Planning Statement

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION FOR OUTLINE PLANNING PERMISSION (APPEARANCE AND LANDSCAPING RESERVED) FOR CONSTRUCTION OF DWELLING ON LAND ADJACENT TO HILL VIEW, RINGWOOD ROAD, SOPLEY BH23 7BE

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1.0 Introduction

1.1 This statement accompanies an application that seeks outline planning permission to construct a chalet-style, detached dwelling on land adjacent to Hillview, Ringwood Road, Sopley BH23 7BE. It follows a previous application made in 2020 and refused by the LPA in 2021 under reference 20/11361 for a similar development. The LPA's decision was subsequently challenged on appeal and the appeal was dismissed in July 2021, however this was solely on the grounds that there was no mechanism in place, at that time, to mitigate the phosphate nutrients arising from the proposed development.

1.2 This revised application includes details of how the development would mitigate its nutrient impact and also addresses other planning policy changes that have been introduced since the 2021 appeal decision.

1.3 It is establishing the principle of the development in this location that is important, and so the application is made in outline with the only matters 'reserved' being 'appearance' and 'landscaping'. Information is therefore provided in respect of 'access', 'layout' and 'scale', all of which are to be determined at this stage.

2.0 Principle of Development

2.1 Green Belt

Insofar as relevant to the current proposals, the development plan comprises the adopted Local Plan Part 1 Planning Strategy (2020) and the Local Plan Part 2 Sites and Development Management (2014). Both of these Plans state categorically that development proposals in the Green Belt will be determined in accordance with national planning policy. This is found in policy ENV2 of the Local Plan Part 1 and the relevant supporting text, and also at paragraph 2.68 of the supporting text in the Local Plan Part 2. Thus whilst there are some local plan policies that bear upon the development proposed in this case (these are examined below) in terms of the green belt 'test' it is solely national planning policy that applies.

2.2 The Inspector dealing with the 2021 appeal on this site concluded, unequivocally, that the proposed dwelling did not amount to 'inappropriate development', as defined by paragraph 154 of the NPPF, within the green belt. Indeed, the LPA itself appeared to accept this at time, stating in its report on that application…While the application relates to a thin ribbon of development to the north west of Sopley and washed over by Green Belt, it is accepted that the site is within the village of Sopley and so therefore may be deemed as appropriate development within Green Belt.

2.3 Despite this finding the LPA then went on to refuse planning permission. The primary reason for this appears to have been the following conclusion contained in the LPA's report: Notwithstanding the fact the development of a dwelling in this location may be considered appropriate development within Green Belt, the Council's stance is that the village makes an important contribution to the openness of the Green Belt, hence its inclusion with the Green Belt. Paragraph 144 of the NPPF states that planning authorities should attach substantial weight to any harm to the Green Belt, including its openness.

2.4 Unfortunately this is a fundamental misunderstanding of national planning policy in respect of green belt development. The appeal Inspector pointed this out in his decision, where he stated: Some of the exceptions in the Framework require consideration of effects on openness as to whether development would be inappropriate in the Green Belt, but that is not the case for the exception at 145(e). Effects on openness are, by implication, already considered and accepted within that exception. As such the development would not run contrary to the fundamental aims of Green Belt policy to prevent urban sprawl by keeping land permanently open, nor to the essential characteristics of Green Belts, namely their openness and permanence. Therefore, irrespective of any effect on openness that may arise from the replacement of an existing small structure at the site with a larger dwelling, there would be no conflict with national policy for the Green Belt, no harm to the Green Belt and, by extension no conflict with the aims of LP1 Policy ENV2.

2.5 The relevant test is therefore as follows: a) is the site 'within a village' and b) if so, can it be described as 'limited infilling'? The appeal Inspector found that the answer to both of these questions was 'yes', but lest there be any doubt about it the following is considered to be the relevant assessment.

2.6 The terms 'limited infilling' and 'village' are not defined within the NPPF, and so must be given their ordinary meanings. With respect to the term 'village', it has been established by the courts that whether a site is 'in a village' is not something that can be determined simply by reference to a plan but rather something that requires a judgement based on its physical characteristics and its relationship to its surroundings.

