Date: 22 April 2025
Our ref: 508549
Your ref: HRA/24/0018

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Kate Turner
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**BY EMAIL ONLY**

Dear Ms Turner,

**Planning consultation: Application under Regulation 77 of the Conservation of Habitats and Species Regulations 2017 in respect of Prior Approval consent DC/23/0603.**
**Location: Freshwater Parade Bishopric Horsham West Sussex**

Thank you for your consultation on the above dated 01 April 2025 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

**SUMMARY OF NATURAL ENGLAND'S ADVICE**

**FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES**

As submitted, the application could have potential significant effects on Arun Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site as well as Amberley Wild Brooks site of Special Scientific Interest (SSSI) and Pulborough Brooks SSSI. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- Further information relating to the proposed use of Cenergist flow restrictors.

Without this information, Natural England may need to object to the proposal.

Please re-consult Natural England once this information has been obtained.

Natural England's further advice on designated sites/landscapes and advice on other issues is set out below.

**Habitats Regulations Assessment**

The development site is located close to Arun Valley SPA, SAC and Ramsar site. Natural England considers that the proposed works could result in a likely significant effect or a "relevant effect" in line with Regulation 77 of The Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). In coming to this view Natural England must exclude the consideration of measures that are specifically designated to avoid or reduce harmful effects on a European Site.

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for any adverse effects, it is the advice of Natural England that **it is not possible** to ascertain that the proposal will not result in adverse effects on the integrity of the sites in question.

Natural England advises that the assessment does not currently provide enough information and/or certainty to justify the assessment conclusion and that your authority should not grant planning permission at this stage.

We have no comment to make on other prior approval matters included in the consultation.

We recommend that should your authority give its prior approval to the proposed permitted development; the following paragraphs are included on the decision notice as advisory notes to the applicant.

*Site of Special Scientific Interest*

Should prior approval be given, and before a landowner commences a permitted development within a Site of Special Scientific Interest (SSSI), they must give written notice to Natural England and await its consent[1]. See here for further details.

Should prior approval be given, and before a public body, statutory undertaker or other body commences a permitted development within or might affect a Site of Special Scientific Interest (SSSI), it must give written notice to Natural England and await its assent or, in some cases, its advice. See here for further details.

*Protected Species*

In addition to the advice in this letter, there may be impacts on protected species and a mitigation licence may be required from Natural England. Further information can be found here https://www.gov.uk/guidance/wildlife-licences

**Additional Information Required**

The proposed development falls within the Sussex North Water Supply Zone (SNWSZ). As set out in Natural England's Advice Note regarding planning applications within the SNWSZ, the existing

[1] Because permitted development is not authorised by a planning permission granted following an application under Part III of the Town and Country Planning Act 1990, it is not a 'reasonable excuse' under section 28P(4) of the 1981 Wildlife and Countryside Act to carry out operations affecting a Site of Special Scientific Interest without giving prior notice to Natural England and without receiving its prior SSSI assent/consent/advice. Failure to do so is an offence.

water supply in the zone cannot be ruled out as contributing to the declines in wildlife within the internationally protected Arun Valley SPA, SAC and Ramsar sites. Ensuring that there is no net increase in water consumption is recognised as a suitable method to rule out potential adverse effects on the integrity of these sites arising from development.

Natural England previously responded to this planning application (our ref: 503282, dated 07 March 2025) and advised that further information was required to determine impacts on designated sites. Natural England has considered the information provided in the submitted Water Audit Report (V4 dated 26 March 2025) and Water Neutrality Report (V4 dated 27 March 2025) and advise that the following further information is required:

Cenergist Flow Restrictors

We note that the applicant is proposing to install flow restrictors into existing housing stock to offset the increased water demand from the proposed development. As previously advised (our ref: 503282, dated 07 March 2025), while the retrofitting of Cenergist Control Flow HL2024 devices can be considered appropriate mitigation, a precautionary offsetting value of 27 litres per person per day is only applicable to existing dwellings that:

- Are supplied via mains connection within the Sussex North Water Resource Zone.
- Were built prior to 2015 when tighter Buildings Regulations water efficiency standard was introduced.
- Do not already benefit from significant water efficiency measures, for example rainwater harvesting or existing flow restrictors.

We are satisfied that the applicant has clarified that the properties meet these criteria in page 15 of the updated Water Neutrality Report (V4 dated 27 March 2025).

We note that the applicant has calculated a 'daily available water offsetting volume' of 453.6 l/d using a 'target savings' value which is based on an occupancy of 2.4 persons per dwelling. Horsham District has provided set average occupancy rates based upon 2011 census data which can be found on their website. We recommend that these occupancy rates are used when calculating the water offsetting volume to ensure robustness. However, it should be noted that your authority may choose to accept bespoke occupancy rates based upon sound evidence. If this is the case then this should be clearly considered within your authority's appropriate assessment.

