online at: https://www.gov.uk/planning-inspectorate. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are at https://www.gov.uk/government/collections/casework-dealt-with-by-inquiries.

PROPOSED ELEVATIONS SCALE 1:100 @A1



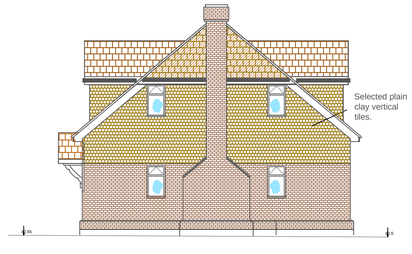
NORTH (FRONT) ELEVATION

Black window frames and doors

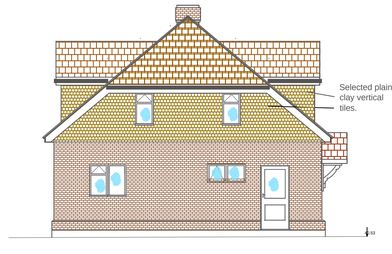
Black uPVC casement windows and doors.



SOUTH (REAR) ELEVATION

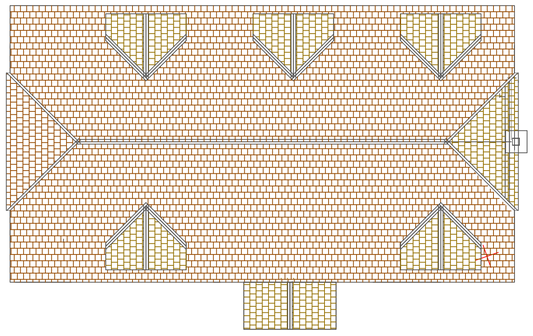


WEST ELEVATION

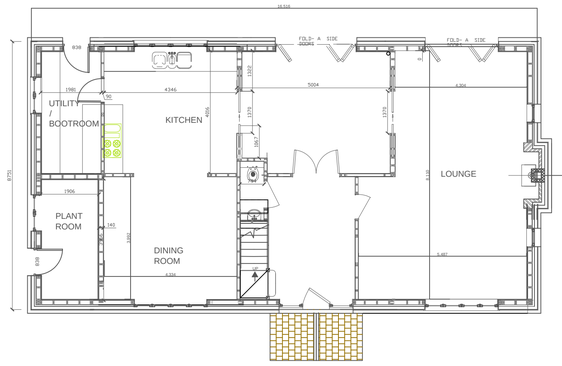


EAST ELEVATION

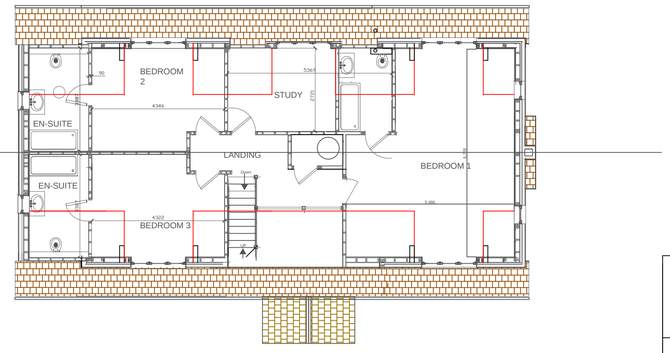
PROPOSED PLANS SCALE 1:100 @ A1



ROOF PLAN SCALE 1:100

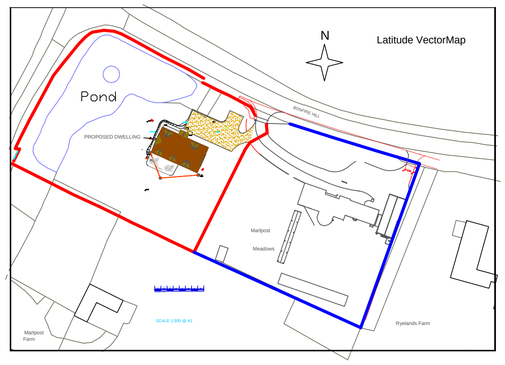


GROUND FLOOR PLAN



FIRST FLOOR PLAN

SCALE 1:100 @ A1



BLOCK PLAN SCALE 1:500 @ A1

GENERAL KEY

WH = WINDOW HEIGHT
BH = BEAM HEIGHT
DH = DOOR HEIGHT
IL = INVERT LEVEL
R.W.P. = RAIN WATER PIPE
S.V.P. = SOIL AND VENT PIPE
CH = CEILING HEIGHT
SH = SILL HEIGHT

THIS IS NOT A WORKING DRAWING.
The information provided is either for client information, planning consideration or shows compliance under the building regulations. It does not purport to provide all the information necessary to carry out construction works and could be subject to variation in detail.
DO NOT SCALE.
Only written dimensions should be used.

Prior to commencement of work on site, dimensions and particulars should be checked and any discrepancies reported immediately to Guideline Building Services Ltd.
Any works carried out prior to consent from the local authority are at clients risk.

TITLE

PROPOSED 3 BEDROOM CHALET DWELLING
GROSS INTERNAL FLOOR AREA 230 sq M
2475 SQ FT

SITE

PART OF GARDEN WEST SIDE OF MARLPOST MEADOWS
BONFIRE LANE
SOUTHWATER
RH13 9BU

REV A Colour changes 29.11.21
REV B Prepared for planning 02.03.22
REV C
REV D
REV E
REV F
REV G
REV H

