

## Billingshurst Neighbourhood Development Plan

### Response to Independent Examiner's Clarification Note

Prepared by the Billingshurst Neighbourhood Plan Steering Group

16 October 2020

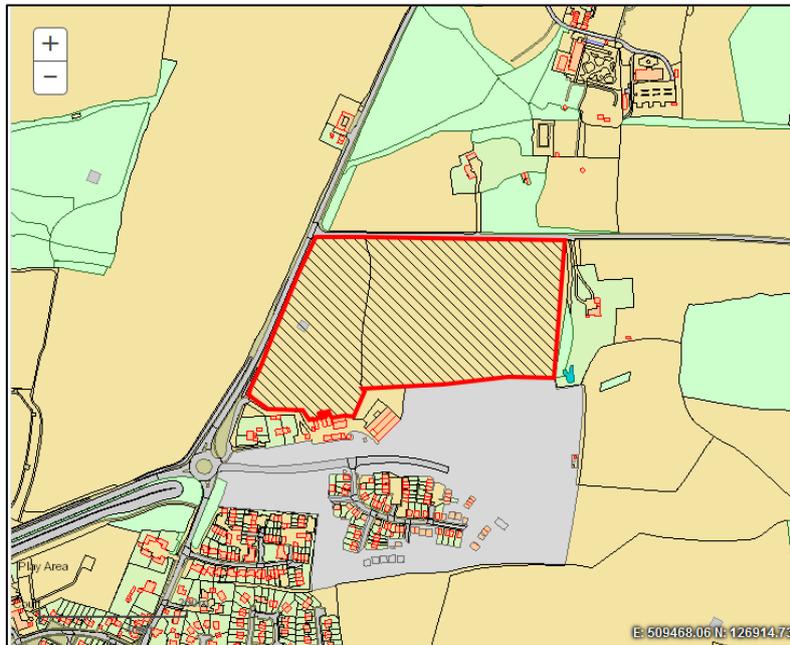
This note has been prepared by the Steering Group (SG) for the Billingshurst Neighbourhood Development Plan (BNDP) on behalf of Billingshurst Parish Council. We are grateful for the opportunity to provide further clarification on the points raised below.

#### **Policy BILL 1**

**Does the Parish Council have any comments on the following representations:**

**Dunmoore (Armstrong Rigg) on the proposed definition of the built-up area boundary (in respect of Hilland Farm)?**

The Armstrong Rigg representation refers to planning application ref: DC/18/2122 covering land north of Hilland Farm, as shown in Figure 1 below:



*DC/18/2122: Land North of Hilland Farm Stane Street Billingshurst West Sussex RH14 9HN  
(source: Horsham District Council Planning Portal)*

The site is not included in the adopted Horsham District Planning Framework (2015), as planning permission was submitted after its adoption.

Following comments received at Regulation 14, the Steering Group discussed the issue of whether or not to include sites with extant planning permission in the proposed amended built-up area boundary. They concluded that such sites should not be included as there was no evidence of them being delivered and, with the emerging Local Plan Review being drafted, was considered to be an issue that should be dealt with through that process as opposed to the Neighbourhood Plan process. However, as the representation makes clear, since that time there has been substantial evidence that the scheme in question is being delivered. The Parish Council therefore considers that the BUAB should be extended to include this site.

## McConnell Planning on the proposed definition of the built-up area boundary (in respect of Maringdean Acres)?

The McConnell Planning representation refers to planning application ref: DC/16/0274 covering land south of Maringdean Acres, Maringdean Road, as shown in Figure 2 below:

