

Formal Objection to Planning Application SMD/2025/0237

Proposed Borehole Water Supply and Soakaway – Side Farm, Cotton

Date: 8 October 2025

This representation is submitted as a late objection because the applicant has not demonstrated any viable or safe method of providing drinking water to the proposed glamping site. The applicant has already confirmed to Cottonbank Farm residents that they will not connect to the shared private water line, which in any event has insufficient pressure and flow. The only option hinted at is a borehole, but this cannot be safely sited within the applicant's land.

The **National Planning Policy Framework (NPPF, 2023)** requires that:

- "Planning policies and decisions should ensure that new development is appropriate for its location taking into account ... the risk of contamination ... and ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination." (NPPF para. 183).
- "Planning decisions should ensure that a site is suitable for its proposed use taking account of pollution ..." (NPPF paras. 174, 183, 185).

The Case Officer has noted that "the issue of water supply is not a material planning consideration but purely a legal or civil matter." We respectfully endorse all the reasons for refusal in the officer's report and subsequently his recommendation for refusal. We simply wish to add clarification: whilst private easements are indeed a legal or civil matter, the question of whether a safe and viable potable water supply can be demonstrated is also relevant to **planning policy requirements**. The National Planning Policy Framework makes clear that development must be safe and suitable for its intended use. On this basis, we suggest that the absence of a demonstrated water supply is material to the planning balance and should be noted as such by the Committee.

Evidence has also been submitted by affected landowners refusing any new easements for water pipes to cross their land. Without an easement, the only remaining option is an on-site borehole — which, as shown below, cannot be located safely. Therefore, there is no viable water supply for the development.

1. Hydrogeological & Land Constraints

- The site lies on fractured sandstone, where contaminants can migrate rapidly along fractures.
- Guidance (EA GP3, WHO, UKWIR) requires 200–300 m up-gradient separation between foul drainage and a potable borehole in such geology.
- Applicant's land offers only 68 m north and 40 m west of the soakaway — far below minimum standards.
- To the south (290 m) lies only down-gradient land, where a borehole would intercept effluent.
- In summary, no borehole on this land can be compliant.

2. Wastewater Loading

- The soakaway must handle sewage from 16 people plus hot tub discharges (~3.77 m³/day).
- Effluent contains pathogens and chlorination by-products; in fractured aquifers travel time can be days, not years.
- A persistent contamination plume is inevitable.

3. Environmental Receptors

These matters have already been raised in earlier objections and are only listed here for completeness:

- Cotton Brook and ancient woodland within the nature reserve lie immediately east and are highly sensitive.
- Risk of contamination would conflict with NPPF paras. 174 & 180 and the Water Framework Directive.

4. Policy & Legal Considerations

- NPPF paras. 174, 183, 185 require planning decisions to ensure development is safe for intended use.
- Private Water Supplies Regulations 2016 require local authorities to refuse unsafe supplies.
- Planning conditions cannot resolve the absence of a water supply unless deliverable. Under long-established legal principles, conditions must meet the six tests (see Appendix). A condition requiring a potable supply here would be unenforceable and unreasonable.

5. Alternatives

- On-site borehole: unsafe due to soakaway proximity and fractured sandstone.
- New private mains extension: requires easements over multiple third-party lands; affected owners have

confirmed they will not permit this.
- No alternative has been demonstrated.

6. Conclusion

This application fails to demonstrate a safe, viable potable water supply. Without this, the development is unsuitable for its intended use, contrary to NPPF paras. 174, 183, 185 and the Private Water Supplies Regulations 2016.

We therefore support the officer's recommendation for refusal and respectfully request the Committee include this issue as a material planning reason for refusal in its own right.

Legal Appendix: Six Tests & Judicial Principles

The Six Tests (NPPF / Planning Practice Guidance):

1. Necessary – development would be unacceptable without it
2. Relevant to planning – relates to a planning matter
3. Relevant to the development – directly connected
4. Enforceable – legally enforceable
5. Precise – clear and unambiguous
6. Reasonable in all other respects – fair, proportionate, not impossible

Source: UK Government Planning Guidance: <https://www.gov.uk/guidance/use-of-planning-conditions>

Judicial Principles and Case Law:

- Newbury DC v Secretary of State for the Environment [1981] AC 578 – Established that conditions must (i) be for a planning purpose, (ii) fairly relate to the development, (iii) not be so unreasonable that no reasonable authority could impose them.

- Fawcett Properties Ltd v Buckingham CC [1961] AC 636 – Planning permissions and conditions must be certain and precise.

- R (on the application of Suliman) v Bournemouth, Christchurch and Poole Council [2021] EWHC 2532 (Admin) – Conditions must not be impossible to fulfil.