CLIENT
Mr& Mrs M. Ellis

DATE 24.11.21
SCALES As noted

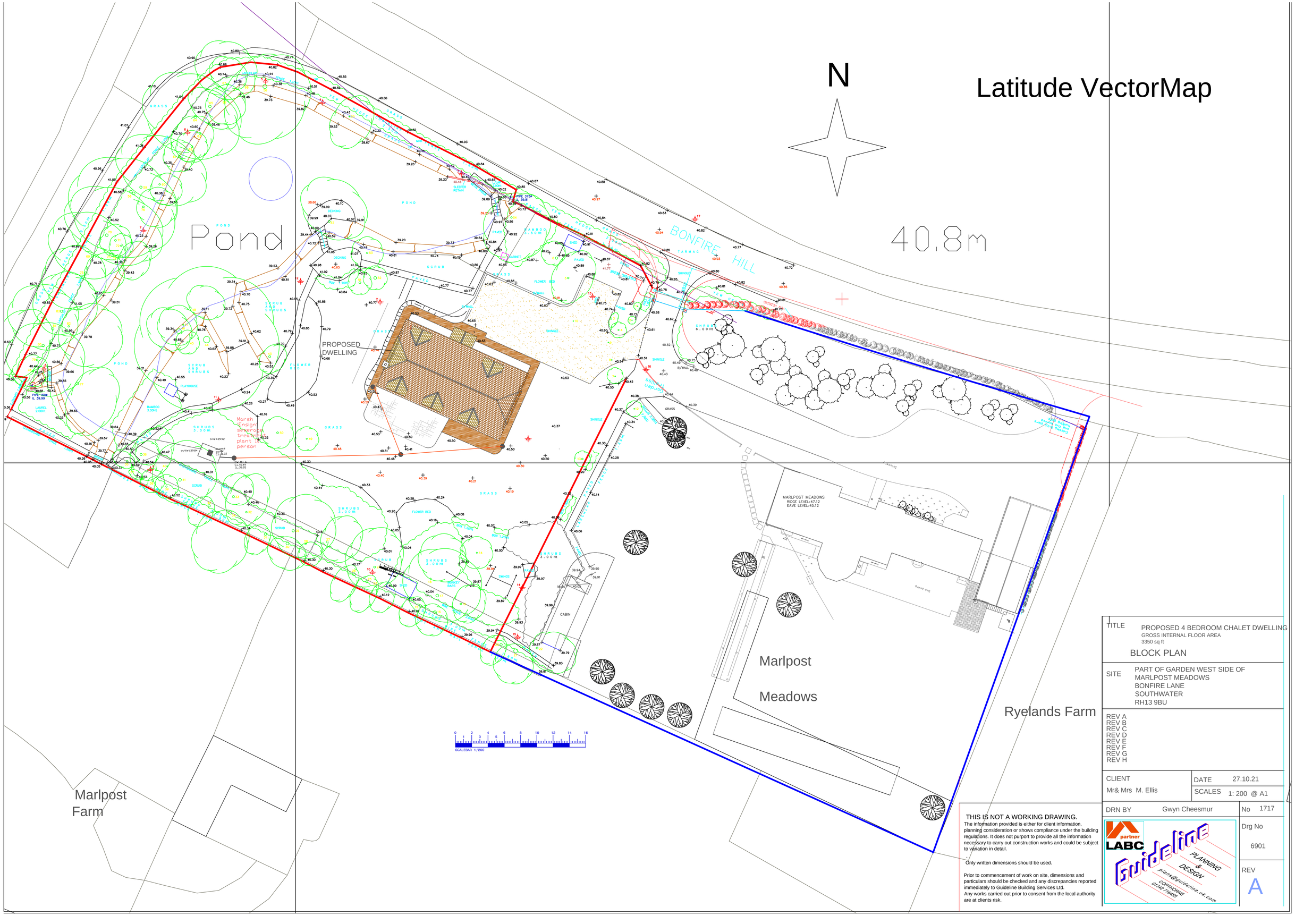
DRN BY Gwyn Cheesmur

No 1717

Drg No 6905

REV B

partner LABC
Guideline PLANNING & DESIGN
plans@guideline.uk.com
COPTHORNE 01342 716686