In addition, your authority will need to be satisfied that the dwellings are available for retrofitting, the implementation of flow restrictors can be suitably secured in perpetuity and that there will be no 'double counting' of offsetting capability for this, or future proposals.

Ongoing Management, Monitoring and Maintenance

Natural England previously advised (our ref: 503282, dated 07 March 2025) that further information regarding the ongoing management, monitoring and maintenance of mitigation measures was required. We note that the applicant has provided further information on this in their updated Water Neutrality Report (V4 dated 27 March 2025), in which they stated that the greywater harvesting system will be installed and maintained on the property in perpetuity (page 10), and the Cenergist Control Flow HL2024 will be maintained in perpetuity by The Housing Association (page 13). Your authority has considered this in your HRA. We advise that your authority needs to be satisfied that the ongoing management, monitoring and maintenance of mitigation measures will be secured in perpetuity in order to pass through appropriate assessment.

**Final Comments**

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow

a further period of 21 days before the operation can commence.

Further general advice on the protected species and other natural environment issues is provided at Annex A.

If you have any queries relating to the advice in this letter please contact me [redacted]

Please consult us again once the information requested above, has been provided.

Yours sincerely,

Eleanor Curran
Sustainable Development Officer
Sussex and Kent

# Annex A –Natural England general advice

**Protected Landscapes**
Paragraph 182 of the National Planning Policy Framework - GOV.UK (www.gov.uk) (NPPF) requires great weight to be given to conserving and enhancing landscape and scenic beauty within Areas of Outstanding Natural Beauty (known as National Landscapes), National Parks, and the Broads and states that the scale and extent of development within all these areas should be limited. Paragraph 183 requires exceptional circumstances to be demonstrated to justify major development within a designated landscape and sets out criteria which should be applied in considering relevant development proposals. Section 245 of the Levelling-up and Regeneration Act 2023 (legislation.gov.uk) places a duty on relevant authorities (including local planning authorities) to seek to further the statutory purposes of a National Park, the Broads or an Area of Outstanding Natural Beauty in England in exercising their functions. This duty also applies to proposals outside the designated area but impacting on its natural beauty.

The local planning authority should carefully consider any impacts on the statutory purposes of protected landscapes and their settings in line with the NPPF, relevant development plan policies and the Section 245 duty. The relevant National Landscape Partnership or Conservation Board may be able to offer advice on the impacts of the proposal on the natural beauty of the area and the aims and objectives of the statutory management plan, as well as environmental enhancement opportunities. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to development and its capacity to accommodate proposed development.

**Wider landscapes**
Paragraph 180 of the NPPF highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland, or dry-stone walls) could be incorporated into the development to respond to and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape and Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Guidelines for Landscape and Visual Impact Assessment (GLVIA3) - Landscape Institute for further guidance.

**Biodiversity duty**
Section 40 of the Natural Environment and Rural Communities Act 2006 (legislation.gov.uk) places a duty on the local planning authority to conserve and enhance biodiversity as part of its decision making. We refer you to the Complying with the biodiversity duty - GOV.UK (www.gov.uk) for further information.

**Designated nature conservation sites**
Paragraphs 186-188 of the NPPF set out the principles for determining applications impacting on Sites of Special Scientific Interest (SSSI) and habitats sites. Both the direct and indirect impacts of the development should be considered. A Habitats Regulations Assessment is needed where there is a likely significant effect on a habitats site and Natural England must be consulted on 'appropriate assessments'. We refer you to Appropriate assessment - GOV.UK (www.gov.uk) for more information. Natural England must also be consulted where development is in or likely to affect a SSSI and provides advice on potential impacts on SSSIs either via the SSSI Impact Risk Zones (England) (arcgis.com) or as standard or bespoke consultation responses.

**Protected Species**
Natural England has produced Protected species and development: advice for local planning authorities (gov.uk) (standing advice) to help planning authorities understand the impact of particular developments on protected species. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances. A protected species licence may be required in certain cases. We refer you to Wildlife licences: when you need to apply - GOV.UK (www.gov.uk) for more information.

# Annex A –Natural England general advice

**Local sites and priority habitats and species**
The local planning authority should consider the impacts of the proposed development on any local wildlife or geodiversity site, in line with paragraphs 180, 181 and 185 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity to help nature's recovery. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies. Emerging Local nature recovery strategies - GOV.UK (www.gov.uk) may also provide further useful information.

Priority habitats and species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest on the Magic website or as Local Wildlife Sites. We refer you to Habitats and species of principal importance in England - GOV.UK (www.gov.uk) for a list of priority habitats and species in England.