2.7 The leading case on this is the Court of Appeal's decision in Julian Wood v The Secretary of State for Communities and Local Government, Gravesham Borough Council [2015] EWCA Civ 195. In that case an appeal had been made against the refusal of planning permission for a single dwelling on a site which lay in the green belt, outside of any development plan boundary, but was adjoined by existing development. The court considered that the main issue was the interpretation of Paragraph 89 of the (then) NPPF (now paragraph 154(e) of the NPPF 2023) which provides that "limited infilling in villages" is an exception to the general rule that the construction of new buildings is inappropriate in the green belt. The court ruled that the policy required the decision-maker to consider whether, as a matter of fact on the ground, the site appeared to be in the village. The court concluded the fact that the site lay outside of the village boundary as designated in the development plan was not determinative; the inspector had misdirected himself as to the proper meaning of paragraph 89 in limiting himself to considering whether the proposal was within the designated village boundary.

2.8 In the case of the current application site, then, whilst it lies outside of the development plan boundary it is necessary to have regard to whether it is nonetheless 'in the village' of Sopley. This requires an assessment, as outlined above, of its physical characteristics and its relationship to adjoining development. The application site clearly lies within the village of Sopley when assessed against these criteria. The same conclusion would undoubtedly apply to the remainder of the ribbon of development between the cemetery to the north and the remainder of the village to the south-east. The ribbon of development of which the application site forms a part does not appear as being disconnected from the village in any way, either through physical separation or through function. On the contrary it is the most intensively developed part of the village.

2.9 Neither can it be reasonably concluded that Sopley is not a 'village'. It is categorised as such by the LPA in policy STR4(iii) (settlement hierarchy) as a 'small rural village'.

2.10 The term 'limited infilling' has been examined in many appeal decisions but it is not considered necessary to cite any of these here (examples can be provided if required). It is obvious that the plot in this case would constitute 'limited infilling' because it would amount to only a single dwelling in a plot that is consistent with the size and shape of almost all of its immediate neighbours.

2.12 Of more relevance is the conclusion of the Inspector in the previous appeal decision at Hill View, where he concluded…The site is located in a ribbon of housing development. While the site is a notable gap in the built form, the line of dwellings is broadly continuous. Gaps and views between dwellings are not a strong characteristic of the area. As such the presence of a dwelling that filled most of the gap would do no harm to the character and appearance of the area in itself. The Inspector went on to conclude that the development of this plot would meet the tests set out in paragraph 145(e) of the then NPPF (now paragraph 154(e)).

2.13 The other issue that is sometimes raised by development in the green belt is that of 'openness'. This issue is often mistakenly conflated with the assessment required under paragraph 154 (e) and indeed that is what the LPA appears to have done in refusing the previous application. But, as the Inspector made clear, in 'excepting' limited infilling in villages from being inappropriate development the NPPF implicitly recognises that some loss of openness will inevitably occur, simply because any new building is likely to have some, albeit limited, impact on openness. In other words, if the development proposed qualifies as 'limited infilling in a village', as it clearly does in this case, then the matter of openness and/or the development's effect upon it does not fall to be considered. It does fall to be considered under the exceptions contained in paragraphs 154 (b) and (g), but not under paragraph 154 (e).

2.14 By the same token, because the development qualifies as an exception under paragraph 154 (e) there is no need to consider the 'very special circumstances' test either. This approach was confirmed as the correct one in R (on the application of Lee Valley Regional Park Authority) v Epping Forest District Council & Another [2016] EWCA Civ.404. Here, Lindblom LJ confirmed: I think it is quite clear that "buildings for agriculture and forestry", and other development that is not "inappropriate" in the Green Belt, are not to be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. This understanding of the policy in the first sentence of paragraph 88 does not require one to read into it any additional words. It simply requires the policy to be construed objectively in its full context – the conventional approach to the interpretation of policy, as the Supreme Court confirmed in Tesco v Dundee City Council.