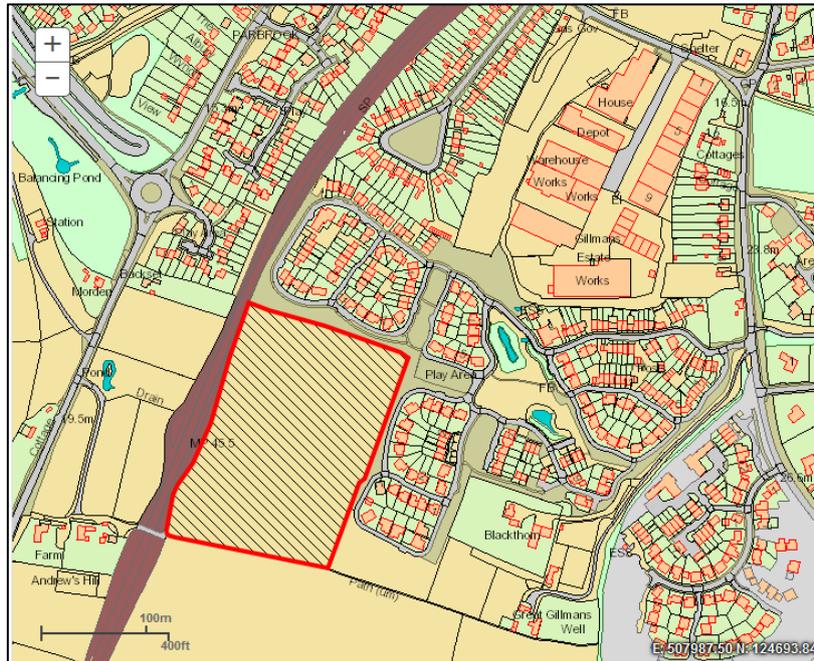


Figure 2: DC/16/0274: Land South of Maringdean Acres Maringdean Road Billingshurst West Sussex RH14 9HD (source: Horsham District Council Planning Portal)

The site was originally included in the Pre-Submission (Regulation 14) Billingshurst Neighbourhood Plan. However, it came under scrutiny following comments at Regulation 14 about whether the Plan should include sites with extant planning permissions, given the uncertainty around their development.

The Steering Group discussed this issue and concluded that sites with extant planning permission would not be included in the plan, rather they would be considered as part of the Local Plan Review. As work had not commenced, this site was therefore excluded from the Submission Version of the Neighbourhood Plan. Whilst it is not disputed that the permission has been implemented, there is no evidence that anything other than the minimum amount of construction activity to implement the permission has been completed. Certainly no groundworks have been commenced and it is understood that the provision of access is a significant issue, to the point where the original site developer sold the site subsequent to gaining permission. Given that the site got planning permission in March 2017, the minimum level of implementation was required to avoid the permission expiring in March 2020. It should be noted that the majority of conditions were discharged between April and November 2017 yet since then, only one further condition discharge has been submitted applied for, in January 2020. This does not provide assurance that the scheme will be delivered. The Parish Council therefore considers that the BUAB should not be extended because there is insufficient evidence that this development will be built out.

## **Policy BILL 7**

I looked at the village centre as part of my visit. The purpose and intentions of the different elements of the policy were self-evident.

In slightly different ways the elements of the policy are now affected by the recent changes to the Use Classes Order. I am minded to recommend modifications to the policy to ensure that it has regard to national policy.

Does the Parish Council have any observations on this proposition?

In particular does it have any comments on the way in which the new Order impacts on the purpose of the different elements of the policy?

The current wording of the policy is as follows:

### **POLICY BILL 7: RETAINING AND ENHANCING THE VITALITY AND VIABILITY OF BILLINGSHURST VILLAGE CENTRE**

A. To secure the ongoing vitality of Billingshurst village centre, proposals which protect, enhance and promote a diverse range of town centre uses – including retail, leisure, commercial, office, tourism, cultural and community - will be supported, subject to the other policies in this Neighbourhood Plan.

#### **Existing retail premises**

B. In the Primary Shopping Area and the Primary Shopping Frontages of Billingshurst High Street, as shown on the Policies Maps in Section 12, the permanent change of use of Class A1 and A2 retail and service premises to other commercial uses (Classes B1, C1, D1, D2 and commercial sui generis activities) will only be permitted where the following can be demonstrated:

- i. The proposed use will maintain the vitality and viability of Billingshurst High Street.
- ii. The Class A retail premises in question have not been in continuous active use for at least 12 consecutive months.
- iii. The Class A retail premises have no potential for either reoccupation as demonstrated through the results both of a full viability report and a marketing campaign lasting for a continuous period of at least 6 months.

#### **Temporary uses**

C. The use of Class A premises for temporary uses will be supported in the Primary Shopping Area and the Primary Shopping Frontages. Such uses include 'pop up' shops and cultural, creative and leisure uses introduced on a temporary basis or for specific events.

D. Such uses must demonstrate that they will not have a detrimental impact on the amenity of neighbouring uses, particularly residential through excessive noise and pollution.

E. Such uses will generally not be considered appropriate if the operation of the business requires such large amounts of vehicle parking in order to function unless sufficient parking arrangements have been presented.

The Steering Group understand that the Use Classes have been amended and that from 1 September 2020, the following amendments will apply:

- The previous A1/2/3, B1, D1 and certain D2 uses are to be treated as a single Class E (Commercial, business and service).
- The previous D1 uses have been reclassified as Class F1 (Learning and non-residential institutions).
- The previous A1 and certain D2 uses are to be treated as a single Class F2 (Local community).

