

[REDACTED]

Sent: 28 January 2026 12:27
To: Planning
Subject: [REDACTED] *FORMAL OBJECTION to planning application DC/25/2057: Land North of Little Slaughterford Chapel Road Barns Green West Sussex
Attachments: HDC Objection_Arnold_270226.pdf; One page Executive_Summary_Arnold_HDC Objection.pdf; Addendum A – Water Neutralit and Continued Application of the Habitats Regulations.pdf
Categories: Comments Received

FAO Alice Johnson

Dear Ms Johnson

As required, please find attached attached the following documents relating to this application, setting out the terms of my OBJECTION.

1. Objection letter (copied in formal online application)
2. Executive Summary setting out Legal and Policy contraventions relating to the application
3. Addendum setting out arguments on water Neutrality, the October 2025 Announcement, and Continued Application of the Habitats Regulations

This application, to any reasonable minded person, is grotesque, inappropriate and unlawful. It is clearly trying to exploit the chaotic, reckless and incompetent decisions of this government with regards to planning.

Amongst other things, HDC knows only too well that application site was expressly assessed and rejected through the neighbourhood plan process, which was endorsed by referendum only in September 2025 and now attracts full statutory weight consistent with Gladman Developments Ltd v SSCLG [2018] EWCA Civ 1610.

And yet, and yet, HDC is steamrolling this through, one suspects for political reasons to keep up with top-down government targets. And where objectives are not aligned with lawful procedure, things become problematic. There is a growing body of anecdotal evidence that there is something quite odd about this process.

Be under no doubt that there is sufficient anger and concern about the way this is being processed. If any of the anecdotal evidence already being compiled is satisfactorily established then this application could be brought before the courts. At which point **ALL** relevant HDC documents and communications become submissible.

To finish, please kindly ensure all relevant legal arguments are considered and presented to the Planning Committee.

THERE IS ABSOLUTELY NO WAY THIS CAN BE DECIDED UPON BY THE PLANNING OFFICER ALONE. THE APPLICATION IS TOO CONTENTIOUS, HAS NOT ADDRESSED THE LEGAL RISKS AND IS THEREFORE AT RISK OF SUBSEQUENT LEGAL CHALLENGE IN THE COURT.

Kind regards

Re: Planning Application DC/25/0395 (M2 Group / Miller Developments)
Land South of Smugglers Lane and Chapel Road, Barns Green, West Sussex

Executive Summary

This letter constitutes a formal objection to the above planning application for approximately 68 residential dwellings on land south of Smugglers Lane and Chapel Road, Barns Green.

The proposal is fundamentally contrary to the statutory Development Plan, national planning policy, and binding environmental law. It conflicts directly with the recently made Itchingfield and Barns Green Neighbourhood Plan (IBGNP), introduces a severe and demonstrable cumulative highways impact, fails to lawfully address water neutrality within the Sussex North Water Resource Zone, relies upon demonstrably inadequate wastewater infrastructure, causes unacceptable harm to irreplaceable habitats and countryside, and would materially undermine the integrity of the plan-led system.

These are not matters of planning balance, judgement, or mitigation. They are matters of policy compliance and legal constraint. Taken individually and cumulatively, they render the proposal unsound in principle and incapable of lawful approval.

In particular:

- The application site was expressly assessed and rejected through the neighbourhood plan process, which was endorsed by referendum in September 2025 and now attracts full statutory weight, consistent with *Gladman Developments Ltd v SSCLG* [2018] EWCA Civ 1610.
- The cumulative addition of over 100 vehicles onto Chapel Road, via a single constrained access, gives rise to a severe residual impact on highway safety and network operation within the meaning of paragraph 111 of the National Planning Policy Framework. It is neither reasonable, practical nor rational to claim that residents could rely on public transport system.
- Notwithstanding the withdrawal by Natural England of the 2021 position statement on water neutrality, the proposal fails to demonstrate water neutrality beyond reasonable scientific doubt, as required by the Conservation of Habitats and Species Regulations 2017 and the principles established in *People Over Wind and Sweetman v Coillte Teoranta* (Case C-323/17) and the Dutch Nitrogen cases (Joined Cases C-293/17 and C-294/17).
- Foul drainage and wastewater infrastructure capacity is demonstrably insufficient, and reliance on future upgrades or conditions is inappropriate where the principle of development is itself unsound.
- The development would result in unacceptable direct and indirect harm to ancient woodland, biodiversity networks, and the rural setting of Barns Green.

