Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/25/1900
Hen And Chicken , Worthing Road, Southwater, West Sussex, RH13 9BH

DESCRIPTION:

Installation of new ducting. (Retrospective).

RELEVANT PLANNING HISTORY:

DC/20/0625	Erection of a detached dwelling with associated access from Worthing Road, parking, and amenity space following alterations to the car park and garden of the pub.	Withdrawn Application on 12.06.2020
DC/21/0530	Construction of detached dwelling with new access from Worthing Road on land to the south of the Hen & Chicken public house.	Application Refused on 07.05.2021
DC/22/0131	Retention of outdoor seating area within covered decking area and retention of extraction system.	on
DC/22/1715	Retention of outdoor seating area within covered decking area and retention of extraction system.	Application Refused on 06.03.2023
DC/23/1596	Construction of outdoor seating area and decking.	Application Permitted on 22.02.2024
DC/24/0676	Erection of outbuilding and fencing (Retrospective)	Application Permitted on 29.08.2024
DISC/24/0251	Application for Approval of Details Reserved by Condition 2 to approved application DC/23/1596	Application Permitted on 20.11.2024

ENFORCEMENT HISTORY

The application site is subject of an Enforcement Notice under reference EN/23/0109 which relates to:

“Without planning permission, the installation of metal ducting to the external elevation of the building comprising a mechanical ventilation system…”

The reasons for issuing the Notice are as follows:

1. The breach of planning control constituting the unauthorised development has occurred within the last 4 years. By reason of its siting and design and proximity of the building to the neighbouring residential properties, it is considered the extraction equipment is causing unacceptable harm to neighbouring amenity by way of noise and disturbance, with insufficient information submitted to demonstration that mitigation is possible to address the magnitude of this impact. Therefore, the development is considered contrary to Policy 33 of the Horsham District planning Framework (2015).

   The size and design of the extraction equipment results in an incongruous form of development which detracts from the visual appearance of the building in the street scene and is having a determinantal impact on the character and appearance of the host building. The development is

therefore contrary to Policies 33 and 34 of the Horsham District Planning Framework (2015) and Policies SNP16 and SNP19 of the Southwater Neighbour Development Plan (2019-2031). Council does not consider that planning permission should be given, because planning conditions could not overcome these objections to the development and an application for planning permission under reference DC/22/1715 has been refused.

The Enforcement Notice requires the following:

(i) Dismantle and remove the said metal ducting and extraction equipment from the external elevation of the building.

(ii) Make good the fabric of the building by infilling any holes left after removing the equipment and paint the walls to match existing; and

(iii) Remove the resulting scrap metal and debris from the Land.

The time for compliance is within 6 months from the effective date of the Notice.

RELEVANT PLANNING POLICIES

The National Planning Policy Framework (NPPF)

Horsham District Planning Framework (2015):
Policy 1 - Strategic Policy: Sustainable Development
Policy 2 - Strategic Policy: Strategic Development
Policy 3 - Strategic Policy: Development Hierarchy
Policy 4 - Strategic Policy: Settlement Expansion
Policy 7 - Strategic Policy: Economic Growth
Policy 11 - Tourism and Cultural Facilities
Policy 24 - Strategic Policy: Environmental Protection
Policy 25 - Strategic Policy: The Natural Environment and Landscape Character
Policy 31 - Green Infrastructure and Biodiversity
Policy 32 - Strategic Policy: The Quality of New Development
Policy 33 - Development Principles
Policy 34 - Cultural and Heritage Assets
Policy 35 - Strategic Policy: Climate Change
Policy 36 - Strategic Policy: Appropriate Energy Use
Policy 37 - Sustainable Construction
Policy 38 - Strategic Policy: Flooding
Policy 40 - Sustainable Transport
Policy 41 - Parking
Policy 42 - Strategic Policy: Inclusive Communities
Policy 43 - Community Facilities, Leisure and Recreation

Paragraph 33 of the NPPF requires that all development plans complete their reviews no later than 5 years from their adoption. Horsham District Council is currently in the process of reviewing its development plan however at this stage the emerging policies carry only limited weight in decision making. As the HDPF is now over 5 years old, the most important policies for the determination of this application must be considered as to whether they are 'out of date' (NPPF paragraph 11d). This includes, for applications involving the provision of housing, whether the Council can demonstrate a five year supply of deliverable housing sites (NPPF footnote 8).

The Council is currently unable to demonstrate a five year supply of deliverable housing sites, with the supply currently calculated as being 1 year. The presumption in favour of development within Paragraph 11d) of the NPPF therefore applies in the consideration of all applications for housing development within the District (unless footnote 7 or Paragraph 14 applies to relevant applications), with Policies 2, 4, 15 and 26 now carrying only moderate weight in decision making.