The intent of the policy is to recognise the important role played by Billingshurst village centre, both for local residents and those living further afield. This role encompasses not solely retail, but also the wider variety of benefits that the central core to the village encompasses – the provision of a mixed offer of cultural, leisure, retail and recreational opportunities, set within an attractive, historic shared space that encourages social interaction.

This has not changed and in fact, is considered to be even more important within the context of the Covid-19 pandemic. It is this latter point, however, that leads the Steering Group to be mindful that policies seeking to encourage a thriving mixed-use village centre, should not be overly restrictive and clearly need to comply with the amended Use Classes Order.

To that end, the Steering Group recognises the need for modifications. Notwithstanding what specific wording the Examiner is minded to propose, the Parish Council would suggest that Part B of Policy BILL7 is amended as follows:

- B. In the Primary Shopping Area and the Primary Shopping Frontages of Billingshurst High Street, as shown on the Policies Maps in Section 12, the permanent change of use of **Classes E, F1 and F2** ~~A1 and A2 retail and service premises to other commercial U uses (Classes B1, C1, D1, D2 and commercial sui generis activities)~~ will only be permitted where the following can be demonstrated:
- i. The proposed use will maintain the vitality and viability of Billingshurst High Street.
  - ii. The ~~Class A retail~~ premises in question have not been in continuous active use for at least 12 consecutive months.
  - iii. The ~~Class A retail~~ premises have no potential for either reoccupation as demonstrated through the results both of a full viability report and a marketing campaign lasting for a continuous period of at least 6 months.

It is considered that support for the temporary use of buildings within the village centre is still valid and that this clause should be amended to:

- C. The use of **Class E, F1 and F2** ~~A~~-premises for temporary uses will be supported in the Primary Shopping Area and the Primary Shopping Frontages. Such uses include 'pop up' shops and cultural, creative and leisure uses introduced on a temporary basis or for specific events.

## **Policy BILL 15**

**I looked at the proposed local green spaces (LGSs) when I visited the neighbourhood area. I saw the different ways in which they contributed towards its character and the provision of open space.**

**I can see that the schedule of LGSs has been revised since the LGS Justification was produced. This is understandable and demonstrates the natural evolution of the Plan. Nevertheless, can I continue to rely on the details included in the Justification for the majority of the LGSs which remain in the Plan?**

Following on from the Pre-Submission (Regulation 14) consultation, two of the proposed Local Green Spaces (LGS) were removed. These were:

- Adversane Green, as this was already protected as a Village Green and the LGS designation was not considered to add any additional value.
- Jubilee Fields, to ensure that recreational development that might be proposed there to enhance the space (beyond the current footprint) would still be possible. It was considered that the LGS designation might restrict future potential for this.

The remaining 16 proposed spaces were then renumbered to reflect their geographic location (north to south) on the corresponding map. The Steering Group considered that this would make the map and key easier to follow for readers.

The justifications provided for each of the 16 proposed LGS in the Submission Version Neighbourhood Plan document remain as set out in the Justification document submitted as part of the evidence base at Regulation 14. It is the numbering that has altered.

### **What is the size of the proposed Bypass path LGS (LGS1)?**

The site is 7.05 ha.

### **Does the Parish Council have any comments on the representation made by West Sussex County Council on this proposed LGS?**

The response from West Sussex County Council (Estates Department) sets out that the land constituting this proposed Local Green Space *“is held and owned by West Sussex County Council on behalf of our highways department and are therefore unavailable for an alternative allocation. The land is required to ensure that the road remains safe and can be well maintained. Future highways requirements are as yet unknown. However, we would be concerned if the land became unavailable for any necessary future improvements to take place due to the proposed designations as Local Green Space”*.

The Steering Group considers that the Bypass path is an important green space for the local community and serves a number of purposes, notably providing an attractive route linking the northern and southern parts of the village. Its linear shape lends itself to those wishing to walk or jog its length, for both exercise and leisure purposes and it has become a considerably popular local recreational resource as a result. This attractive ‘green finger’ is the only one of its kind in the village and is valued by the community, not least as the village continues to grow.

Paragraph 101 of the NPPF states that “*policies for managing development within a Local Green Space should be consistent with those for Green Belts*”, the detail of which is contained in paragraphs 143 to 147.

Paragraph 146 of the NPPF sets out the certain other forms of development that are not inappropriate in the Green Belt, with criteria (c) stating “*local transport infrastructure which can demonstrate a requirement for a Green Belt location*”.

On balance, the Steering Group considers that designation as a LGS would not hinder any potential future plans of WSCC, which would be permissible under the criteria noted above. Designation would, however, secure this valued green space so that it can continue to be enjoyed by the residents of Billingshurst.

