

DM/21/3311 | Erection of 8 dwellings, alterations to site access, provision of car parking along with hard and soft landscaping.

Land At Wintons & Wintons Fishery Folders Lane Burgess Hill RH15 0DR

Objection submission by South of Folders Lane Action Group (SOFLAG)

This objection is made by SOFLAG representing our 1,000+ supporters.

This application is inappropriate and unsustainable and contravenes policies of the Mid Sussex District Plan, Burgess Hill Neighbourhood Plan and national Planning Policy Framework. ,

The site has been designated as unsuitable for development at many previous assessments, and the harm that would be caused by this application outweighs any benefits brought by the small addition to the supply of housing as MSDC currently has a 5 year supply.

- **The application is contrary to the policies and principles of the National Planning Policy Framework and specifically paragraphs 12 and 176**
- **It contravenes Mid Sussex District Plan policies DP6, DP12 & DP19**
- **It contravenes Burgess Hill Neighbourhood Plan policies H2 & H3**
- **It would cause harm to the setting of the South Downs National Park**
- **The site has been deemed unsuitable for housing due to risk of surface water flooding**
- **This may be a “Trojan Horse” application for up to 120 houses**

This proposal therefore does not represent 'sustainable development' under the definitions of the National Planning Policy Framework and the application should be refused.

Contents

1.	Principle of development and introduction to the site	Page 2
2.	Planning history of the site	Page 4
3.	Harm caused to the setting of the South Downs National Park	Page 6
4.	Unacceptable Flood Risk	Page 8
5.	8 houses or many more?	Page 10

1. Principle of development and introduction to the site

- 1.1 The primary legislation which governs and guides the planning application process is the NPPF which has a presumption in favour of sustainable development. However, NPPF Section 2 Paragraph 12 states:

"The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed."

- 1.2 This is confirmed by Mid Sussex District Council and stated in the decision reports of recent applications in the district:

"Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise".

Specifically Section 70 (2) of the Town and Country Planning Act 1990 states:

"In dealing with such an application the authority shall have regard to:

- a) The provisions of the development plan, so far as material to application,*
- b) And local finance considerations, so far as material to the application, and*
- c) Any other material considerations."¹*

For this application the Development Plan means the adopted District Plan and the Burgess Hill Neighbourhood Plan, and this application contravenes both of these documents.

- 1.3 This site is not and has never been allocated for housing in the Mid Sussex District Plan. It is not required as MSDC can currently demonstrate a five year housing land supply.

The District Plan identifies settlements that have *"already identified sufficient commitments/completions to meet their minimum housing requirement for the full plan period and will not be expected to identify further sites within their Neighbourhood Plans"*²

Burgess Hill is one of these settlements. This inappropriate development is not needed.

¹ DM 21/1780 Demolition of existing dwelling and erection of two detached dwellings, and three pairs of semi-detached dwellings, East Grinstead (refused)

² District Plan, page 38

- 1.4 This site is not identified or allocated for housing in the Burgess Hill Neighbourhood Plan. It is located to the south of Burgess Hill, outside the defined built up boundary. The Neighbourhood Plan states:

*The Neighbourhood Plan should recognise the strategic context set by the MSLP and MSDP including the protection of countryside to the south and east of the town.*³

This proposed development is to the south and south-east of the town within the area that has been identified as needing protection from further development.

- 1.4 The site is in a Countryside Area of Development Restraint and forms part of the Strategic Gap between Burgess Hill and Hassocks. This development would be harmful to the rural setting of the locality.

With respect to the protection of the countryside, the District Plan could not be clearer as stated in DP 12, Protection and Enhancement of the Countryside:

*"The primary objective of the District Plan with respect to the countryside is to secure its protection by minimising the amount of land taken for development and preventing development that does not need to be there"...*⁴

- 1.5 The south eastern boundary of the site is less than 250 metres from the South Downs National Park. This development would cause harm to the setting of the National Park, contravening para 176 of the NPPF. (See section 3)

- 1.4 The applicant's own Design & Access Statement acknowledges that the site is at risk of surface water flooding – a major reason previously cited by MSDC for refusing this site in the SHLAA. (See section 4)

- 1.5 This is a back garden development and as such conflicts with Burgess Hill Neighbourhood Plan policy H2 which states such development will "generally not be supported".

- 1.6 This is a greenfield site. Prime Minister Boris Johnson pledged on 6 October 2021 that new homes should be built "not on green fields" and local planning decisions should reflect developments in national planning policy

³ Burgess Hill Neighbourhood Plan 2016 page 9

⁴ District Plan DP12, page 57

2. Planning history of the site

- 2.1 The site is located on Folders Lane, which is designated in the Burgess Hill Neighbourhood Plan as an area of townscape value. These are defined as: *“residential areas within Burgess Hill which are attractive and make a valuable contribution to the character of the town and are especially reminiscent of when Burgess Hill was a more rural country town.”*⁵

These were identified because of pressure from inappropriate development, and in particular back garden development such as this proposal. Neighbourhood Plan policy H3 protects such areas.