All other policies within the HDPF as itemised above have been assessed against the NPPF and are considered to be consistent such that they continue to attract significant weight in decision making.

Horsham District Local Plan (2023-40) (Regulation 19)

Supplementary Planning Guidance:
Planning Obligations and Affordable Housing SPD (2017)
Community Infrastructure Levy (CIL) Charging Schedule (2017)

Southwater Neighbourhood Development Plan (SNDP) 2019-2031:
SNP16 – Design
SNP19 – Parish Heritage Assets
SMP20 – Assets of Community Value

Planning Advice Notes:
Facilitating Appropriate Development
Biodiversity and Green Infrastructure

REPRESENTATIONS AND CONSULTATIONS RESPONSES

Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

Consultations:

INTERNAL CONSULTATIONS

HDC Conservation: Comment

The impact on this locally listed building was considered by the appeal inspector under reference APP/Z3825/C/24/3336623. No further comments would therefore be raised although it is noted that the new plans show part of the fencing to be removed, which would make the plant more visible from Worthing Road.

HDC Environmental Health: No Objection

The Application is supported by a specification report for odour control prepared by Purified Air and this Service accepts the proposals as presented. The report has correctly identified through the use of the Guidance's Appendix 3 Risk Assessment that a 'High-level' of odour control would be required at this site and the performance specification subsequently proposed is considered appropriate. To this end, this Service has No Objection to Application.

However, this Service makes the recommendations in relation to the ongoing maintenance of the proposed system and abate the potential for noise disturbance from operation of the plant and recommends conditions to minimise disturbance to residential properties nearby should the Application be Permitted

PUBLIC CONSULTATIONS:

Representations:

None received

Parish Comments:

None received

Member Comments:

None received

HUMAN RIGHTS AND EQUALITY:

The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

PLANNING BACKGROUND

This application is for retrospective permission for ducting at Hen and Chicken, Southwater. Hen and Chicken is an 18th Century gastro-pub located in Southwater on Worthing Road and has been identified as a Parish Heritage Asset under Policy SNP19 of the SNDP. Worthing Road is a main road of mix uses including Hen and Chicken itself and various houses of mixed architectural styling. The site is subject to enforcement notices due to the existing flue that is located where the proposed flue is to be positioned.

Previously DC/22/1715 (Retention of outdoor seating area within covered decking area and retention of extraction system) was refused. The reason for refusal is detailed below:

1. *The extract equipment, in the absence of sufficient information to indicate otherwise, has resulted in unacceptable harm to neighbouring amenity by way of noise and disturbance, with insufficient information submitted to demonstrate that mitigation is possible to address the magnitude of this impact. The extract has therefore resulted in unacceptable harm to amenity for occupiers / users of nearby noise sensitive properties and land and is contrary to Policy 33 of the Horsham District Planning Framework (2015).*

Following this refusal, an Enforcement Notice was served under reference EN/23/0109. This Notice was subsequently appealed under reference APP/Z3825/C/24/3336623, where the main issues were the effect of the development on the living conditions for the neighbouring residential occupiers on Netherton Close with particular regard to cooking odours, noise, and disturbance, and the character and appearance of the host building and area.

The Inspector noted that no noise assessment by an acoustic consultant had been provided to demonstrate that the noise from the existing extraction duct is inaudible from the nearest noise sensitive premises, where noise from Netherton Close had been reported to be audible. It was considered that noise from the extraction duct in the evenings and weekends, when background noise levels are typically lower, are likely to be more intrusive and consequently more harmful. In addition, it was considered that noise from the duct is expected to be particularly harmful during summer months when neighbouring occupiers are likely to have windows open for ventilation.

The details of odour extraction of the in situ unit did not reflect the Council's Environmental Health Officer's preferred methods of non-impeded vertical discharge as efflux point, rather than a cowl. A high level of odour control was noted to be necessary for the development, where it was witnessed during the site visit that there was an aroma of cooking smells coming from the extraction equipment on Netherton Close. Given the close proximity of neighbouring residents to the extraction system, and in the absence of strong evidence that the existing extraction equipment is not causing harm, the Inspector was not satisfied that the matters could be addressed by condition.