TITLE PROPOSED 4 BEDROOM CHALET DWELLING
GROSS INTERNAL FLOOR AREA
3350 sq ft

BLOCK PLAN

SITE PART OF GARDEN WEST SIDE OF
MARLPOST MEADOWS
BONFIRE LANE
SOUTHWATER
RH13 9BU

REV A
REV B
REV C
REV D
REV E
REV F
REV G
REV H

CLIENT
Mr& Mrs M. Ellis

DATE 27.10.21

SCALES 1: 200 @ A1

DRN BY Gwyn Cheesmur

No 1717

Drg No 6901

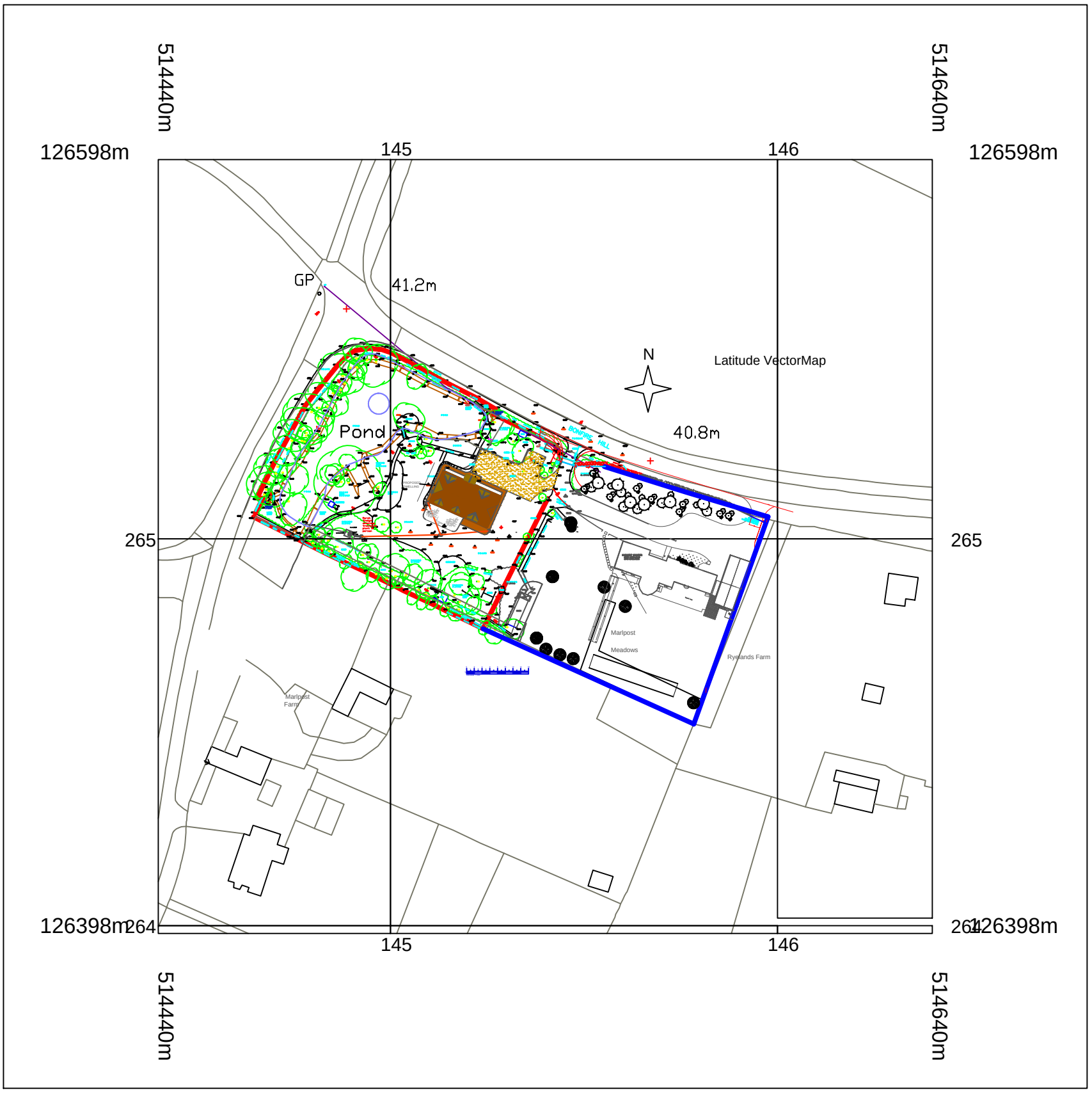
REV A

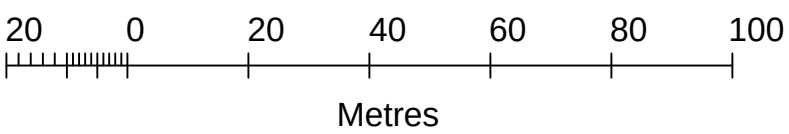
THIS IS NOT A WORKING DRAWING.
The information provided is either for client information, planning consideration or shows compliance under the building regulations. It does not purport to provide all the information necessary to carry out construction works and could be subject to variation in detail.
.
Only written dimensions should be used.

Prior to commencement of work on site, dimensions and particulars should be checked and any discrepancies reported immediately to Guideline Building Services Ltd.
Any works carried out prior to consent from the local authority are at clients risk.

partner LABC
Guideline PLANNING & DESIGN
plans@guideline.uk.com
TELEPHONE 07557 766456

Latitude VectorMap





N

LOCATION PLAN
1:1250 @ A3

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Horsham District Council

Application for Planning Permission

Town and Country Planning Act 1990 (as amended)

Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Site Location

Disclaimer: We can only make recommendations based on the answers given in the questions.

If you cannot provide a postcode, the description of site location must be completed. Please provide the most accurate site description you can, to help locate the site - for example "field to the North of the Post Office".