- 2.2 This application for 8 houses uses only 0.8 hectares of the Wintons Farm and Wintons Fisheries land which is all under the same ownership.

The whole site including the fishing lakes was proposed for housing at one time, and more recently the whole of the farm rather than just the portion included in this application. This site in any iteration has been always been rejected by MSDC as unsuitable.

- 2.3 In the 2013 MSDC Housing Land Supply Document Wintons Farm was Site “4” – 4.9 hectares including the whole farm and the fishing lakes. It was categorised as unsuitable:

*“as it would represent incongruous encroachment into the surrounding countryside, close to the boundary with the South Downs National Park”*⁶

- 2.4 In 2016 the 4.9 hectare site was proposed again, and again rejected by MSDC:

*“As a standalone site the area would represent incongruous encroachment into the surrounding countryside, close to the boundary with the South Downs National Park”*⁷

By 2016 MSDC had also recognised the severe and ongoing traffic issues on Folders Lane and added the following to their reason for refusal:

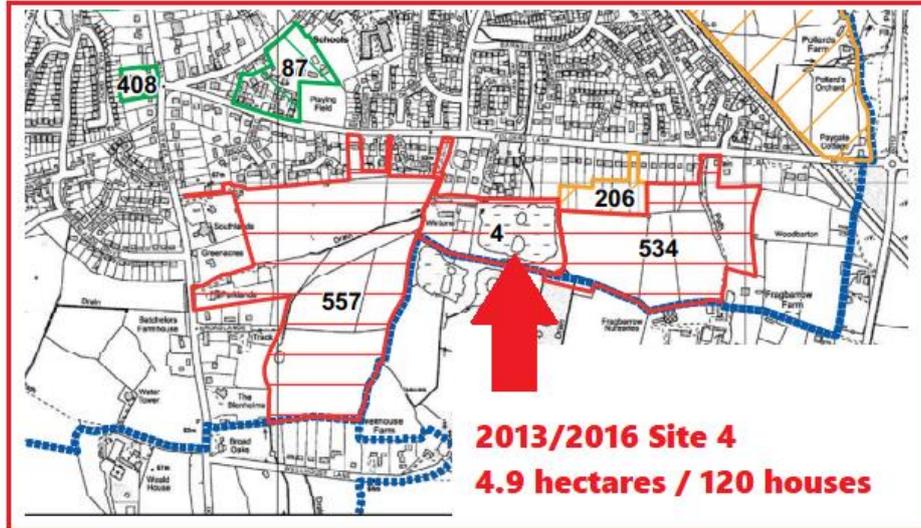
*“The likely significant impact of development of this scale on the local highway network renders this site unsuitable until evidence to the contrary is provided.”*⁸

⁵ Burgess Hill Neighbourhood Plan 2015 page 84

⁶ MSDC 2013 Housing Land Supply Burgess Hill Assessed Sites ref 4 (BH./D/01)

⁷ MSDC 2016 Housing Land Supply Burgess Hill Assessed Sites ref 4 (BH./D/01)

⁸ Ibid



2.5 By 2020 and the Site Allocations DPD, the amount of land being proposed had reduced and no longer included the fishing lakes. However it did include the whole of the farm site rather than just the southern portion as in the current application:

Site Selection - Housing	
Burgess Hill	
ID	4 Winton's Farm, Folders Lane, Burgess Hill

