09 October 2026

[redacted]

Horsham District Council,
Albery House
Springfield Road
Horsham
West Sussex
RH12 2GB

Our ref: EP2205/SE
Your ref: DC-19-1912

Dear Sirs

CHERRY TREE INN, CRAWLEY ROAD, FAYGATE, WEST SUSSEX
SECTION 73A APPLICATION - PLANNING PERMISSION FOR DEVELOPMENT ALREADY CARRIED OUT

This letter supports a planning application submitted in respect of the Cherry Tree Inn, where planning permission was granted on 6th January 2021 for the following development:

> *Change of use of public house (A4) to restaurant/cafe (A3) and hot food takeaway (A5). Demolition of existing single storey rear extension and erection of a rear extension, including internal and external alterations, with associated parking and landscaping. (Full Application*)

Listed Building consent (Ref. DC-19-1913) for the proposed development was also granted on the same date.

Background

Following planning permission, development was undertaken at the Cherry Tree Inn, comprising the digging of trenches for foundations and the demolition of part of the roof in December 2023, however at that time there was a pre-commencement condition which had not yet been discharged.

Condition 3 required that:

> *No development shall take place, including any works of demolition, until a Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority.*

Whilst the CEMP had been submitted on Thu 14 Dec 2023 (Ref. DC/23/2283) this was not approved by the Council until 4th January 2024. Plainly, the works in December 2023 were not lawful at the time they were undertaken and could not constitute implementation of the permission prior to the approval of Condition 3. The permission expired on 6th January 2024.

The Current Application

Section 73A of the Town and Country Planning Act 1990 (as amended) states:

> ***73A Planning permission for development already carried out.***
>
> *(1) On an application made to a local planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application.*

Top Ten Small Firms 2024/25 PLANNING Planning Resource Source: Planning Consultancy Market Report 2025

Edgeplan Limited Registered in England and Wales No. 08077578
Registered Office Reedham House 31 King Street West, Manchester M3 2PJ

RTPI Royal Town Planning Institute

(2) Subsection (1) applies to development carried out—

(a) without planning permission;

(b) in accordance with planning permission granted for a limited period; or

(c) without complying with some condition subject to which planning permission was granted.

(3) Planning permission for such development may be granted so as to have effect from—

(a) the date on which the development was carried out; or

(b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period

Section 73A allows for development carried out before the date of the current application so as to have effect from the date on which that development was carried out. The procedure enables retrospective planning applications to be made to authorise development which has been carried out without complying with some planning condition. In effect, S73A allows for the development, as built to date, to be regularised.

The procedure also allows for conditions, as previously attached to application DC-19-1912), to be amended. It is proposed that certain pre-commencement conditions imposed in application DC-19-1912 be reworded to enable compliance with the details now submitted (as previously approved in 2024).

Proposed Development

This application is submitted under S73A and seeks permission for development carried out before the date of the application as well as minor amendments to the layout of the car park to provide EV Charging as required by condition 5 of the original permission. The development is otherwise unchanged from that approved in January 2021.

The previously approved drawings have been resubmitted with the exception of the Proposed Site Plan, which has been redrawn to now include provision for EV Charging facilities.

The additional reports originally submitted with the 2019 application are not now necessary to determine the current application, as the principle of development has been established and there have been no material changes in circumstances (including in relation to Ecology/Trees, Transport & Heritage) since permission was granted in January 2021.

Development Plan

At the time of the previous permission, the Adopted Development Plan was the Horsham District Planning Framework (2015). The determination was made in accordance with the policies and provisions of this plan.

Whilst the replacement Horsham District Local Plan has been submitted to the Secretary of State for independent examination (July 2024), that examination remains underway and the Replacement Plan is not expected to be adopted until 2027 at the very earliest.

Accordingly, this application should be determined under the same policies and provisions contained in the adopted Horsham District Planning Framework (2015).

Top Ten Small Firms 2024/25 PLANNING Planning Resource Source: Planning Consultancy Market Report 2025

Edgeplan Limited Registered in England and Wales No. 08077578
Registered Office Reedham House 31 King Street West, Manchester M3 2PJ

RTPI Royal Town Planning Institute

Other Material Considerations

The National Planning Policy Framework has been updated several times since the original determination of the previous planning permission. Nevertheless, the provisions relating to Rural Economic Development have not changed materially. For these reasons, it is considered that the application continues to accord with national planning guidance.

Conditions

The application proposes to reword certain conditions which were imposed on application DC-19-1912 to accord with details now submitted with the current application. All other conditions seeking approval of detailed aspects of the scheme should be retained as originally worded.

Condition 1 (Schedule of Plans/Documents)

The proposed Site Plan has been updated. The reference should be changed from 1073.17D to 0708(P)103.

Condition 3 (CEMP)

It is proposed that this condition is reworded to become a Regulatory (Compliance) condition. The CEMP submitted with the application is the same as was previously submitted in December 2023 and approved in January 2024

> *Regulatory Condition: The Development hereby approved shall be undertaken in accordance with the Construction Environmental Management Plan (CEMP) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.*

Condition 5 (EV Charging)

Details of EV Charging have been provided including the location of spaces and equipment which are shown on the Proposed Site Plan. We have provided details of the specification of the charging upstands and other electricity cabinets required. The long term maintenance of the charging facilities will be secured via a lease to Be.EV - the UK's second highest-rated rapid and ultra-rapid medium charging network and majority owned by Octopus Energy Generation (https://be-ev.co.uk/). Be.EV will be responsible for maintaining the equipment in working order, pricing & payment and replacing faulty or outdated units when necessary. This is the best current means of providing the facilities on an ongoing basis.

It is proposed that condition 5 is reworded to become a Regulatory (Compliance) condition.

> *Regulatory Condition: The Development hereby approved shall be undertaken in accordance with the Electric Vehicle Strategy for the provision for charging of electric vehicles by way of fast charging points. The means for charging electric vehicles shall be retained as such thereafter.*

Conclusion

The current application has been submitted in accordance with s73A of the Town & Country Planning Act and seeks permission for development which has already been carried out at the site in partial implementation of the scheme for change of use of the former public house to a restaurant/cafe (A3) and hot food takeaway (A5).

The application is accompanied by the originally approved drawings, with additional details in respect of a (previously approved) Construction Environmental Management Plan (CEMP) and a current strategy for EV Charging provision by way of fast charging points.

Top Ten Small Firms 2024/25 PLANNING Planning Resource Source: Planning Consultancy Market Report 2025

Edgeplan Limited Registered in England and Wales No. 08077578
Registered Office Reedham House 31 King Street West, Manchester M3 2PJ

RTPI Royal Town Planning Institute

The application continues to accord with the provisions of the Adopted Horsham District Planning Framework (2015) and there are no other material considerations that indicate the application should be determined otherwise than in accordance with the Development Plan.

For these reasons, planning permission should be granted without delay.

Please let me know if you require any additional details.

[redacted]

Top Ten Small Firms 2024/25 PLANNING Planning Resource Source: Planning Consultancy Market Report 2025

Edgeplan Limited Registered in England and Wales No. 08077578
Registered Office Reedham House 31 King Street West, Manchester M3 2PJ

RTPI Royal Town Planning Institute