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Wealden District Council
Council Offices
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12th September 2022

Dear Sir or Madam,

RE: Objection on behalf of Ninfield Parish Council against the grant of planning permission for the erection of up to 29 dwellings including circa 35% Affordable Homes and associated infrastructure including means of access, with all other matters reserved – On land to the South of Catfield Road
- Application reference **WD/2022/1836/MAO**

Ninfield Parish Council herein submits its objection to the proposed development of land to the South of Catfield Road for the erection of up to 29 dwellings including circa 35% Affordable Homes and associated infrastructure including means of access, with all other matters reserved -
Application reference **WD/2022/1836/MAO**.

The proposed development scheme would occur on an unallocated site and as such would constitute undesirable development within the countryside, which will have an urbanising impact that is out of character with the village of Ninfield, the surrounding countryside and context. Furthermore, the design and layout of proposed housing, in particular the density of development, notwithstanding that the quantum of this development proposed is reduced, as compared to the preceding development proposal, does not reflect form and character of the Village of Ninfield in view of which the proposed development would constitute overdevelopment of the site.

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The development proposal, the subject of this application seeking outline planning permission, represents a resubmission of a previous application LPA reference WD/2020/0246/MAO that was dismissed on appeal under PINS reference APP/C1435/W/21/3272342.

Planning Statement submitted in support of this current proposal states that the submission is a direct response to the issues raised by the Inspector. However, we do not believe that this proposal as outlined within the application submission mitigates all of the reasons for refusal on appeal.

The council has acknowledged a lack of a 5-year housing land supply and as such **Paragraph 11d** of the National Planning Policy Framework is engaged. Paragraph 7.10.18 of the submitted Planning Statement, in reference to paragraph 7 of the Appeal Decision, states that, *“The Inspector, at Paragraph 7 of the report, doesn’t appear to recognise properly the dilution of weight assigned to these policies in the appeal decision. This appears to have led to a slight colouring of judgement in this regard.”* [verbatim]

This is a rather bold and perhaps disrespectful statement, that does not accurately reflect or represent the Appeal Inspector’s reasoning. The inspector correctly took account of the Local Plan as required under planning law (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990), and under Paragraph 2 of the Framework.

The starting point is the Local Plan (and there is a substantial body of case law to support this assertion)¹. Furthermore, it is established in case law highlighted within the footnote, that weight to be assigned to the development plan policies is a matter of planning judgement for the decision maker, and paragraph 219 of the Framework confirms that development plan policies should not be considered out of date simply because they pre-date the Framework, and that due weight should be given to them according to their degree of consistency with the Framework.

Furthermore, Paragraph 11d of the Framework (NPPF) contains two limbs, of relevance to this application is paragraph 11d (ii) which states:

“d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

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

The starting point to all planning application decisions are the provisions within the Local Plan insofar as the policies of the Plan are consistent with the NPPF, and the presumption in favour of sustainable development, the so called ‘tilted balance, is engaged where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The Parish Council considers that the harmful impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the

¹ Monkhill Ltd v SSHCLG [2020] PTSR 416 (Holgate J); Peel Investments v SSHCLG [2020] PTSR 503 (Dove J); Wavendon Properties Ltd v SSHCLG [2019] PTSR (Dove J)

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Framework taken as a whole. In that context, the proposal would not constitute sustainable development for which the presumption in favour applies.

The development of this site must address main issues highlighted by the Appeal Inspector:

- i. the principle of the proposed development with specific regard to its location; and
- ii. the effect of the proposed development on the character and appearance of the area.

As regards the location of development, nothing has changed:

The appeal site is located outside the development boundary as defined by both Wealden Local Plan (1998) Wealden District Core Strategy Local Plan (2013). Paragraph 4.11 of the Planning Statement refer to the village's "...arbitrary redline..." however, in Policy WCS6 of the Wealden District Core Strategy Local Plan (2013), the village boundary is retained and works together with Policies GD2 and DC17 of the LP which state that housing will not be allowed outside settlement boundaries unless it conforms with other LP policies. The inspector correctly highlighted supporting text to these policies which confirm that their intention is seeking to conserve and enhance the rural environment and to protect rural amenities and services.

This is consistent with Paragraph 174 of the NPPF which states (*inter alia*):

"Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a. protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b. recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;"*

The Inspector correctly identified locational factors to be main consideration including that development would occur outside the village boundary, and as such this proposal lies within the open countryside and cannot and should not be viewed within the context of the built up area. To that extent the Parish Council agrees with the Case Officer's Statement of Case that development would have an "urbanising effect", that would be exacerbated by the access and proposed footpath.

Policy WCS6 of the Core Strategy sets out provisions for new dwellings to be delivered in support of rural areas over the plan period, including 50 new dwellings to be allocated in respect of Ninfield which allows for limited growth of the village. However, more than 50 net additional dwellings have been granted planning permission at Ninfield since 2013 and currently levels of new development will amount to 135 net additional dwellings.

Planning permission was approved for up to 65 houses at planning committee at the beginning of the year; a decision notice is yet to be issued.