Number

Suffix

Property Name

Marlpost Meadows

Address Line 1

Bonfire Hill

Address Line 2

Address Line 3

West Sussex

Town/city

Southwater

Postcode

RH13 9BU

Description of site location must be completed if postcode is not known:

Easting (x)

514570

Northing (y)

126491

Description

Applicant Details

Name/Company

Title

Mr and Mrs

First name

M

Surname

Ellis

Company Name

Address

Address line 1

C/O Agent

Address line 2

C/O Agent

Address line 3

C/O Agent

Town/City

C/O Agent

Country

C/O Agent

Postcode

Are you an agent acting on behalf of the applicant?

- [x] Yes
- [ ] No

Contact Details

Primary number

Secondary number

Fax number

Email address

Agent Details

Name/Company

Title

Mr

First name

Nikolas

Surname

Antoniou

Company Name

NJA Town Planning Ltd

Address

Address line 1

The Beehive

Address line 2

City Place

Address line 3

Town/City

Gatwick

Country

undefined

Postcode

RH6 0PA

Contact Details

Primary number

***** REDACTED ******

Secondary number

Fax number

Email address

***** REDACTED ******

Site Area

What is the measurement of the site area? (numeric characters only).

3510.00

Unit

Sq. metres

Description of the Proposal

Please note in regard to:

- **Fire Statements** - From 1 August 2021, planning applications for buildings of over 18 metres (or 7 stories) tall containing more than one dwelling will require a 'Fire Statement' for the application to be considered valid. There are some exemptions. View government planning guidance on fire statements or access the fire statement template and guidance.
- **Permission In Principle** - If you are applying for Technical Details Consent on a site that has been granted Permission In Principle, please include the relevant details in the description below.
- **Public Service Infrastructure** - From 1 August 2021, applications for certain public service infrastructure developments will be eligible for faster determination timeframes. See help for further details or view government planning guidance on determination periods.

Description

Please describe details of the proposed development or works including any change of use

Construction of chalet style detached dwelling

Has the work or change of use already started?

◯ Yes
⊘ No

Existing Use

Please describe the current use of the site

Residential garden

Is the site currently vacant?

◯ Yes
⊘ No

Does the proposal involve any of the following? If Yes, you will need to submit an appropriate contamination assessment with your application.

Land which is known to be contaminated

◯ Yes
⊘ No

Land where contamination is suspected for all or part of the site

◯ Yes
⊘ No

A proposed use that would be particularly vulnerable to the presence of contamination

◯ Yes
⊘ No

Materials

Does the proposed development require any materials to be used externally?

⊘ Yes
◯ No

Please provide a description of existing and proposed materials and finishes to be used externally (including type, colour and name for each material)

Type:
Walls

Existing materials and finishes:
N/A

Proposed materials and finishes:
Stock brick with plain clay vertical tile hanging

Type:
Roof

Existing materials and finishes:
Tiles

Proposed materials and finishes:
Plain clay tiles

Are you supplying additional information on submitted plans, drawings or a design and access statement?

⊘ Yes
◯ No

If Yes, please state references for the plans, drawings and/or design and access statement

Please see covering letter

Pedestrian and Vehicle Access, Roads and Rights of Way

Is a new or altered vehicular access proposed to or from the public highway?

◯ Yes
⊘ No

Is a new or altered pedestrian access proposed to or from the public highway?

◯ Yes
⊘ No

Are there any new public roads to be provided within the site?

◯ Yes
⊘ No

Are there any new public rights of way to be provided within or adjacent to the site?

◯ Yes
⊘ No

Do the proposals require any diversions/extinguishments and/or creation of rights of way?

◯ Yes
⊘ No

Vehicle Parking

Does the site have any existing vehicle/cycle parking spaces or will the proposed development add/remove any parking spaces?