For these reasons, the application is not capable of being approved consistently with section 38(6) of the Planning and Compulsory Purchase Act 2004, as reaffirmed by the Supreme Court in *Hopkins Homes Ltd v SSCLG* [2017] UKSC 37.

Planning permission should therefore be refused.

1. Introduction and Site Context

This objection draws upon a comprehensive planning appraisal and impact assessment prepared in respect of the proposed development at land south of Smugglers Lane and Chapel Road, Barns Green. While there has been some inconsistency in public-facing records regarding the application reference, the nature and scale of the proposal promoted by M2 Group and Miller Developments are clear and undisputed.

The application seeks to deliver approximately 68 dwellings on an 8.15-acre greenfield site located wholly outside the defined Built-Up Area Boundary of Barns Green. The land lies on the western edge of the settlement and is bounded by rural lanes, historic hedgerows, and open countryside. It lies in proximity to Muntham Wood ancient woodland and within the hydrological catchment affecting the Arun Valley Special Area of Conservation.

The proposal constitutes a substantial urban extension of a village that has already accommodated recent growth through the consented Sumners Fields development. When assessed cumulatively, the scale, form, and intensity of development proposed bears no relationship to the role, function, or infrastructure capacity of Barns Green as defined within the district settlement hierarchy.

2. Statutory Planning Framework and Development Plan Conflict

Section 38(6) of the Planning and Compulsory Purchase Act 2004 imposes a statutory duty on the decision-maker to determine applications in accordance with the Development Plan unless material considerations indicate otherwise.

In this case, the Development Plan comprises the Horsham District Planning Framework and the IBGN, which was made following a successful referendum in September 2025. The neighbourhood plan is therefore the most up-to-date component of the Development Plan and attracts full statutory weight.

There is no policy vacuum, no shortfall in allocated housing land within the parish, and no evidential basis upon which to justify departure from the adopted spatial strategy. Critically, the application site was expressly considered during preparation of the neighbourhood plan through a structured call-for-sites and assessment process. The land south of Smugglers Lane was not allocated. That outcome was the result of a conscious, evidence-led policy choice by the qualifying body, endorsed by the local community at referendum.

Instead, the neighbourhood plan allocates Sumners Fields and the Old School site as the appropriate and proportionate means of meeting local housing requirements. The present proposal therefore represents a direct challenge to the spatial strategy deliberately chosen by the community.

Paragraph 14 of the NPPF is unequivocal that where a planning application conflicts with an up-to-date neighbourhood plan, permission should not normally be granted. No material considerations of sufficient weight arise in this case to justify setting aside that presumption.

3. Highways, Access, and Severe Cumulative Impact

Chapel Road functions as the principal route through Barns Green but is constrained by historic development patterns, extensive on-street parking, sub-standard carriageway widths, and intermittent pedestrian provision. In the critical section between the village shop, the primary school, and the Queen's Head public house, the effective carriageway width is routinely reduced to a single running lane. Traffic movement relies upon informal driver negotiation and low traffic volumes, an arrangement already operating at the limit of acceptability.

Based on established rural car-ownership data, the proposed development would introduce in excess of 100 additional private vehicles, generating approximately 39 vehicle movements in each peak hour and between 350 and 400 movements per day, all routed through a single access point onto Chapel Road. When assessed cumulatively with the consented Sumners Fields development, the impact is clear and unavoidable: increased queuing at pinch points, heightened pedestrian risk adjacent to the primary school, materially reduced network resilience, and impaired emergency access.

These impacts are not hypothetical but the predictable consequence of introducing a substantial volume of traffic into a constrained rural network. The residual cumulative impact on the highway network would therefore be severe within the meaning of paragraph 111 of the NPPF, and the application must be refused on highways grounds.

4. Water Neutrality and Habitats Regulations Compliance

The site lies within the Sussex North Water Resource Zone, where abstraction directly affects the Arun Valley Special Area of Conservation. Natural England has consistently advised since 2021 that residential development in this zone must demonstrate water neutrality in order to avoid adverse effects on the integrity of the SAC.

This requirement arises from the Conservation of Habitats and Species Regulations 2017. It is a legal obligation, not a matter of planning judgement or policy preference. The local planning authority, as competent authority, must be satisfied beyond reasonable scientific doubt that the proposal would not increase water abstraction. Speculation regarding potential future changes to water-neutrality policy is immaterial. Decisions must be taken in accordance with the legal framework in force at the time of determination. Strategic guidance cannot override statutory duties, nor can it retrospectively cure a failure to demonstrate project-level neutrality.

