

HORSHAM DISTRICT COUNCIL DRAFT LOCAL PLAN
EVIDENCE IN SUPPORT OF BILLINGSHURST PARISH COUNCIL'S
REGULATION 19 SUBMISSION

Context

Billingshurst Parish Council whilst reluctant to accept further large-scale development adjacent to the settlement have fully engaged with the consultation exercise over the preparation of the draft local plan at Regulation 18. Given the inevitability of a strategic allocation adjacent to the settlement, the Parish Council have taken a positive view of development and worked to consider the best solution that meets the requirements of a sound plan and the aspirations of the community. In this respect, these representations represent the settled community view and seek to ensure that the correct allocation is made so that the plan can be found sound and that the Inspector confirms the community views have been taken into account for this strategic allocation.

There has been a significant gap between Reg 18 and Reg 19 stages of the plan and responses to the Reg 18 consultation are now out of date, having been concluded in March 2020.

The Parish Council believe this later stage of plan making has been rushed and as such there are significant flaws with the Regulation 19 plan that render it **unsound**, these are set out in detail below.

The main concern of the community is that the HDC have selected the wrong site as an expansion to the settlement using **assessments that are not justified by evidence**. The Parish Council and community appear to have been totally ignored in the drafting of the plan, this is contrary to National Policy where the delivery of well designed, high quality sustainable communities should be on the basis of early engagement (NPPF137).

The Parish Council resolved after careful consideration, whether the merits of large strategic sites to the east, or the west of Billingshurst would best support the community. The Parish Council resolved to support expansion of the settlement to the west. From the assessments made by HDC in the Regulation 19 site assessment there are fundamental flaws that are set out in detail that flow through to the **policy HA4**.

BPC would like to enter a statement of common ground with HDC to demonstrate the issues resolved and those that are unresolved to assist the Inspector in understanding the strong community view.

In addition, there are concerns over the climate change **Strategic policy 6** and appropriate energy use **Strategic Policy 7** these overlap with concerns over with policy HA4.

Policy HA4 – Land East of Billingshurst

The policy is **not Justified** – based on an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;

- The policy is **not Effective** - deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
- The policy is **not Consistent** with National Policy - enabling the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework and other statements of national planning policy, where relevant.

Not Justified

Reasons

The assessment of reasonable alternatives and the evidence to justify them was significantly flawed, the policy is not justified.

The site area assessed for west of the Billingshurst in the SEA + SA and HDC Reg 19 Site Assessment was incorrect. It must be a fundamental tenet of considering reasonable alternatives that assessments are made on a fair and fully evidenced basis. Without the source information being correct it simply cannot be true that this is an assessment of reasonable alternatives and would leave any published plan that relied on this open to challenge.

The following is a list of errors in the relative assessments of East and West of Billingshurst in the HDC Reg 19 site assessment which demonstrate the plan as drafted is **not justified**.

1. The site boundary shown on the HDC Reg 19 Site Assessment is incorrect and does not represent the correct proposal supported by the Parish and the Developer.
2. The Parish Council has signed a legal agreement with the landowner and promoter of the west of Billingshurst scheme, together with the Billingshurst Sports and Recreation Association. This agreement confirms that the Parish Council as landowner and the sport and recreation association as tenant support the inclusion of the land at Jubilee fields as part of the wider west of Billingshurst masterplan for promotion in the local plan process. The Regulation 19 assessment is not justified and has not considered this wider site with the important legal undertakings regarding promotion. This has significant implication for the assessment of landscape impact which is not based on the correct evidence.
3. The site assessment is not based on the correct reasonable alternatives and proportionate evidence base. The policy supporting text para 10.110 describes “*footpath safety improvements over the railway*” this is entirely inconsistent with Network Rail Policy and brings the entire deliverability of the site into question (See also below under ‘Not Effective’).
4. The assessment of the competing east and west of Billingshurst proposals has not been completed properly and is **not justified** by evidence. The following are specific examples of evidence of this unfair and incorrect assessment:
 - a. **Flooding and Drainage** – there is insufficient evidence to substantiate a different outcome from either site. Given the need to comply with the NPPF in relation to flooding and drainage and given neither site has insurmountable issues both should be scored as **NEUTRAL**. An unfavourable score for the West cannot be substantiated by evidence.
 - b. **Climate/renewables/energy efficiency** – The two sites have been scored as unfavourable in the east and neutral to the west but given the significant

commitment to net zero to the west it is unclear why this is only considered neutral.