3.0 Other Planning Policy

3.1 The Local Plan Part 2 contains policy DM20 entitled 'Residential development in the countryside'. This was cited by the LPA in support of its previous refusal but again this appears to have been based on a fundamental misunderstanding. Policy DM20 deals with residential development in the 'countryside' and states that this will only be permitted in exceptional circumstances (none of which apply here). However policy DM20 cannot be applied in the

green belt because both the Local Plan Part 1 and Part 2 already confirm that it is national planning policy that applies there and DM20 is consequently trumped. Policy DM20 can and certainly should be applied in the countryside outside of the green belt, but not within it – otherwise there would be the completely untenable situation of one policy actively negating the other within the same development plan. It is clear that policy DM20 is no longer consistent with current national policy in respect of green belt development.

3.2 The green belt is distinguished from the 'countryside' in paragraph 2.61 of the supporting text (Local Plan Part 2) that deals with settlement boundaries. This states: *This document sets out revisions to the defined boundaries of:*

- *"built-up areas" (the defined towns and larger villages),*
- *the "countryside" (everywhere outside the defined towns and villages), and*
- *the Green Belt in the southern and western parts of the Plan area.*

3.3 This is further clarified by paragraph 2.68 of the supporting text which states: *National Planning Policy on Green Belts applies within the defined Green Belt shown on the Policies Map.*

3.4 The application site lies within the green belt and this is distinguished, as set out above, from the countryside outside of the green belt. In any event the Inspector considered the LPA's claim that policy DM20 applied in this case, notwithstanding the fact that both Local Plans make the contrary clear, and he concluded that no such conflict would arise.

3.5 Similarly, planning permission was previously refused erroneously on the basis of an alleged conflict with policy ENV3 of the Local Plan Part 1. The Inspector dealt with this issue directly in his conclusion, which stated: *I find that there would be no harm to the character and appearance of the area and no conflict those aims of LP1 Policy ENV3 that seeks to ensure that proposals are in keeping with the rural character of the area, sympathetic to their context, strengthening the character and identity of the locality.*

3.6 It also remains the case that the LPA is currently unable to demonstrate a five year supply of housing land within the District and therefore paragraph 11 of the NPPF is engaged. This dictates a strong presumption in favour of sustainable development.

4.0 Matters to be Determined

4.1 Scale

The present proposals are based squarely on the previous ones albeit with some minor changes to the overall building envelope. 'Scale' is not a reserved matter and is to be determined at the outline stage. The submitted plans illustrate a chalet-style dwelling with rooms in the roof space. The height to the main ridge is 6.5m. Although 'appearance' is a reserved matter, an indication of how the building would likely be fenestrated has been provided. This would likely take the form of modest dormer windows to the front elevation, creating a balanced façade. On the rear a subservient section would likely contain a family

room/kitchen on the ground floor and a bedroom above – the height of this section is shown as 5.6m.

4.2 The overall massing of the dwelling would, it is submitted, be entirely consistent with the others within this ribbon of residential development. To the north-west is Hill View, itself a recently modified bungalow which now contains rooms in the roof served by roof lights. The height of Hill View, based on the plans approved under reference 19/10739 is 6.1m. To the south-east lies Avoncroft Farmhouse, a traditional two-storey dwelling set under a pitched roof. This dwelling has not been surveyed but its height can be reliably estimated to be around 7 to 7.5m to ridge and certainly taller than the proposed chalet-style dwelling.

4.3 Indeed this residential enclave displays a wide variety of dwelling types, design, form, scale, height and massing. Dormer windows to the front are a common feature, in dual-pitched, mono-pitched and flat roof form, and the external finishes include a variety of brick, hanging tile and painted render to the walls along with a mixture of slate, clay tile and concrete tile to the roofs. Whilst some dwellings appear to have started off as pairs there is no longer any genuine uniformity to the overall scale and massing of the street scene as a whole. It is in fact the variety of dwellings that is a key characteristic of the area and the proposed dwelling would be consistent with this.