⊘ Yes
◯ No

Please provide information on the existing and proposed number of on-site parking spaces

Vehicle Type:
Cars

Existing number of spaces:
0

Total proposed (including spaces retained):
3

Difference in spaces:
3

Trees and Hedges

Are there trees or hedges on the proposed development site?

⊘ Yes
◯ No

And/or: Are there trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character?

◯ Yes
⊘ No

If Yes to either or both of the above, you may need to provide a full tree survey, at the discretion of the local planning authority. If a tree survey is required, this and the accompanying plan should be submitted alongside the application. The local planning authority should make clear on its website what the survey should contain, in accordance with the current 'BS5837: Trees in relation to design, demolition and construction - Recommendations'.

Assessment of Flood Risk

Is the site within an area at risk of flooding? (Check the location on the Government's Flood map for planning. You should also refer to national standing advice and your local planning authority requirements for information as necessary.)

◯ Yes
⊘ No

Is your proposal within 20 metres of a watercourse (e.g. river, stream or beck)?

◯ Yes
⊘ No

Will the proposal increase the flood risk elsewhere?

◯ Yes
⊘ No

How will surface water be disposed of?

☐ Sustainable drainage system

☐ Existing water course

☐ Soakaway

☐ Main sewer

☐ Pond/lake

Biodiversity and Geological Conservation

Is there a reasonable likelihood of the following being affected adversely or conserved and enhanced within the application site, or on land adjacent to or near the application site?

To assist in answering this question correctly, please refer to the help text which provides guidance on determining if any important biodiversity or geological conservation features may be present or nearby; and whether they are likely to be affected by the proposals.

a) Protected and priority species

◯ Yes, on the development site
◯ Yes, on land adjacent to or near the proposed development
⊘ No

b) Designated sites, important habitats or other biodiversity features

◯ Yes, on the development site
◯ Yes, on land adjacent to or near the proposed development
⊘ No

c) Features of geological conservation importance

◯ Yes, on the development site
◯ Yes, on land adjacent to or near the proposed development
⊘ No

Supporting information requirements

Where a development proposal is likely to affect features of biodiversity or geological conservation interest, you will need to submit, with the application, sufficient information and assessments to allow the local planning authority to determine the proposal.

Failure to submit all information required will result in your application being deemed invalid. It will not be considered valid until all information required by the local planning authority has been submitted.

Your local planning authority will be able to advise on the content of any assessments that may be required.

Foul Sewage

Please state how foul sewage is to be disposed of:

- [ ] Mains sewer
- [ ] Septic tank
- [x] Package treatment plant
- [ ] Cess pit
- [ ] Other
- [ ] Unknown

Are you proposing to connect to the existing drainage system?

- ○ Yes
- ○ No
- ◉ Unknown

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste?

- ◉ Yes
- ○ No

If Yes, please provide details:

There is sufficient space within the curtilage of the proposed dwelling for the appropriate storage of waste - see drawing 6901 Rev A Proposed Block Plan

Have arrangements been made for the separate storage and collection of recyclable waste?

- ◉ Yes
- ○ No

If Yes, please provide details:

There is sufficient space within the curtilage of the proposed dwelling for the appropriate storage of waste - see drawing 6901 Rev A Proposed Block Plan

Trade Effluent

Does the proposal involve the need to dispose of trade effluents or trade waste?

- ○ Yes
- ◉ No

Residential/Dwelling Units

Does your proposal include the gain, loss or change of use of residential units?

- ◉ Yes
- ○ No

Please note: This question is based on the current housing categories and types specified by government.

If your application was started before 23 May 2020, the categories and types shown in this question will now have changed. We recommend that you review any information provided to ensure it is correct before the application is submitted.