- c. **Housing**– both sites are scored as favourable but given the significant additional delivery of dwellings to the west and the Parish’s concerns over housing numbers the west should be scored as **More or Very Favourable** in delivering 35% more dwellings. Given this is a significant boost to housing supply and the main requirement of national planning policy. In addition, the question marks over viability to the east would suggest that delivery may be stalled by the Daux footpath level crossing issue (see below) or viability that would reduce the % of affordable homes.
- d. **Education** – the western site is scored as unfavourable, but the east is scored as favourable. This is **NOT JUSTIFIED** and **not based on evidence**. How can West be scored unfavourable and East favourable (and given leeway), when neither have mentioned secondary school provision. This confirms the relative assessment of reasonable alternatives is flawed and potentially biased, is **not justified** making the plan **unsound**.
- e. **Transport** - The main road bisecting the West site already benefits from a limited bus service. The promoter of East installed bus stops on their existing site in the village and still no buses call, in fact no buses go along that road at all. The promoter of land to the east’s track record of delivering new bus services is poor. HDC say further work is however required to understand more detail on public transport provision yet score the west as unfavourable, but the east as favourable. This is **not justified** by evidence given HDC’s own admission that they need more work on this matter.
- f. **Employment** - Employment land at the West proposal off a roundabout on the A29 Billingshurst Bypass is deemed neutral, yet employment land at East which is joined to other employment areas in the village by a spine road through a housing estate is deemed favourable? HDC say that East *is considered to be well located to other employment opportunities within the village of Billingshurst*. This is factually incorrect and not based on evidence.
- g. **Community Engagement** - HDC say of West: *Some early community consultation has been undertaken*. This **comment is factually incorrect and not based on evidence** and discourteous to the extensive consultations that have taken place between the promoter and possibly every group in the village over the last 2-3 years. HDC say of West: *The development quality is currently assessed as unfavourable reflecting the relatively limited vision and information put forward on the site to date*. We as a Parish have been greatly impressed by the amount of community engagement and documentation emanating from the promoters of the West. We are therefore surprised at this observation; it does not characterise our experience. In relation to the promoters of the east HDC say ‘*The promoter’s masterplan has been influenced by local community aspirations that have been expressed in respect of the Neighbourhood Development Plan and discussions. The promoter says they commit to working with HDC and the partnership of organisations in Billingshurst including the Parish Council, Community Partnership and Chamber of Commerce should their site be allocated*. This is not the case and is **not based on evidence** the Parish Council (BPC) has had no discussions with this promoter since 2021. They refuse to meet BPC in public. To BPC the scoring on this basis is **not justified by evidence**.

- h. **Deliverability** – There is **no evidence** why HDC deem West can be delivered but then mark them as Unfavourable, yet East, which needs Network Rail to agree how an uncontrolled pedestrian crossing across an electrified double-track main line railway (see also below in relation to “Not effective”) can be replaced first, be marked Favourable? This is not a reasonable assessment of alternatives and therefore fails the tests of soundness.
- i. **Viability** – The **comparative assessment on viability is not justified by evidence**. This is a key part of delivery of this strategic site and in particular the level of affordable housing that will be sustained throughout the development. A full viability assessment has been prepared for the west and no viability information has been prepared for the east. The scoring on viability is not reflected by the evidence provided.

Not Effective

The selection of the site east of Billingshurst and included in Policy HA4 does not have sufficient assurance on deliverability to be sound.

The Daux Footpath Level Crossing

The key issue with deliverability is an objection to the proposal from Network Rail in relation to the pedestrian rail crossing (Daux Footpath Level Crossing) as noted by HDC who report that *“Network Rail have raised a concern relating to an increase in housing near an uncontrolled ground level crossing over the railway, and a diversion of the public right of way or provision of a footbridge or underpass have been suggested to address the increased risks. It is expected that land will be safeguarded to facilitate the provision of a bridge. This will need further exploration and could form a requirement within policy”*.

The policy supporting text at 10.114 says: *“and the provision of a footbridge, or underpass where it can be demonstrated there will be no risk of flooding, to replace the unmanned footpath railway crossing in the south west of the site”*

At the end of the same paragraph the supporting text says *“The footbridge should be phased with the development in order to minimise public risks and should be wheelchair friendly or at least capable of being expanded to accommodate ramped access that enables two wheelchairs / prams to pass with the necessary commensurate land safeguarded”*

This latter paragraph would seem to suggest that an underpass has been ruled out. There is no supporting evidence and the internal inconsistencies in the same paragraph and the policy wording itself confirm this is completely unresolved. There is no statement of common ground with Network Rail, there is no demonstration of a solution to this issue.

The HDC Regulation 18 consultation report (January 2024) states: *That Network Rail responded that concern is raised over the Daux Footpath level crossing which is on a footpath reliant on trains blowing their horn to warn users of approaching trains. The proposed site allocation would make the increased risk at this crossing too great and so Network Rail would like to work with the Council to seek an amendment. The options include partial closure / diversion of footpath (WSCC 1938-1) through town along Station Road, or crossing replaced with bridge / underpass.*

The District Council's response to the consultation is "*The Council has considered the various issues raised when updating its site assessment, as well as information from the site promoter given that the proposal continued to evolve following the consultation.*"

This uncertainty over such a significant material issue cannot be left to some future resolution. The potential to generate significant pedestrian activity from the development of the urban extension over the Horsham to London electrified double track railway line as unresolved must raise significant doubts about deliverability of the entire urban extension. The advice of Network Rail is clear. The proposed site allocation would make the increased risk at this crossing too great.

Network Rail's risk reduction programme since 2010 is to close and upgrade crossings across the network, which will improve safety for everyone and reduce the risk level. Network Rail state that they believe the most effective way of reducing level crossing risk is to eliminate the crossing completely by closing it.