4.4 Layout

The siting of the proposed dwelling has been set back slightly from that contained in the previous application. That allows for more space to the front of the dwelling to accommodate parking and turning but also appropriate landscaping (the latter being a reserved matter). There would be space for a driveway to the (northern) side of the dwelling along with a minimum of 10m and a maximum of 14m to the front of the dwelling. This is more than adequate to accommodate 3 parking spaces together with turning area. It should also be noted that the Inspector took no issue with this overall arrangement, despite that version being set some 2m closer to the highway and with than a driveway's width to its northern side.

4.5 Access

The site is already served by an existing vehicular access point comprising a wide timber gate set into an established hedgerow. The access point is served by an existing dropped kerb and verge/footway crossing point and no changes to this point of access are required.

4.6 Furthermore the access is set well back from the carriageway edge with a verge, then a footway, then another section of verge in between, meaning that there is no problem with achieving a standard visibility splay with a 2.4m set-back from the carriageway edge (2.4m from the carriageway edge is a point within the existing footway).

4.7 Finally, it should again be noted that there was no highway objection identified as part of the previous proposals either by the LPA or by the appeal Inspector.

5.0 Other Matters

5.1 The application is accompanied by an updated Preliminary Ecological Appraisal which concludes that there are no ecological constraints to the proposed development.

5.2 There are no trees within the site. There is an established hedgerow to the front and rear of the site and this is to be retained both for its biodiversity value and its rural appearance.

5.3 The site does not lie within an area identified as being at risk of flooding (it is flood zone 1).

5.4 The site can be made accessible to high speed broadband and will be served by an electric vehicle charging point – these are expected to be matters for planning conditions in the usual way.

5.5 In terms of renewable and low carbon energy, as this is an outline application full details of how this will be approached are not yet available. However it is envisaged that use will be made of solar panels on at least part of the roofscape, likely that part of the rear projection which faces south/south-east. This may be supplemented by a free-standing array within the garden to the rear. It is also likely that the development will be served by a ground source heat pump given that the plot appears to be generous enough to accommodate one. It is likely that fenestration (only indicative at this stage) would be arranged to maximise solar gain in support of the above approach, utilising A+ rated windows and doors. Low energy lighting will be used throughout, likely associated with the use of timers/movement sensors to avoid wastage.

5.6 The sole issue that led to the dismissal of the previous proposal was the fact that, at that time (2020), there was no approved mitigation scheme in place to offset the additional nutrient loading associated with residential development. That meant that despite the then applicant's willingness to resolve that matter it was simply not a matter that was capable of resolution.

5.7 Since then things have changed, and there is now an approved mitigation scheme in place for the Avon Valley (Bickton Fish Farm) and the LPA is now able to impose a Grampian-style condition requiring that the nutrient issue be resolved prior to occupation of the new dwelling.

5.8 In terms of the requirement to mitigate recreational impact upon protected habitats (and air quality), in this case the applicants have opted to enter into a section 106 agreement with the LPA rather than submit a Unilateral Undertaking (as they do not wish to pay the required contribution 'up front'). The LPA is therefore requested to set that process in motion and confirm the fee payable by the applicant for this work in due course.

6.0 Conclusion and Planning Balance

6.1 It is clear from the previous appeal decision that the development of this site for a single dwelling does not constitute 'inappropriate development' in the green belt. Neither does it offend any other relevant planning policy. Indeed, given the previous appeal decision any other conclusion would be patently untenable and unreasonable.

6.2 The scale of the proposed dwelling would be consistent with the range of sizes, scale, form and siting of dwellings in the immediate vicinity. Indeed the existing gap is a somewhat uncharacteristic space within an otherwise built-up frontage and its infilling can be achieved without any harm to the genuine rural character of the area.

6.3 The dwelling can meet all of the usual standards and would slot seamlessly into this established residential environment. Planning permission can therefore reasonably be granted

in the circumstances, subject to suitable conditions including the subsequent approval of the remaining reserved matters.