The Parish Council would make two further observations:

- i. No explanation is given as to why the land is required to ensure the road ‘remains safe’. The Bypass path itself is clearly separate from the A29 road with a dense tree belt separating the two. It is not clear how the ongoing safety of the road requires servicing from the Bypass path, nor how this is practically possible given the dense nature of the tree belt.
- ii. WSCC makes the statement, “*Future highways requirements are as yet unknown. However, we would be concerned if the land became unavailable for any necessary future improvements*”. Other than road widening, it would be difficult to envisage what such improvements might consist of. Notwithstanding the fact that creating extra road capacity would fly in the face of sustainability and the UK’s legal commitment to net zero by 2050, any such widening would surely be on the west side of the A29. Expansion on the eastern side, encompassing the Bypass path, would move an A-road unacceptably close to residential properties.

**In relation to the policy itself is the first sentence of the second part (B) actually a policy? As I read it is a repetition of a part of the NPPF. In addition is it appropriate for this part of the policy to identify the ‘very special circumstances’ where development might be supported within a proposed designated LGS? Would the proposed circumstances be better positioned within the supporting text?**

The Steering Group agree that this repetition of the NPPF could be removed in the interests of streamlining the policy. In addition, it is agreed that the ‘very special circumstances’ could be better placed within the supporting text, to aid the application of the policy.

The Parish Council would also like to draw the Examiner’s attention to the recent Court of Appeal decision in respect of a local green space policy in the Norton St Philip Neighbourhood Plan (*R on the Application of Lochailort Investments Limited v Mendip District Council. Case Number: C1/2020/0812*). The issue was not with the designations themselves but with the policy which stated that development of the local green spaces would only be permitted if they “enhance the original use and reasons for the designation of the space.” Whilst the Billingshurst Neighbourhood Plan does not use the same language, a question arises as to whether the requirement for development to demonstrate that it “enhance(s) the role and function” of the local green space may be caught by the same problem.

**Monitoring and Review** - The Plan has addressed the issue of its eventual review in a professional way in Section 10 of the Plan. It is encouraging that the Parish Council has acknowledged the need for an 'early review' of the Plan once the emerging Horsham Local Plan has been adopted.

**Has the Parish Council considered when it will be intending to review a 'made' neighbourhood plan (either in specific date terms or within a specified time period following the adoption of the emerging Horsham Local Plan)?**

The Parish Council recognises that it will be important to keep the neighbourhood plan up to date in general terms, and to ensure that it remains in general conformity with the wider development plan in particular. In this context it would anticipate commencing a review of the neighbourhood plan within six months of the adoption of the Local Plan Review. The will help to ensure that the Neighbourhood Plan is not left for a long period with potentially out-of-date policies, whilst at the same time ensuring that there is certainty regarding the policies and requirements of the development plan.

**Representations** - Does the Parish Council wish to comment on any of the representations made to the Plan? In particular, and in addition to those representations already referenced in the policy-based questions, does the Parish Council wish to comment on the representations made by:

- |  |                                     |
|--|-------------------------------------|
| i. Reside Developments;                      | v. CPA Property;                    |
| ii. Dunmoore (Armstrong Rigg);               | vi. McConnell Planning;             |
| iii. Bellway Homes/Crest Strategic Projects; | vii. Hallam Land Management; and/or |
| iv. Vistry Homes;                            | viii. Horsham District Council?     |

The SG would like to make the following comments, to supplement our responses provided above:

- The Billingshurst Neighbourhood Plan (NP) has been prepared to conform to the adopted Horsham District Planning Framework (HDPF), as required by legislation. Whilst it has sought to synchronise with the emerging Local Plan Review, this Review has not yet been adopted and is still at a fairly early stage. Therefore it would be unwise for the NP to try to conform to unmade, future 'potential' policy where this could compromise its conformity with the adopted HDPF.
- The NP does not seek to allocate housing sites, as discussed and agreed with HDC and set out in paragraph 1.15 of the NP. Site allocations will be undertaken by HDC as part of the Local Plan Review and in discussion with Billingshurst Parish Council. An acknowledgement of the need for an early review of the NP has been made within the NP. In the meantime, the spatial strategy set out in the NP acknowledges the amount of development that has either been completed or is in the planning pipeline in the parish in terms of its contribution towards address the housing requirement set out in the HDPF. This is explained at paragraph 1.9 of the NP.

We are grateful for the opportunity to provide further clarification on this questions and points.

Jon Perks, Chair of the Billingshurst Neighbourhood Plan Steering Group