

APPELLANT'S COMMENTS ON THE COUNCIL'S STATEMENT OF CASE

Appeal reference: APP/6012595

Application reference: DC/25/2104

Site: Winstons Farm, Muttons Lane, Ashington

Proposal: Permission in Principle for the demolition of the existing stable building and erection of one dwelling

1. Introduction

1.1 These comments respond to Horsham District Council's Statement of Case. They should be read alongside the Appellant's Statement of Case, Schedule of Principal Material Considerations and Appendix B.

1.2 The Appellant acknowledges that the site lies outside a defined built-up area and that the Council's spatial policies form part of the development plan. The issue is the weight and effect of that conflict when the proposal is assessed as a whole, against the site's particular circumstances and the National Planning Policy Framework published on 17 August 2026 ("the 2026 Framework").

1.3 The Council's statement contains three important concessions: the site is previously developed land; its redevelopment falls within Policy S5(1)(d) of the 2026 Framework; and the proposed home would not be isolated. The Council also accepts that it can demonstrate only approximately 1.7 years' housing land supply. Those concessions materially narrow the dispute.

2. The applicable national policy test

2.1 The Appellant's earlier submissions referred to paragraph 11(d) of the December 2024 Framework and its "significantly and demonstrably outweigh" test. The Appellant updates that submission. The appeal should be determined under the 2026 Framework, which is a material consideration from its publication. Outside settlements, Policies S3 and S5 now provide the relevant national policy approach.

2.2 Policy S5(1) identifies distinct forms of development outside settlements which should be approved unless their benefits would be substantially outweighed by adverse effects, assessed against the Framework's national decision-making policies. One of those forms is, expressly, "the redevelopment of previously developed land (including a material change of use to residential or mixed-use including residential)" under S5(1)(d).

2.3 The Council expressly accepts that the appeal proposal falls within S5(1)(d). That is a sufficient entry point to the assessment required by S5(1). The Appellant does not need to establish, in addition, that the proposal satisfies S5(1)(j). The latter is a separate category for development addressing an evidenced unmet need, subject to its own settlement relationship and infrastructure criteria. Reading those criteria into S5(1)(d)

would deprive the separate brownfield category of much of its effect. The instruction that the Framework be read does not turn each alternative category in S5(1) into a cumulative requirement.

2.4 Equally, compliance with S5(1)(d) is not an automatic permission. The Inspector must assess any adverse effects, including the site's accessibility, against the benefits under the "substantially outweighed" test stated in S5(1). The Council's conclusion merely says that benefits are *outweighed*. It does not explain why the identified adverse effects substantially outweigh them, as the applicable national policy requires.

3. Development plan and neighbourhood plan

3.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plan remains the statutory starting point. The Appellant does not ask the Inspector to disregard Policies 1, 2, 3, 4 or 26 of the Horsham District Planning Framework. Their application, and the weight due to any conflict, require planning judgment in the circumstances of this site.

3.2 In *Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13, the Supreme Court distinguished the objective interpretation of policy from its application to the facts. In *Suffolk Coastal District Council v Hopkins Homes Ltd* [2017] UKSC 37, it confirmed both the statutory role of the development plan and the decision-maker's task of assessing the weight of policy in the prevailing circumstances. Neither the built-up area boundary nor an identified policy conflict dispenses with that assessment.

3.3 Policy ASH1(d)(ii) of the Ashington Neighbourhood Plan itself provides a route for development outside the built-up area on previously developed land, where it accords with relevant local and national policy. The Council quotes that exception but does not adequately explain its application after accepting both the site's brownfield status and its compliance with national Policy S5(1)(d). The Appellant invites the Inspector to assess the policy's wording in full, rather than treating the boundary as an absolute prohibition.

3.4 Annex A of the 2026 Framework further provides that parts of development plan policies materially inconsistent with its national decision-making policies should receive very limited weight, subject to the stated exception for policies examined and adopted or made against that Framework. The Appellant does not contend that every older countryside policy automatically loses weight. The relevant question is whether any asserted requirement to refuse this acknowledged S5(1)(d) brownfield redevelopment, solely because it is outside the boundary or does not adjoin its edge, is materially inconsistent with the new national policy. That question warrants an express finding.

3.5 The Council's Shaping Development in Horsham District Planning Advice Note addresses settlement expansion adjoining a built-up area. It may inform an assessment, but it cannot remove the independent route for redevelopment of previously developed land under S5(1)(d), nor replace the wording of the adopted neighbourhood policy.

4. The actual character and scale of the proposal

4.1 This is a proposal for one dwelling on a site the Council accepts is previously developed. It would replace a lawful stable building on an established developed site with an existing access. The Council identifies separation from the nearest settlement boundary but does not demonstrate that the proposal would extend built development into an undeveloped field or create the landscape effects ordinarily associated with settlement expansion.