No credible, secured, or enforceable offsetting strategy has been demonstrated for a development of this scale. In the absence of lawful certainty, planning permission cannot be granted without exposing the authority to material legal risk.

See Addendum A for further details.

5. Foul Drainage, Flood Risk, and Infrastructure Constraint

Southern Water's own evidence identifies significant wastewater capacity constraints and flood risk within the catchment serving Barns Green. The network is already subject to hydraulic stress during heavy rainfall events. The addition of substantial new foul flows would exacerbate these conditions.

The site's Weald Clay geology further undermines confidence in infiltration-based drainage solutions and increases reliance on attenuation and controlled discharge systems, with attendant downstream flood-risk implications. These are fundamental infrastructure constraints that cannot be deferred to post-permission conditions or future investment without rendering the principle of development unsound.

6. Ecology, Ancient Woodland, and Biodiversity Harm

Muntham Wood is ancient woodland and therefore an irreplaceable habitat afforded the highest level of protection under paragraph 180(c) of the NPPF. Development in close proximity requires wholly exceptional justification. No such justification exists in this case.

Even where nominal buffers are proposed, indirect impacts arising from lighting, noise, air pollution, nitrogen deposition, and recreational pressure remain significant and unavoidable. These impacts cannot be meaningfully mitigated. The proposal would also result in the loss of local biodiversity and wildlife connectivity. Off-site biodiversity net gain does not compensate for on-site ecological harm or loss of local natural capital.

7. Landscape Character, Countryside Protection, and Prematurity

The site forms part of the rural setting of Barns Green and contributes to the clear and deliberate distinction between settlement and countryside. Development of this scale would introduce suburban form beyond the Built-Up Area Boundary, in direct conflict with HDPF Policy 26.

Approval would also undermine the recently completed neighbourhood planning process and prejudice emerging district-wide policy, eroding public confidence in the plan-led system.

8. Overall Conclusion

This application is unsound in principle. It conflicts with the Development Plan, fails mandatory national policy tests, and does not overcome binding environmental and infrastructure constraints. The decision before the authority is not one of planning balance but of policy compliance and legal duty. For the reasons set out above, planning permission for application DC/25/0395 must be refused.

Yours faithfully,



Barns
West Sussex



Green

EXECUTIVE SUMMARY: LEGAL & POLICY CONTRAVENTIONS

STATUS: Submission on behalf of Objectors

SUBJECT: Statutory Barriers to Approval

1. PRELIMINARY STATEMENT

THIS PROPOSAL IS LEGALLY UNSOUND. The application before the Inspectorate is fundamentally contrary to the statutory Development Plan, national policy, and binding environmental law. These are not matters of planning balance, judgment, or mitigation; they are hard legal constraints. Approval of this scheme would constitute a clear error of law, rendering the decision vulnerable to immediate challenge via Judicial Review.

2. GROUNDS FOR REFUSAL

I. DIRECT CONFLICT WITH S.38(6) PCPA 2004 & THE PLAN-LED SYSTEM

Violation: The site was explicitly assessed and rejected during the formulation of the Itchingfield and Barns Green Neighbourhood Plan (Made September 2025).

Legal Weight: The Plan attracts full statutory weight. To approve a rejected site immediately following a referendum would render the Neighbourhood Plan process futile and undermine the primacy of the Development Plan.

Case Law: Gladman Developments Ltd v SSCLG [2018] EWCA Civ 1610; Hopkins Homes Ltd v SSCLG [2017] UKSC 37.

II. UNLAWFULNESS REGARDING HABITATS REGULATIONS (WATER NEUTRALITY)

Violation: The site lies within the Sussex North Water Resource Zone. The proposal fails to demonstrate water neutrality beyond reasonable scientific doubt.

Legal Constraint: This is a strict liability test under the Conservation of Habitats and Species Regulations 2017. It cannot be satisfied through conditions.

Case Law: People Over Wind and Sweetman v Coillte Teoranta (C-323/17); Dutch Nitrogen Cases (C-293/17 & C-294/17).

Consequence: Without absolute scientific certainty, the Competent Authority is legally prohibited from granting consent.

III. SEVERE HIGHWAY IMPACT (NPPF PARA 111)

Violation: The cumulative addition of over 100 vehicles via a single constrained access (Chapel Road) creates a severe residual impact on safety and network operation.