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And according to the WDC Housing, commented on a previous application, have said that as of 3rd September 2021, there are 7 households on the Council's Housing Register who have expressed an interest in affordable rented accommodation in Ninfield, no.1 for Hooe and 0 for Wartling. And, bearing in mind that extant planning permissions in Ninfield including Ingrams Farm (55 units) and Manchester Road (80 units) will deliver 35% affordable homes respectively, which equates to some 47 affordable homes meaning provision of affordable housing within this location has significantly exceeded the identified housing needs. This is in addition to the grant of planning permission for 65 dwellings, 35% of which will be affordable homes.

In view of the level of deliver outlined above, it is the view of the Ninfield Parish Council's that no weight should be given to the provision of affordable homes, and that a contributory material matter to the refusal of planning permission be that the applicant has failed to identify local need as justification for further development. The proposed development would constitute undesirable development within the countryside and detract from the rural character and appearance of Ninfield.

Paragraph 78 of the NPPF states that *"...decisions should be responsive to local circumstances and support housing developments that reflect local needs"*. This current application is **not** presented as a rural exception site and the applicant has provided no evidence suggesting that the proposal is required to meet an essential local need. Furthermore, the Parish Council considers that the approved 135 net additional dwellings are sufficient to maintain the vitality of the village given the limited services and facilities, whereas further such development would reach a 'tipping point' and detract from the distinctive rural character and appearance of the village and surrounding countryside and rural context.

Ninfield is characterised as a sparsely developed rural village, arranged in a broadly linear form either side of the A269, and is served by a small range of services and facilities. The Inspector expressed concern over the density of development proposed within the previous application. However, the current application, though fewer in terms of the quantum of housing, remains fairly high in terms of density as compared to the character of the village. In paragraph 15 of his decision, the Inspector concluded that it would be reasonable to have *"appropriate regard to the prevailing level of density, which is particularly important in terms of marking a comfortable change in character around the rural fringe of the settlement."* The Parish Council maintains that the development proposal, notwithstanding the reduction in number of dwellings proposed would create views of a suburban estate that is poorly related to the surrounding countryside and sparse built form of the village.

The loss of trees and particularly the loss of hedgerow is unchanged as a result of this revised scheme; the inspector's observations therefore remain valid in that the proposal would constitute an undesirable form of suburban development outside of the established built form of the village. The proposed development would spoil the rural character of the eastern approach to the village from Catsfield Road on account of the substantial loss of trees and hedgerow across the northern boundary. The proposed development would be in full view and would form a "dense and harsh new urban boundary to the village" that is undesirable, as it is unsympathetic and harmful to its rural setting and the character and appearance of the countryside along Catsfield Road.

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The proposed development would therefore be contrary to Policies EN1, EN8, EN12, EN14, and EN27 of the LP, Policy WCS13 of the CS and the guidance of the Framework.

CONCLUSIONS

The applicant has stated within the submitted Planning Statement that the submission is a direct response to the issues raised by the Inspector. However, these issues are not addressed through this planning application, and the applicant has not properly considered the issues arising from the decision to dismiss Appeal reference APP/C1435/W/21/3272342

The Wealden District Council is unable to demonstrate a five-year housing land supply. Where this is the case, Paragraph 11 of the Framework advises that the development plan policies which are most important for determining the application should be considered out of date, and planning permission should be granted unless the 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 terms of the location of the application site the proposed development would result in development of an unallocated site outside of the settlement boundary that is therefore within the countryside. As such, the development of a suburban estate would cause significant long-lasting harm to the character and appearance of the area, and through a loss of established planting including hedgerow along Catsfield Road, the visual impact of the proposed vehicular and pedestrian access would cause significant harm.

Furthermore, the visual impact of the development due to the proposed density of the development, as compared to that of the village, over a sloping site outside the edge of a rural village would cause significant harm. Whilst the proposed development the subject of this current application, would reduce the number of dwellings proposed from 38 to 29 dwellings, the proposal is still considered to be significant, and in terms of visual impact, would have an urbanising effect. Taken together with the loss of trees and particularly hedgerow, this visual impact would be transformative and detract from the character and appearance of the village of Ninfield and its rural setting.

Some development has already been approved within the village that will deliver 135 net additional dwellings plus a further 65 dwellings as of 2022. Therefore, the proposed development would be of very limited benefit to the vitality of the village. And, whilst there would be some derived benefit in the form of further affordable housing, the applicant has failed to identify need from within Ninfield itself.

The applicant has highlighted the Government's objective, as set out within paragraph 60 of the NPPF, of significantly boosting the supply of homes. However, this objective and policy provision within the Framework is not untrammelled, as housing sites must be "well located" and designed to enhance or maintain the vitality of rural communities and are visually attractive and sympathetic to local character. Therefore, the approval of this opportunistic proposal would undermine the

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Council's plan-led approach to the delivery of housing, would cause significant harm to the character and appearance of the area and would fail to recognise the intrinsic character of the countryside.

In view of the above, Ninfield Parish Council does not support this development proposal and requests that planning permission be Refused.

Yours Sincerely

Peter Morgan Dip.TP EUD MA MRTPI

A handwritten signature in black ink, appearing to read 'Peter Morgan', is centered on a light blue rectangular background.

Signed On behalf of **Ninfield Parish Council**

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