4.2 The difference between an undeveloped countryside site and the redevelopment of a developed footprint is central to the weight of the alleged countryside harm. A map-based separation from the boundary is relevant; it is not, by itself, a measure of the proposal's actual effect on landscape character, the pattern of development or the purposes of the spatial strategy.

4.3 The Council accepts that the dwelling would not be isolated. That finding is consistent with the fact-sensitive approach to physical separation in *Braintree District Council v Secretary of State* [2018] EWCA Civ 610. It does not establish that access to services is ideal, and the Appellant does not suggest otherwise. It does mean that the appeal should not be assessed as a proposal for an isolated home contrary to Policy HO11 or S5(3).

5. Accessibility and transport

5.1 The Appellant accepts the limitations identified by the Council: the surrounding lanes have no dedicated footways or lighting, bus stops are at some distance, and future occupiers are likely to use a car for many everyday trips. Those are adverse considerations to be weighed fairly.

5.2 The Council's assessment nevertheless applies Policies TR3 and TR4 without sufficient regard to the proposal's scale. TR3(1)(a) expressly addresses development "which could generate a significant amount of movement, in the context of the area". Its rural-area provision calls for opportunities to improve connectivity to be taken where they exist and can be supported by the development proposed. A single replacement building providing one home calls for a proportionate assessment, not the transport provision expected of a substantial housing scheme.

5.3 Policy TR4 likewise concerns the design, access and parking of development. Detailed access and parking arrangements can be assessed at Technical Details

Consent. The Council records that the highway authority has no objection in principle. Its suggested informative seek further details at that later stage; they do not identify an established highway safety reason for refusing Permission in Principle.

5.4 Car use and limited public transport accessibility therefore weigh against the proposal. The question under S5(1), however, is whether their effects, taken with any other demonstrated harm, substantially outweigh the benefits of this particular brownfield redevelopment. The Council has not shown that they do.

6. Housing need and the planning balance

6.1 The Council accepts a housing supply of approximately 1.7 years, substantially below the five-year requirement. One dwelling makes a modest numerical contribution, and the Appellant does not overstate it. The shortage nevertheless gives that contribution real weight in the circumstances of this appeal.

6.2 The benefits are cumulative: an additional home; productive residential redevelopment of previously developed land; use of an existing developed site and access; and the avoidance of a proposal that would require the release of an undeveloped field. The weight of each is for the Inspector. The absence of a technical objection is principally relevant because it limits the Council's case for refusal; it is not advanced as a freestanding benefit.

6.3 The Appellant accepts that the development plan conflict and likely reliance on a car are material adverse considerations. On this evidence, however, the Council has identified no corresponding harm of a scale sufficient to substantially outweigh the benefits under S5(1). Its conclusion does not give adequate effect to its own acceptance that the proposal qualifies under S5(1)(d).

7. Permission in Principle and the earlier appeal

7.1 Permission in Principle determines location, land use and amount. The Council's suggested informatives correctly recognise that access design, layout, drainage, landscaping, ecology, contamination and other detailed requirements are matters for a subsequent Technical Details Consent application. Those matters remain important, but the Council has not identified an in-principal impediment that makes one dwelling on this site incapable of acceptable detailed delivery.

7.2 The earlier appeal concerning DC/25/0003 must be understood by reference to what its Inspector decided. As explained in the Appellant's Appendix B, that dismissal concerned the then unresolved water neutrality and Habitats Regulations position; it should not be treated as an adverse determination of the location, use and amount now at issue. The present appeal falls to be determined on the current evidence and policy framework.

8. Conclusion

8.1 The Council's acceptance of S5(1)(d) is decisive as to the correct *route of assessment*, though not the outcome. The Inspector should assess the identified benefits and adverse effects under that provision, giving appropriate weight to the development plan and the site's accessibility. S5(1)(j)'s different settlement relationship requirement should not be added to the brownfield category.

8.2 This is a modest proposal for one dwelling on acknowledged previously developed land. It is not an isolated home, the Council identifies no highway objection in principle, and the district has a severe housing supply shortfall. The acknowledged accessibility limitations and any development plan conflict do not, on the evidence presented, substantially outweigh the proposal's benefits.

8.3 The Appellant respectfully invites the Inspector to allow the appeal and grant Permission in Principle for one dwelling.

Appendix 1 - Supplementary legal submissions

1 Purpose and relief sought

1.1 The Appellant respectfully asks the Inspector to allow the appeal and grant Permission in Principle for one dwelling. This document supplements the Appellant's Comments on the Council's Statement of Case, particularly sections 2, 3, 4 and 7. It identifies the legal principles supporting those submissions and explains their application to the disputed issues.