Full text: <https://www.bailii.org/ew/cases/EWHC/Admin/2021/2532.html>

- Trump International Golf Club Scotland Ltd v Scottish Ministers [2015] UKSC 74 – Supreme Court reaffirmed that planning conditions must be interpreted objectively and cannot exceed statutory powers.

Full text: <https://www.supremecourt.uk/cases/docs/uksc-2015-0026-judgment.pdf>

- Planning Practice Guidance (Effective use of conditions, PAS/Local Government Association) – Conditions must meet the six tests.

Full text: <https://www.local.gov.uk/pas/development-mgmt/conditions/effective-use-conditions>

Figures

Figure 1: Plan-view risk map

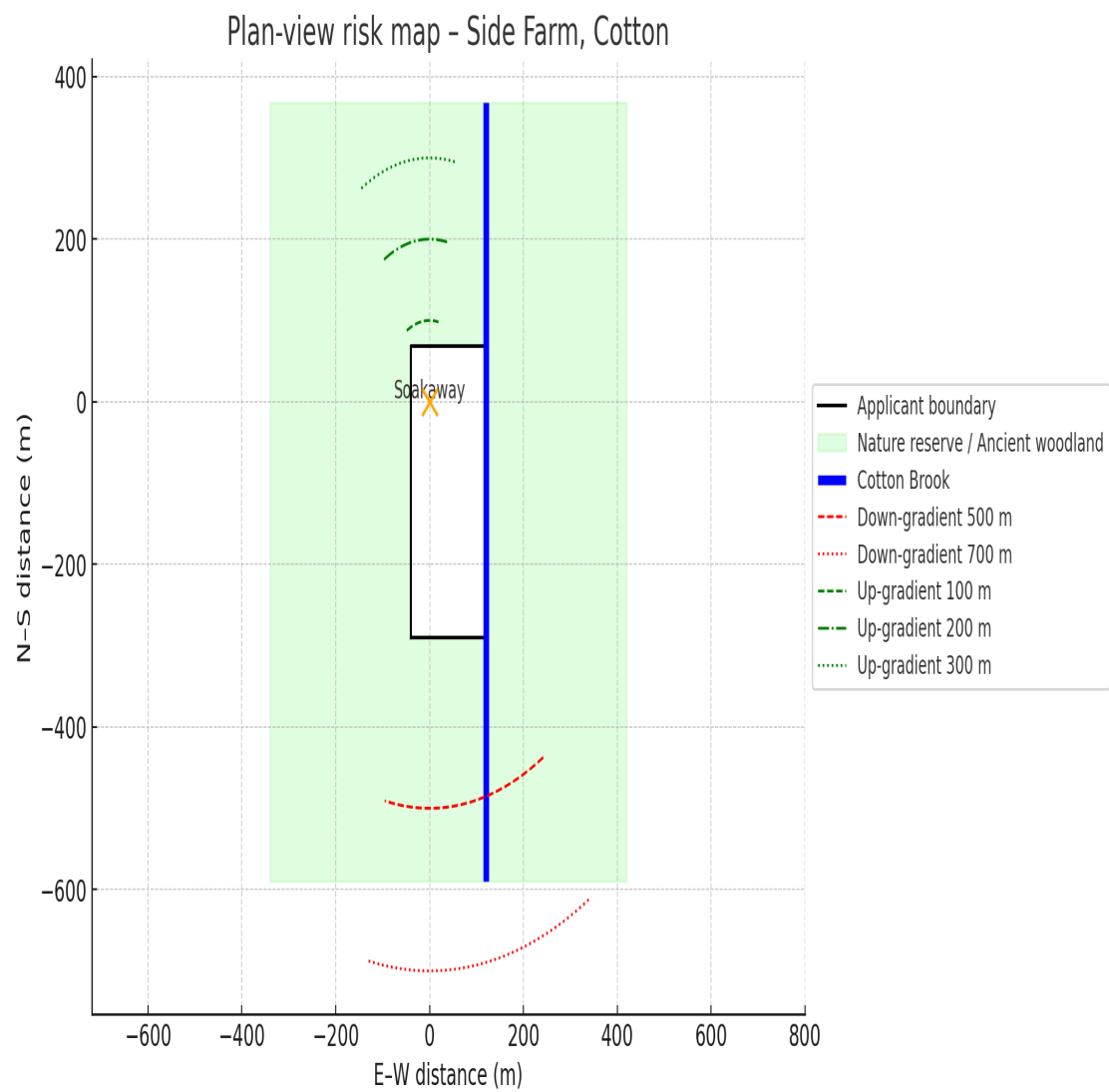


Figure 2: Conceptual cross-section

Cross-section: Soakaway → Borehole → Brook