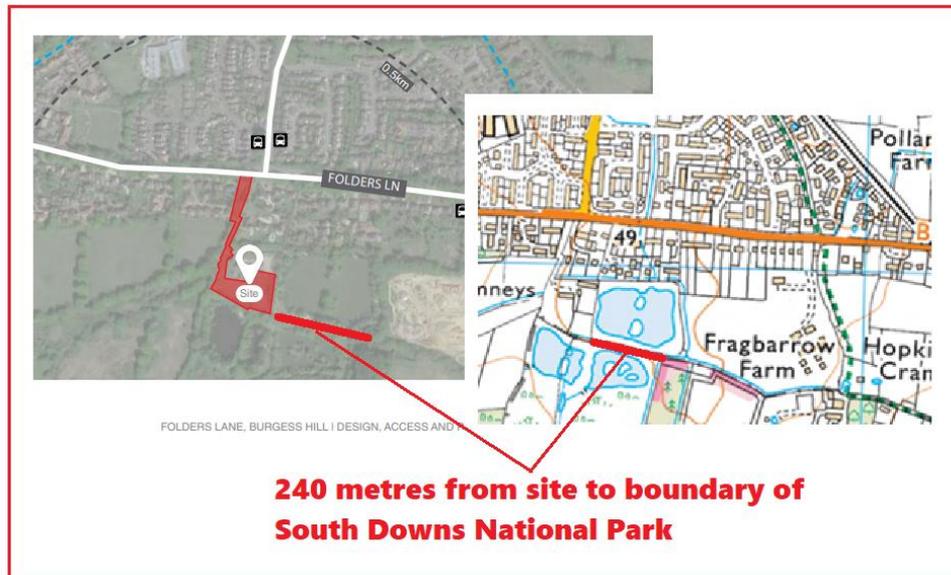
The site was not taken forward for allocation by MSDC who cited the high risk of flooding:
 "Not suitable for development on the basis of high surface water flood risk affecting the whole site....
 ...despite being in an area of low fluvial flood risk it is subject to high surface water flood risk and has been flagged by the lead local flood authority as unsuitable for development on this basis."⁹

This means that Winton's Farm remains unsuitable and unsustainable in 2021.

⁹ MSDC Site Selection Paper 3, Appendix B, September 2020

3. Harm to the setting of the South Downs National Park

- 3.1 This site is unsuitable for development and unsustainable because of its proximity to the South Downs National Park, the boundary of which lies less than 250 metres away.



- 3.2 This site is close to the Jones Homes development Folders Grove, which was permitted at appeal in 2017.

The South Downs National Park Authority strongly objected to the original application stating that it would be:

“harmful and detrimental to the special qualities and landscape character of the setting of the South Downs National Park.”¹⁰

The SDNPA also made a strong representation in objection to the appeal against refusal of MSDC application 11/00380 to build 23 houses on land to the rear of 60A – 78 Folders Lane, stating:

“The appeal site is close to the boundary of the South Downs National Park to the south of the site. As such the development would have a detrimental visual effect on the special landscape character of the adjacent National Park, adversely affecting the setting thereof.

In addition, the South Downs National Park Authority also raise concerns about the potential for increased traffic in Ditchling and other parts of the National Park being generated ... and the subsequent detrimental impact this could have on the peace and tranquillity of the adjacent National Park.”¹¹

This site is even closer to the boundary, and the harm to the setting of the National Park would therefore be equal or greater in this case.

¹⁰ SDNPA consultation response, 20 March 2015, page 4

¹¹ Appeal Representation to Planning Inspectorate appeal ref 2159832, 21 October 2011

- 3.3 The setting of the South Downs National Park is protected by the District Plan that states:

“Development within land that contributes to the setting of the South Downs National Park will only be permitted where it does not detract from, or cause detriment to, the visual and special qualities (including dark skies), tranquillity and essential characteristics of the National Park, and in particular should not adversely affect transitional open green spaces between the site and the boundary of the South Downs National Park, and the views, outlook and aspect, into and out of the National Park by virtue of its location, scale, form or design.”¹²

This application contravenes policy DP19.

- 3.4 The setting of National Parks is protected by the NPPF which is the primary legislation governing this (and every other) planning application.

The South Downs National Park Authority reiterated this recently to MSDC in their response to the Inspector’s comments on the revised NPPF made as part of the Site Allocations DPD Hearing Process.

The SDNPA stated:

“Paragraph 176 of the revised NPPF protects the setting of national parks as well as the national parks themselves as follows: ‘The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.’

The implications for the Mid Sussex examination are that Government policy on the setting of national parks is now confirmed rather than draft giving it greater weight”¹³

¹² District Plan: DP19 Setting of the South Downs National Park, page 65

¹³ <https://www.midsussex.gov.uk/media/7282/rep-777-003-sdnpa-action-point-response-to-id-08.pdf>

4. Unacceptable high risk of flooding

- 4.1 As mentioned in section 2, MSDC cited the high risk of flooding at this site when they did not allocate it for housing in the Site Allocations DPD process declaring it to be:

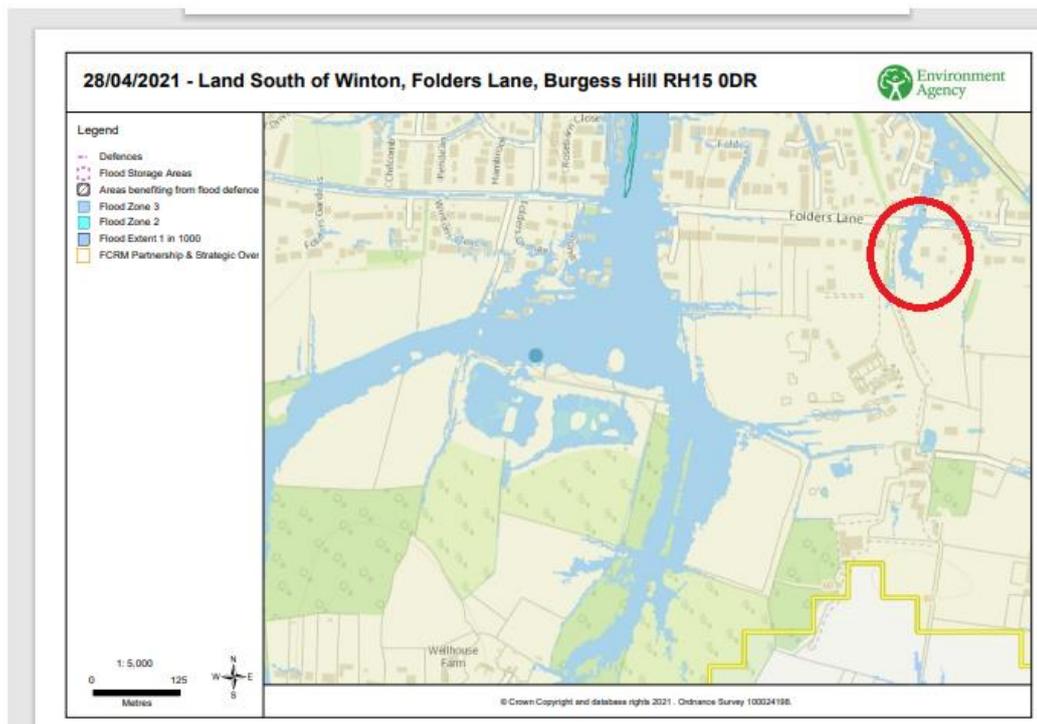
"Not suitable for development on the basis of high surface water flood risk affecting the whole site....

*...despite being in an area of low fluvial flood risk it is subject to high surface water flood risk and has been flagged by the lead local flood authority as unsuitable for development on this basis."*¹⁴

- 4.2 The applicant's own Design & Access Statement agrees with MSDC's conclusions and admits on page 17 that

"The flooding report for the site shows the site is in a flood risk zone and therefore at risk of flooding."

- 4.3 This Environment Agency flood risk map is provided on page 33 of the applicant's Flood Risk Assessment. It suggests that the site is at a "1 in 1,000" flood risk.



Circled in red is another area of "1 in 1,000" risk which is the entrance to Jones Homes' Folders Grove development – as shown on aerial photo below:.

¹⁴ MSDC Site Selection Paper 3, Appendix B, September 2020



- 4.4 The “1 in 1,000” event has already happened during heavy rains in August 2021 – as shown in this photograph in the Mid Sussex Times. The circled area was flooded, along with many other local roads and properties.



With climate change leading to heavy rainstorms increasing in both intensity and frequency, any houses built on the Wintons Farm site will be at risk of serious surface water flooding.

This site is unsuitable for housing development.

5. 8 houses or a Trojan Horse?

- 5.1 As detailed in section 2 above, the Wintons Farm / Wintons Fisheries land extends beyond the 0.8 hectares included in this application. The full site is almost 5 hectares and has been previously proposed for up to 120 houses.
- 5.2 The Trojan Horse technique involves gaining permission for a small number of houses and then applying for more in increments until a much larger development is achieved – one that would never have been approved had it been applied for all in one go.
- 5.3 The MSDC District Plan acknowledge this risk, which developers can seek to exploit by starting with an application on the edge of a settlement for the “fewer than 10 dwellings” which would normally be supported.
Policy DP6 states
“The developer will need to satisfy the Council that... A large site is not brought forward in phases that individually meet the threshold but cumulatively does not”¹⁵
- 5.4 There is evidence to suggest that this application could be a Trojan Horse.
-

Summary

In conclusion, this inappropriate and unsustainable application should be refused on the following grounds:

- MSDC have already rejected this site for development by refusing repeatedly and for good reasons, to include it in the list of sites suitable for development (see section 2). Nothing has changed to alter that position, except for the addition of hundreds of additional homes in the local area adding to the pressure on the local infrastructure.
 - This application conflicts with the NPPF, Mid Sussex District Plan and Burgess Hill Neighbourhood Plan
 - This application would cause harm to the setting of the South Downs National Park (see section 3)
 - Any development at this site would be at unacceptable risk of surface water flooding – as already proven in August this year (see section 4)
 - This application conflicts with Prime Minister Boris Johnson’s assertion on 6 October that new homes should not be built on green fields
-

South of Folders Lane Action Group
October 2021

¹⁵ Mid Sussex District Plan policy DP6 page 35