1.2 The central submission is that the Council's acknowledged acceptance of the previously developed land category requires the correct national policy assessment. Settlement separation and accessibility remain relevant, but should be assessed within that approach rather than used to impose an additional eligibility requirement drawn from a different category.

1.3 The authorities establish principles of interpretation and decision-making; they do not predetermine the planning merits or establish that brownfield status entitles the Appellant to permission. None of the historical judgments cited interprets the August 2026 Framework. Their continuing relevance lies in their general legal principles, applied to the current wording

2 Matters established by the Council statement

2.1 The Council accepts that the site is previously developed land, that the proposal accords with Policy S5(1)(d), and that the proposed dwelling is not isolated. It reports a housing land supply of approximately 1.7 years and records no highway objection in principle. These are concessions in the Council's evidence, rather than independent factual findings made in this supplement.

2.2 The Council nevertheless maintains that the dwelling would conflict with its spatial strategy and generate unsustainable travel patterns. The Appellant accepts that those matters require assessment. The dispute concerns the interpretation of policy and the weight of those adverse considerations relative to the benefits of this particular proposal.

3 Correct interpretation of policy

3.1 *Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13, paragraphs 18–19, establishes that planning policy must be interpreted objectively in its context. Its meaning cannot be varied by a planning authority according to its preferences. However, policies are not statutes or contracts: applying broad policy language to the facts calls for planning judgment, and different policies may pull in different directions. [A1]

3.2 *Suffolk Coastal District Council v Hopkins Homes Ltd* [2017] UKSC 37, paragraphs 22–26, confirms that the same interpretative approach applies to the Framework. It cautions against over-legalising planning policy and preserves the decision-maker's responsibility for its application. [A2]

3.3 Applied here, those principles support reading S5(1)(d) according to its own subject matter. The Appellant's submission is that redevelopment of acknowledged previously developed land is an independent category. A failure to satisfy the settlement relationship requirement in S5(1)(j) does not, by itself, remove a proposal from S5(1)(d). The Council expressly accepts the latter category; that acceptance should be given effect in identifying the route of assessment.

3.4 This construction is reinforced by S5(4), which refers to proposals falling within one of the categories. The Framework's instruction to read national decision-making policies together still requires assessment of other relevant policies and adverse effects. It does not justify importing a criterion from a separate category without a textual basis. This is the Appellant's interpretative submission, not a proposition already adjudicated under the 2026 Framework.

3.5 The Appellant also relies on the wording of ASH1(d)(ii) quoted by the Council. Its previously developed land exception requires consideration alongside its proviso about local and national policy compliance. It is not an unconditional permission; equally, the

existence of the exception requires an assessment beyond simply recording that the site lies outside the built-up area.

4 The statutory starting point and policy weight

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires determination in accordance with the development plan unless material considerations indicate otherwise. The Appellant therefore recognises the statutory position of the Horsham District Planning Framework and Ashington Neighbourhood Plan.

4.2 Hopkins Homes, paragraphs 21–26 and 54–56, confirms that national policy does not displace that statutory scheme, and that policy weight remains an evaluative exercise. Its discussion of housing supply arose under an earlier Framework; the former paragraph 11(d) test is not advanced as the current test.

5 Applying the balance to this proposal

5.1 Policy S5(1) requires approval unless the benefits would be substantially outweighed by adverse effects assessed against national decision-making policies. The Appellant asks the Inspector to identify the development plan conflict, determine the weight it deserves, and explain whether current national policy and the site-specific circumstances indicate a decision otherwise than in accordance with the plan. The Council's advice note can inform that assessment but should not substitute for adopted policy or the national brownfield category.

5.2 Annex A of the current Framework addresses the weight of materially inconsistent development plan provisions. The Appellant seeks an assessment of any particular inconsistency, rather than reduced weight merely because a policy is old. The Council's settlement strategy can remain relevant without being treated as an absolute bar to every brownfield proposal beyond its boundary.

5.3 The modest scale of one dwelling does not eliminate harm. Equally, its numerical contribution to housing does not become valueless simply because it is small. The Appellant asks the Inspector to assess its contribution in the context of the Council's acknowledged shortfall, alongside the benefit of redeveloping the existing developed footprint. No legal authority fixes the weight to be attached to those benefits.

5.4 The Appellant does not claim a proven reduction in traffic, carbon emissions or landscape impact against the stable use. Such comparative benefits would require evidence. The existing building and access nevertheless provide a factual context for assessing the extent of change, rather than equating the proposal with development of an open field.

6 Isolation and access to services

6.1 Braintree District Council v Secretary of State for Communities and Local Government [2018] EWCA Civ 610, paragraphs 29–32, distinguishes physical isolation from lack of nearby services. Under the policy then in force, a settlement could include a hamlet or cluster of dwellings without shops, schools or convenient public transport. Whether a home was isolated was a matter of fact and planning judgment.

