



**The countryside charity
Sussex**

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Ms Joanne Fisher,
Planning Office, Mid Sussex District Council,
Oaklands Road,
Haywards Heath,
West Sussex, RH16 1SS

26th June 2025

Sent by e-mail to: planninginfo@midsussex.gov.uk

Dear Ms Fisher,

Re Outline Planning application DM/25/0445 - Land At Colwell Farm Lewes Road Haywards Heath. Hedgerow Regulations 1997

I am writing to you again in respect of this proposed development site on behalf of CPRE Sussex (CPRESx), the Sussex countryside charity.

CPRESx has been contacted by one of our members, [REDACTED] about the application of the Hedgerow Regulations 1997 (<https://www.legislation.gov.uk/ukxi/1997/1160/contents>) to the development works that the applicant has already carried out and proposes as part of its proposed development scheme.

CPRE was the sponsor of the 1997 Regulations, which were designed to stop the decline in the country's hedges and protect the vital biodiversity role that they play both in the countryside and in towns. The loss of small fields and adjacent hedgerows - the very landscape of this site - to intensive agriculture and development has been one of the most significant causes of the collapse of the country's natural biodiversity that the Government had pledged to reverse. CPRESx therefore has a particular interest in ensuring that developers and others respect those Regulations and that they are effectively enforced.

We have seen [REDACTED] 25th June letter to you explaining that the development site contains important hedgerows as defined within the Regulations, and providing you with evidence to that effect by virtue of its age, length and the number of woody species contained within (see schedule 1 para 7). It may well be that the site hedgerows also qualify as being important under para 6 of schedule 1 by virtue of its wildlife and landscape given the presence on site of multiple species of rare bats and other mammals, but we have not investigated that given that it is rather more complicated to demonstrate, and the hedgerows qualify as important by virtue of para 7.

We do not consider that anything turns on whether the hedges that separate the individual fields are to be regarded as separate hedgerows from the boundary hedging - in practice they appear to us to be continuous.

Important hedgerows are given special protection in the 1997 Regulations because of their relative rarity and the multiple crucial ecological roles that they play in enhancing biodiversity. It is the recognition of the vital significance of those roles that section 5(5) gives planning authorities the

responsibility to preserve important hedgerows and to control, and refuse permission for the removal of, important hedgerows. The onus is placed on the person seeking to remove all or part of an important hedgerow, to apply to do so and to justify that there are sufficiently exceptional circumstances to justify their action. Planning Authorities are also given the power in section 8 to require replanting of hedgerows that have been removed in breach of the Regulations.

All the works preparatory to or necessary to carry out the proposed development scheme that would involve the removal of any part of any important hedgerow on the site would require your authority's prior consent under the 1997 Regulations. Breach of this 1997 Regulation is an offence punishable by a fine. The Regulations also give Councils injunction powers to prevent future breaches.

We do not know whether the proposed applicant is aware of the Regulations' various requirements, but we assume that you would make the applicant aware of it and of whatever your view is of the importance of the hedgerows' undisturbed protection.

We seek to raise two issues with you about the hedgerows on site in this letter.

Firstly, in relation to the planning application itself, and the fact that the development proposed would require the partial removal of the mature important hedgerows, and your consent under the 1997 Regulations to that removal. We were unaware that the hedgerows within and (in part) bounding the site were important hedgerows for the purposes of the 1997 Regulations when we wrote to you on 18th March to explain why we considered that the planning application should be refused on the basis that its multiple adverse impacts significantly outweighed its benefits and that it was therefore contrary to the District's overall development plan.

CPRESx would argue strongly that there are no exceptional circumstances that would substantiate a case by the applicant that there are sufficiently exceptional circumstances to justify your consenting under regulation 5(5) to the necessary partial removal of any of the important hedgerows on the site in order to allow the development to go ahead. The whole purpose of the "important hedgerow" designation and planning control regime is to recognise their rarity and to prevent their willy-nilly loss to housing and other development, a principal cause of huge depletion of the nation's biodiversity. In this case we know that the hedgerows are habitats used by dormice, a conservation priority species, and as important foraging corridors by a considerable variety of bats, including three species of particular rarity. As the land itself is undisturbed and biodiversity-rich, the hedgerows are bound to be an important habitat for many other creatures as well as the woody species that support the hedgerows' classification as important.

Your District Plan has a specific policy DP37 designed to protect hedgerow from new development. This policy should be applied with particular care in the case of important hedgerows and in conjunction with your biodiversity enhancement policy DP38.

It is particularly significant that the applicant has accepted that its development proposal would result in biodiversity loss, not the legally required 10% gain; a problem that the applicant suggests can be overcome for planning consent purposes by buying biodiversity credits to deliver BNG elsewhere. But biodiversity credits cannot replace the ecological value of the integrity of these important hedgerows nor the loss of habitat relied on by rare and legally protected mammal species that rely on them.

Against this background, it surely cannot be that the accepted benefit of new housing on an unallocated site in a designated green corridor amounts to an exceptional circumstance justifying

the removal of lengths of important hedgerow that the 1997 Regulations are designed to protect, when there are other sufficient developable sites within the District which the Council would be willing to allocate¹ to meet its recently imposed standard method housing target.

The fact that

- the hedgerows are so important,
- your District Plan policy DP37 is specifically designed to protect hedgerows from development wherever possible;
- even partial loss of the important hedgerow habitat would adversely affect the site's exceptional biodiversity contrary to District Plan policy DP38;
- there is in our view no exceptional circumstance justification for your Council to consent to their partial removal,
- the development's dependence on their (at least) partial removal contrary to your District Plan policies DP37 and DP38, and
- the applicant's development scheme would have multiple other adverse impacts as detailed in our 18th March submission

surely combine to lead inevitably to the conclusion that the development is not, and cannot be made, sustainable, and should be rejected.

Secondly, [REDACTED] letter highlights that two sections of the important hedgerow separating two of the development site fields have already been grubbed up to create vehicle access to the further part of the site. This is a separate matter of more immediate concern if, as Ms Marson speculates, the removal was carried out without prior application and consent.

Whilst we appreciate that you cannot comment on issues affecting the planning application itself whilst it remains under consideration, we would appreciate your informing us whether your Council would intend to use its powers to require the appropriate replanting of the removed sections if the removal of the sections of hedgerow were carried out without your Council's prior consent, especially if your Council decides to refuse permission for the development applied for?

Yours sincerely,

[REDACTED]

On behalf of CPRE Sussex, the Sussex countryside charity

www.cpresussex.org.uk

[REDACTED]

¹ As evidenced by the submission draft District Plan 2002-2039.