Natural England does not routinely hold species data. Such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land. We refer you to the Brownfield Hub - Buglife for more information and Natural England's Open Mosaic Habitat (Draft) - data.gov.uk (Open Mosaic Habitat inventory), which can be used as the starting point for detailed brownfield land assessments.

**Biodiversity and wider environmental gains**
Development should provide net gains for biodiversity in line with the NPPF paragraphs 180(d), 185 and 186. Major development (defined in the National Planning Policy Framework (publishing.service.gov.uk) glossary) is required by law to deliver a biodiversity gain of at least 10% from 12 February 2024 and this requirement is expected to be extended to smaller scale development in spring 2024. For nationally significant infrastructure projects (NSIPs), it is anticipated that the requirement for biodiversity net gain will be implemented from 2025.

For further information on the timetable for mandatory biodiversity net gain, we refer you to Biodiversity Net Gain moves step closer with timetable set out - GOV.UK (www.gov.uk). Biodiversity net gain - GOV.UK (www.gov.uk) provides more information on biodiversity net gain and includes a link to the draft Biodiversity net gain - GOV.UK (www.gov.uk) Planning Practice Guidance.

The statutory biodiversity metric should be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. We refer you to Calculate biodiversity value with the statutory biodiversity metric - GOV.UK (www.gov.uk) for more information. For small development sites, The Small Sites Metric - JP040 (naturalengland.org.uk) may be used. This is a simplified version of the statutory biodiversity metric and is designed for use where certain criteria are met.

The mitigation hierarchy as set out in paragraph 186 of the NPPF should be followed to firstly consider what existing habitats within the site can be retained or enhanced. Where on-site measures are not possible, provision off-site will need to be considered.

Development also provides opportunities to secure wider biodiversity enhancements and environmental gains, as outlined in the NPPF (paragraphs 8, 74, 108, 124, 180, 181 and 186). Opportunities for enhancement might include incorporating features to support specific species within the design of new buildings such as swift or bat boxes or designing lighting to encourage wildlife.

The Environmental Benefits from Nature Tool - Beta Test Version - JP038 (naturalengland.org.uk) may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside the statutory biodiversity metric.

Natural environment - GOV.UK (www.gov.uk) provides further information on biodiversity net gain, the mitigation hierarchy and wider environmental net gain.

# Annex A –Natural England general advice

**Ancient woodland, ancient and veteran trees**
The local planning authority should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 186 of the NPPF. The Natural England Access to Evidence - Ancient woodlands Map can help to identify ancient woodland. Natural England and the Forestry Commission have produced Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK (www.gov.uk) (standing advice) for planning authorities. It should be considered when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

**Best and most versatile agricultural land and soils**
Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 180 and 181). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in the Guide to assessing development proposals on agricultural land - GOV.UK (www.gov.uk). Find open data - data.gov.uk on Agricultural Land Classification or use the information available on MAGIC (defra.gov.uk).

The Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (publishing.service.gov.uk) provides guidance on soil protection, and we recommend its use in the design and construction of development, including any planning conditions. For mineral working and landfilling, we refer you to Reclaim minerals extraction and landfill sites to agriculture - GOV.UK (www.gov.uk), which provides guidance on soil protection for site restoration and aftercare. The Soils Guidance (quarrying.org) provides detailed guidance on soil handling for mineral sites.

Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

**Green Infrastructure**
For evidence-based advice and tools on how to design, deliver and manage green and blue infrastructure (GI) we refer you to Green Infrastructure Home (naturalengland.org.uk) (the Green Infrastructure Framework). GI should create and maintain green liveable places that enable people to experience and connect with nature, and that offer everyone, wherever they live, access to good quality parks, greenspaces, recreational, walking and cycling routes that are inclusive, safe, welcoming, well-managed and accessible for all. GI provision should enhance ecological networks, support ecosystems services and connect as a living network at local, regional and national scales.

Development should be designed to meet the 15 GI How Principles (naturalengland.org.uk). The GI Standards can be used to inform the quality, quantity and type of GI to be provided. Major development should have a GI plan including a long-term delivery and management plan. Relevant aspects of local authority GI strategies should be delivered where appropriate.

The Green Infrastructure Map (naturalengland.org.uk) and GI Mapping Analysis (naturalengland.org.uk) are GI mapping resources that can be used to help assess deficiencies in greenspace provision and identify priority locations for new GI provision.

**Access and Recreation**
Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths, together with the creation of new footpaths and bridleways should be considered. Links to urban fringe areas should also be explored to strengthen access networks, reduce fragmentation, and promote wider green infrastructure.

**Rights of Way, Access land, Coastal access and National Trails**
Paragraphs 104 and 180 of the NPPF highlight the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal

## Annex A –Natural England general advice

access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. We refer you to Find your perfect trail, and discover the land of myths and legend - National Trails for information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

Further information is set out in the Planning Practice Guidance on the Natural environment - GOV.UK (www.gov.uk).