6.2 That distinction supports the Council's acceptance that this dwelling is not isolated. It does not establish that the site has satisfactory accessibility or satisfies every countryside policy. The current wording of S5(3) and HO11 must govern the present decision; Braintree assists with the conceptual distinction rather than replacing those provisions.

6.3 The lack of footways and lighting, distances to bus stops and likely car reliance are acknowledged adverse considerations. The absence of a highway objection in principle addresses a different question from sustainable accessibility. The Appellant asks that the likely effects of one additional dwelling be assessed proportionately, without suggesting that the highway authority's position resolves the sustainability objection.

7 Earlier decisions and changed circumstances

7.1 North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P & CR 137, at page 145, is the established authority on consistency in planning decisions. Its application is illustrated in Vistry Homes Ltd v Secretary of State for Levelling Up Housing and Communities [2024] EWHC 2088 (Admin), paragraphs 111–112: a decision may be distinguished where the relevant circumstances and policy position differ. [A4]

7.2 The earlier appeal relating to DC/25/0003 must therefore be read for what it actually determined. Paragraph 7.2 of the attached Comments describes the dismissal as concerning unresolved water neutrality and Habitats Regulations issues. The Appellant invites the Inspector to confirm that scope by reference to the earlier decision itself.

7.3 If that decision did not determine the acceptability of location, land use and amount adversely, it should not be treated as if it did. Conversely, any express adverse finding on those matters should be acknowledged and addressed. The appropriate comparison is issue by issue, taking account of the current evidence and revised policy. The earlier decision and relevant current environmental evidence should remain available to the Inspector.

8 Permission in Principle and technical details

8.1 Planning Practice Guidance on Permission in Principle, paragraphs 011, 012 and 020, confirms the plan-led assessment, the limitation of scope to location, land use

and amount, and the inability to attach planning conditions to Permission in Principle. Other matters fall to Technical Details Consent. [A6]

8.2 Detailed access design, parking, layout and landscaping should be addressed at the appropriate stage. However, accessibility is relevant to location and cannot simply be deferred. Nor can an in-principle environmental impediment be cured by assuming that later details will solve it. This supplement does not seek to postpone any legally required habitats screening or assessment.

8.3 The Council's suggested informatives identify matters for later consideration; they are not enforceable conditions and do not guarantee Technical Details Consent. Their relevance is that the Council contemplates subsequent detailed assessment. The Appellant seeks a finding that the location, residential use and amount are acceptable, leaving the genuine technical details to that later stage.

9 Reasons and the determination requested

9.1 *South Bucks District Council v Porter (No 2)* [2004] UKHL 33, paragraph 36, requires intelligible and adequate reasons on the principal disputed issues. Reasons may be brief, and every argument need not be addressed. The decision must be read fairly and as a whole. [A5]

9.2 The Appellant therefore seeks clear findings on the applicable S5 category, the policy balance, the weight of spatial policy conflict, and the actual accessibility effects. The Council's use of the word outweighed does not alone prove legal error. The substantive question is whether the correct test has been applied and explained. On the evidence and submissions before the Inspector, the Appellant maintains that the appeal should be allowed.

Schedule of authorities and sources

The paragraph references below identify the relevant passages. The links provide the source judgments or guidance. These authorities are relied upon for the identified principles, rather than as factually identical precedents.

A1 *Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13

Supreme Court. Paragraphs 18–19. Objective interpretation and the distinction between interpretation and application.

A2 *Suffolk Coastal District Council v Hopkins Homes Ltd* [2017] UKSC 37

Supreme Court. Paragraphs 21–26 and 54–56. Statutory primacy of the plan, interpretation of national policy and planning judgment.

A3 Braintree District Council v Secretary of State for Communities and Local Government [2018] EWCA Civ 610

Court of Appeal. Paragraphs 29–32. Physical isolation and the distinction from access to services. Source is a published copy of the judgment.

A4 North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P & CR 137

Court of Appeal. Page 145. Consistency and earlier appeal decisions. See its application in *Vistry Homes Ltd v Secretary of State for Levelling Up Housing and Communities* [2024] EWHC 2088 (Admin), paragraphs 111–112. Vistry concerns different facts and earlier Green Belt policy; its substantive brownfield merits are not relied upon here.

A5 South Bucks District Council v Porter (No 2) [2004] UKHL 33

House of Lords. Paragraph 36. Adequacy of reasons and a fair reading of the decision.

A6 Planning Practice Guidance on Permission in Principle

Paragraphs 011, 012 and 020. Statutory decision-making approach, scope and conditions.

A7 National Planning Policy Framework August 2026

Policies S3 and S5, particularly S5(1)(d), S5(1)(j), S5(3) and S5(4); Annex A paragraphs 1–2. Current policy, not a judicial authority.