The policy text in relation to crossing the railway is as follows:

f) The development must provide appropriate safety improvements in respect of the railway line and the public right of way crossing in consultation with and agreement from Network Rail and West Sussex County Council. Prior to formal agreement, the layout shall safeguard land adjacent the railway around the existing footpath level crossing to provide the ability for the provision of a future footbridge or underpass to enable safe pedestrian, wheeling and cyclist crossing of the railway. Provision must be phased in accordance with railway safety requirements, and where not provided from the outset designed and land safeguarded to enable ramped wheelchair accessible provision in due course.

The existing crossing is an unmanned level crossing with a public footpath that would need stopping up or an alternative bridge/underpass crossing. Neither option has a solution that has either been costed, designed or programmed. The possessions (removing services from the running track for physical construction) required, their timing, their cost and the necessary permissions are not in place. Given the HSE may prevent occupation of new dwellings (to avoid potential safety issues) until the alternative crossing is in place, may severely delay deliverability of the proposal and is a significant abnormal cost that has not been considered in the viability appraisal.

It is notable in the HDC Reg 19 Site Assessment that there is silence on this important matter in the deliverability and viability section of the report. It is therefore not evidenced that the assessment should be favourable on this matter and experience suggests this is a show-stopper that will slow or entirely prevent occupation of dwellings on site on this site.

There is no notation on the policy map to show how the level crossing is to be dealt with. This is a significant omission. There is no land safeguarded on the southern side of the railway to facilitate a ramped crossing and therefore the development cannot be delivered by the allocation shown in the plan.

There are some significant unresolved questions that would point to a very unfavourable score on deliverability of the whole strategic allocation in relation to the crossing:

1. Has the possibility of a ransom by Network Rail for a portion of development value been considered as part of viability testing?
2. Is land available south of the railway for the bridge land with appropriate ramps; have the ransom positions of the third party landowner to the south been factored into deliverability and viability.
3. Can any dwellings be occupied before the replacement for the level crossing is in place? There is no evidence for this given the previous objection by Network Rail – the policy is not effective in this regard.
4. Why is the plan so uncertain (including internal inconsistencies in the policy) about the physical solution to the unsafe level crossing?
5. Why does the allocation plan not include the area for the landing of the bridge crossing south of the railway?
6. Why is the crossing described as ‘Future Footbridge/underpass’; at what point in the future, how is this tied to occupations and the policy that describes phasing in relation to safety requirements? – This is a clear example of a **policy that is not effective** as the issue of the crossing **has in effect been deferred**.

Not Consistent with National Policy

Reasons

The policy HA4 is **inconsistent with NNPF 60** - the overall aim to be able to meet as much of the area’s identified housing need as possible, including within an appropriate mix of housing types for the local community. Selecting east instead of west at Billingshurst will result in delivering less of the identified need and given significant doubts over deliverability and viability may result in less affordable housing for the local community.

The policy HA4 is **inconsistent with NNPF 74 b)** which seeks to ensure that their size and location will support a sustainable community, with sufficient access to services and employment opportunities within the development itself (without expecting an unrealistic level of self-containment), or in larger towns to which there is good access. Selecting east instead of west at Billingshurst will result in delivering less of the services, tenure mix and leisure facilities that would create a sustainable community.

The policy HA4 is **inconsistent with NNPF 74 c)** This is to set clear expectations for the quality of the places to be created and how this can be maintained (such as by following Garden City principles); and ensure that appropriate tools such as masterplans and design guides or codes are used to secure a variety of well-designed and beautiful homes to meet the needs of different groups in the community. Selecting east instead of west at Billingshurst will result in delivering less diverse development that does not meet all sectors of the community, in particular the need to meet the requirements for care and the elderly and gypsies and travellers. **(See also NPPF63)**

The policy HA4 is **inconsistent with NNPF 74 d)** The policy must make a realistic assessment of likely rates of delivery, given the lead-in times for large scale sites and in this case the policy has failed to consider the implications of Network Rail’s objection to additional use of the unsafe level crossing and the implications for delivery of the dwellings given this potential fundamental barrier to occupation .

The policy HA4 is **inconsistent with NNPF 96b)** as this requires developments that are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality

of life or community cohesion – for example, through the use of beautiful, well designed, clear and legible pedestrian and cycle routes, and high-quality public space, which encourage the active and continual use of public areas. The lack of a safe solution for the Daux footpath level crossing **is inconsistent with national policy and cannot be found sound.**

The policy HA4 **is inconsistent with NPPF 135e) and f).** When considering site selection at Billingshurst the consistency with National Policy has not been assessed directly by HDC as part of site assessment. This makes the plan unsound. **NPPF 135e) and f).** This requires that **Planning policies** and decisions should ensure **that developments:**

e) optimise the potential of the site to accommodate and sustain appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience

The selection of east over west has not complied with the these two important criteria, the west significantly out performs the east in terms of optimising the potential to include green and public spaces. A factor recognised by the local community at Regulation 18 stage supporting west over east – **NOTE THIS IS NOT RECORDED IN THE CONSULTATION REPORT published Jan 2024**