Proposed

Please select the housing categories that are relevant to the proposed units

- [x] Market Housing
- [ ] Social, Affordable or Intermediate Rent
- [ ] Affordable Home Ownership
- [ ] Starter Homes
- [ ] Self-build and Custom Build

Market Housing

Please specify each type of housing and number of units proposed

Housing Type:
Houses

1 Bedroom:
0

2 Bedroom:
0

3 Bedroom:
1

4+ Bedroom:
0

Unknown Bedroom:
0

Total:
1

Proposed Market Housing Category Totals	1 Bedroom Total	2 Bedroom Total	3 Bedroom Total	4 Bedroom Total	Unknown Bedroom Total	Bedroom Total
	0	0	1	0	0	1

Existing

Please select the housing categories for any existing units on the site

- [ ] Market Housing
- [ ] Social, Affordable or Intermediate Rent
- [ ] Affordable Home Ownership
- [ ] Starter Homes
- [ ] Self-build and Custom Build

Totals

Total proposed residential units	1
Total existing residential units	0
Total net gain or loss of residential units	1

All Types of Development: Non-Residential Floorspace

Does your proposal involve the loss, gain or change of use of non-residential floorspace?
Note that 'non-residential' in this context covers all uses except Use Class C3 Dwellinghouses.

◯ Yes
⊘ No

Employment

Are there any existing employees on the site or will the proposed development increase or decrease the number of employees?

◯ Yes
⊘ No

Hours of Opening

Are Hours of Opening relevant to this proposal?

◯ Yes
⊘ No

Industrial or Commercial Processes and Machinery

Does this proposal involve the carrying out of industrial or commercial activities and processes?

◯ Yes
⊘ No

Is the proposal for a waste management development?

◯ Yes
⊘ No

Hazardous Substances

Does the proposal involve the use or storage of Hazardous Substances?

◯ Yes
⊘ No

Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?

◯ Yes
⊘ No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact?

⊘ The agent
◯ The applicant
◯ Other person

Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application?

◯ Yes
⊘ No

Authority Employee/Member

With respect to the Authority, is the applicant and/or agent one of the following:
(a) a member of staff
(b) an elected member
(c) related to a member of staff
(d) related to an elected member

It is an important principle of decision-making that the process is open and transparent.

For the purposes of this question, "related to" means related, by birth or otherwise, closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was bias on the part of the decision-maker in the Local Planning Authority.

Do any of the above statements apply?

◯ Yes
⊘ No

Ownership Certificates and Agricultural Land Declaration

Certificates under Article 14 - Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)

Please answer the following questions to determine which Certificate of Ownership you need to complete: A, B, C or D.

Is the applicant the sole owner of all the land to which this application relates; and has the applicant been the sole owner for more than 21 days?

⊘ Yes
◯ No

Is any of the land to which the application relates part of an Agricultural Holding?

◯ Yes
⊘ No

Certificate Of Ownership - Certificate A

I certify/The applicant certifies that on the day 21 days before the date of this application nobody except myself/ the applicant was the owner* of any part of the land or building to which the application relates, and that none of the land to which the application relates is, or is part of, an agricultural holding**

*** "owner" is a person with a freehold interest or leasehold interest with at least 7 years left to run.**

**** "agricultural holding" has the meaning given by reference to the definition of "agricultural tenant" in section 65(8) of the Act.**

NOTE: You should sign Certificate B, C or D, as appropriate, if you are the sole owner of the land or building to which the application relates but the land is, or is part of, an agricultural holding.

Person Role

◯ The Applicant
⊘ The Agent

Title

Mr

First Name

Nikolas

Surname

Antoniou

Declaration Date

08/03/2022

☑ Declaration made

Declaration

I / We hereby apply for Full planning permission as described in this form and accompanying plans/drawings and additional information. I / We confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine options of the persons giving them. I / We also accept that: Once submitted, this information will be transmitted to the Local Planning Authority and, once validated by them, be made available as part of a public register and on the authority's website; our system will automatically generate and send you emails in regard to the submission of this application.

☑ I / We agree to the outlined declaration

Signed

Nikolas Antoniou

Date

08/03/2022