

PLANNING REF : 252782  
PROPERTY ADDRESS : 39 East Park Farm Drive  
: Charvil, Berkshire  
: RG10 9UG  
SUBMITTED BY : Mr Nathan Hogg  
DATE SUBMITTED : 01/12/2025

COMMENTS:

FORMAL LEGAL CHALLENGE AND STATUTORY DEMAND FOR REFUSAL PLANNING  
APPLICATION REFERENCE: 252782 SITE: Grove Service Station / Former  
Prince Bros Site, Old Bath Road, Charvil

This representation constitutes a formal legal challenge asserting that Application 252782 is afflicted by fundamental material non-compliance with the statutory planning framework and associated environmental legislation. I contend that the application is not merely deficient but is a statutory impediment to lawful determination by Wokingham Borough Council (WBC). The determination of this

application must comply with the Planning and Compulsory Purchase Act 2004, which mandates that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise. The core legal principle here is the precautionary approach mandated by the National Planning Policy Framework (NPPF),

specifically where environmental and public safety risks are involved. WBC cannot lawfully approve a scheme unless it is satisfied, beyond reasonable doubt, that all statutory requirements relating to flood risk, contamination, and habitat protection have been demonstrably met. WBC holds statutory duties under the Conservation of Habitats and Species Regulations 2017 and the Environmental Protection Act 1990. Approving a high-risk development adjacent to a designated site, involving hazardous substances, without full and legally compliant evidence, would constitute an ultra vires act by the Local Planning Authority (LPA).

I. CRITIQUE ON FLOOD RISK, CONTAMINATION, AND THE WATER ENVIRONMENT

The combination of the site's location (likely Flood Zone 2/3) and the proposed use of hazardous materials (chemicals/fuels) is a profound

and unmitigated legal risk. The grounds for refusal are based on a Breach of the Water Resources Act 1991 and mandatory NPPF criteria. The Flood Risk Assessment (FRA) is invalid if it fails to use the Upper End Climate Change Allowance (an increase of over 40%) over the

development's lifespan. The lack of this calculation means the FRA cannot satisfy the NPPF's Exception Test regarding safe-by-design, rendering the entire proposal non-compliant with strategic planning policy and the Flood and Water Management Act 2010. The application must be rejected for failure to submit a Hazardous Substance Spill Risk Assessment. Approving the storage of fuel/chemicals adjacent to a water body or flood zone without a guaranteed, audited system of secondary containment (bunding) risks the discharge of 'List I and List II' substances into the adjacent Nature Reserve and groundwater. This constitutes a direct breach of the Water Framework Directive (WFD) (retained in UK Law) and the Water Resources Act 1991 (Section 85) to prevent pollution. The Drainage

Strategy is deficient if it does not explicitly manage the runoff to the satisfaction of the Lead Local Flood Authority (LLFA). We demand evidence of the proposed attenuation volume calculation proving that the system can handle the 1-in-100 year event plus climate change, thereby preventing any increased burden on downstream infrastructure or neighbouring land, as required by the Land Drainage Act 1991.

## II. CRITIQUE ON ECOLOGY, BIODIVERSITY, AND HABITAT INTEGRITY

The site's proximity to a designated Nature Reserve elevates this section to a critical legal imperative for the Council. The grounds for refusal are based on a Breach of the Wildlife and Countryside Act 1981 and the Environment Act 2021. The Ecological Impact Assessment (EcIA) must be rejected if it lacks sufficient seasonal survey effort (e.g., surveys during optimal breeding/flowering seasons). The Council is legally barred from determining the application without a full baseline proving the absence of Protected Species that may utilise the adjacent Nature Reserve as a corridor or foraging ground, as required by the Wildlife and Countryside Act 1981 and NPPF

Paragraph 180 (d). The application is materially non-compliant if it fails to include a verified Biodiversity Net Gain (BNG) Metric Calculation and a legal mechanism (S106 Agreement or Conservation Covenant) to secure the minimum 10% net gain for 30 years. This requirement is mandatory under the Environment Act 2021 and local policy, and any proposal for off-site BNG must be fully justified and demonstrated to be the last resort. Furthermore, the EcIA is incomplete unless it explicitly assesses the risk of the development causing the adjacent Nature Reserve to become 'Contaminated Land' via spills or seepage of fuels and chemicals. The lack of a robust buffer zone and sealed containment systems means the Council cannot ensure the long-term protection of the habitat as required by the Environmental Protection Act 1990 (Part 2A).

## III. CRITIQUE ON HIGHWAY SAFETY AND TECHNICAL OMISSION

The primary duty of the LPA is to ensure public safety on the highway. The lack of guaranteed, safe access warrants refusal based on a Breach of the Highways Act 1980 and NPPF Paragraph 112. The application is technically inadequate without full, verifiable Visibility Splay plans and Swept Path Analysis for the largest vehicle type likely to service the site (e.g., a fuel tanker). If these drawings are not provided, the Council is in breach of its duty to maintain highway safety and exposes itself to future liability for collisions arising from inadequate access design, as defined under the Highways Act 1980 (Section 170). The Transport Assessment (TA) must be rejected if it does not robustly model the cumulative impact of traffic generation, including peak-hour conflict and queuing, specifically at the proposed access point on the busy Old Bath Road. We demand evidence that the design adheres to the highest highway authority standards for safety at a major junction access, fulfilling the requirements of NPPF Paragraph 112 regarding acceptable residual cumulative impacts.

I formally assert that Planning Application 252782 must be REFUSED IMMEDIATELY on the basis of Material Non-Compliance and the inability of the applicant to satisfy statutory duties regarding environmental and public safety. The Council is legally advised that granting consent under these circumstances, where critical evidence regarding flood risk, contamination, habitat protection, and highway safety is missing, inadequate, or unverified would be highly vulnerable to Judicial Review on the grounds of irrationality and illegality. I demand that the Planning Officer prepares a recommendation for refusal based on the failures to comply with the NPPF and the Environmental Protection Act 1990, thereby upholding the primacy of the Development Plan and the Council's non-negotiable legal duties.