Constraint: The proposal fails the statutory safety test.

IV. INADEQUATE INFRASTRUCTURE & ENVIRONMENTAL HARM

Wastewater: Infrastructure is demonstrably insufficient. Reliance on future upgrades to justify unsound principles of development is unlawful.

Irreplaceable Habitat: The scheme causes unacceptable direct and indirect harm to ancient woodland and the rural setting.

3. CONCLUSION & LEGAL WARNING

The Applicant asks the Inspector to set aside the democratically adopted Development Plan and ignore binding European and Domestic case law regarding environmental protection.

THERE IS NO DISCRETION TO APPROVE UNLAWFUL DEVELOPMENT. In accordance with

Section 38(6) of the Planning and Compulsory Purchase Act 2004, and in the absence of material considerations sufficient to displace the strong statutory presumption against development, Planning Permission must be refused.

NOTICE: Any decision to grant permission in contravention of the Habitats Regulations or the specific site rejection within the recent Neighbourhood Plan will be considered an error of law and will be subject to scrutiny for a Quashing Order in the High Court.

Addendum A – Water Neutrality, the October 2025 Announcement, and Continued Application of the Habitats Regulations

A1. This Addendum addresses the Government and Natural England announcement of 8 October 2025 indicating that, from 1 November 2025, developers would no longer be required, as a matter of policy, to demonstrate water neutrality for new development within the Sussex North Water Resource Zone.

A2. That announcement does not amend, suspend, or disapply the Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”). Those Regulations remain binding domestic law and continue to give effect to Article 6(3) of the Habitats Directive.

A3. The Habitats Regulations can only be amended by primary legislation or statutory instrument. A policy statement, guidance note, or advisory position adopted by Natural England cannot lawfully override or dilute the statutory duties imposed on a competent authority.

A4. Regulation 63 requires the competent authority to undertake an appropriate assessment where a plan or project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.

A5. The competent authority must only grant consent where it has ascertained, beyond reasonable scientific doubt, that the proposal would not adversely affect the integrity of the relevant European site. This is a precautionary legal test, not a planning judgement.

A6. The local planning authority remains the competent authority for the purposes of Regulation 63. That responsibility cannot be delegated to, nor displaced by, Natural England, whose role is advisory.

A7. While Natural England’s advice is a material consideration, it does not relieve the decisionmaker of its independent legal duty to comply with the Habitats Regulations. An authority must reach its own lawful conclusion on site integrity based on the evidence before it.

A8. The October 2025 announcement does not provide new hydrological evidence, does not redefine the abstraction baseline within the Sussex North Water Resource Zone, and does not secure or deliver site-specific mitigation capable of neutralising additional water demand arising from the proposed development.

A9. In the absence of such evidence, the underlying scientific uncertainty that gave rise to the requirement for water neutrality in this catchment remains unchanged.

A10. Case law is clear that mitigation cannot be assumed, deferred, or left to future strategic solutions unless its effectiveness is certain at the time of decision. This principle was confirmed in *People Over Wind and Sweetman v Coillte Teoranta* (Case C-323/17).

A11. The same principle was reinforced in the Dutch Nitrogen judgments (Joined Cases C293/17 and C-294/17), which make clear that reliance on anticipated future measures or policy aspirations is insufficient to satisfy Article 6(3).

A12. Accordingly, reliance on a prospective change in policy position, or on the expectation of future water-resource interventions, cannot lawfully cure a present failure to demonstrate no adverse effect on site integrity.

A13. Planning decisions must be taken on the basis of the law and the evidence in force at the time of determination. Subsequent policy shifts, however expressed, cannot retrospectively legitimise a decision taken in breach of the Habitats Regulations.

A14. In this case, no secured, enforceable, or evidenced mechanism has been provided to demonstrate that the proposed development would not increase abstraction pressure affecting the Arun Valley Special Area of Conservation.

A15. In those circumstances, the competent authority cannot lawfully conclude, beyond reasonable scientific doubt, that the proposal would not adversely affect the integrity of the SAC.

A16. The October 2025 announcement therefore does not undermine the water-neutrality objection set out in the main submission. The Habitats Regulations continue to apply in full, and the legal test they impose remains unmet.

A17. Granting planning permission in the absence of such certainty would expose the authority to a clear and avoidable risk of legal challenge.

A18. This Addendum should be read alongside, and forms an integral part of, the main objection letter. Together, they demonstrate that the proposal cannot lawfully be approved