The Inspector noted that the extract duct had been subject of a previous planning application that had been refused, where the Officer Report noted that the extract duct would not be an unexpected addition

to a building/use as this. The Inspector agreed that a form of extraction equipment is essential for the lawful use of the site as a public house. The Inspector notes that since the Notice had been served, a black painted close boarded fence had been installed outside the kitchen, screening the lower parts of the duct from public views. Whilst the higher parts of the duct remain visible, the location of the duct is situated behind the existing tall chimney stack, where the building had been panted light grey. In combination, the Inspector considered that the position of the development and colour help to harmonise the extraction duct to the building and surrounding area. Therefore, on balance, the development was not considered to harm the character and appearance of the host building (a Parish Heritage Asset) and the area.

PLANNING ASSESSMENT

Principle of Development:

Policy 11 in the HDPF seeks for proposals to promote tourism and enhance local cultural facilities, including recreation based rural diversification, will be encouraged. Any development should be of a scale and type appropriate to the location and should increase the range, or improve the quality of accommodation, attraction or experiences for tourists, day visitors, business visitors, and residents in the District.

Policy 43 of the HDPF seeks to acquire the provision for new or improved community facilities where they meet the identified needs of the community. A community's sustainability is dependent on the services and facilities that they access. As such, this policy seeks to provide, retain and enhance existing facilities and services for the local community to benefit from.

Policy SNP19 of the Southwater Parish Neighbourhood Plan states that development proposals will be supported where they protect and, where possible, enhance Parish Heritage Assets.

Policy SNP20 of the SNP states development proposals affecting Assets of Community Value will be supported where it can be demonstrated the development will be of benefit to the local community.

At present, there is an existing extraction system sited on the Hen and Chicken which is currently subject to an Enforcement Notice. The current application seeks permission for extraction equipment whilst addressing the outstanding matters raised in respect of noise and odour.

Matters of noise and odour will be addressed in the Residential Amenity section of the Report. It is however considered that the principle of siting extraction equipment within the site is acceptable as it would facilitate serving food to patrons as part of its lawful use as a public house. The extraction equipment would therefore allow the continued operation of the pub, supporting and enhancing the facility.

The principle of the development is therefore considered acceptable, subject to all other material considerations.

Design and Appearance:

Policy 32 and 33 of the HDPF seeks to ensure that development promotes a high standard and quality of design in order to enhance and protect locally distinctive characters. The policies also seek to ensure that the scale, massing and appearance of development relates sympathetically with the built surroundings, landscape, open spaces and routes within and adjoining the site, including any impact on the skyline and important views.

SNP16 advocates for design to be of high quality. Though there is no specific architectural style to Southwater, design should be appropriate and respectful of the neighbouring amenity in terms of privacy, outlook, daylight and sunlight.

The existing extraction system (subject to Enforcement Notice reference EN/23/0109) is to be replaced by the proposed development. The system would be located on the eastern elevation, replacing the

existing equipment, with the installed fencing obscuring direct view. The flue stack which is connected to the system is sited on the rear north elevation against the existing chimney breast and is of the same height as the existing chimney breast.

The Appeal Inspector recognised that an extraction system would be expected on a building such as this, with the location of the ducting, screened from view and read against the light grey colour of the external walls, not considered to result in harm to the character and appearance of the host building.

Whilst it is recognised that the proposed system would be slightly bulkier than the existing unlawful extraction system, with the fence panels removable to allow access for maintenance, the proposal is considered to be comparable in terms of visual impact to the previous system. The conclusions of the Inspector are therefore considered to be of significant weight, where it is not considered that the proposed alterations would be of such significance to reach a different conclusion on the impact to the host building. The proposed development is not considered to result in harm to the character and appearance of the building, or it's importance as a Parish Heritage Asset, in accordance with the above policies.

It is however considered reasonable to require that the external flue be painted matte black in order to reduce the visual prominence to the roofscape of the Parish Heritage Asset. Subject to such condition, the proposal is considered acceptable on the grounds of design and appearance.

Heritage:

SNP19 of the SNDP seeks to preserve and protect entities identified as Parish Heritage Assets (PHA). Development proposals will be supported where they protect and where possible enhance these assets and where there is no adverse effect on their stature.

Though not a building that is nationally recognised as a Listed Building, the Hen and Chicken has been designated as one of the 22 identified Parish Heritage Assets (PHA) in Southwater. While there would be some harm to the appreciation of the building, this would though be less than substantial and would be outweighed by the public benefit derived from supporting the meaningful use of the building as a public house, where the flue serves a functional purpose and allows a continual maintenance of building.

Horsham District Council Conservation Officer commented that "the impact on this locally listed building was considered by the appeal inspector under reference APP/Z3825/C/24/3336623. No further comments would therefore be raised". The Conservation did note that the fencing was shown to be removed which would expose the system from the side elevation. However, the plans confirm that these would be removeable to facilitate access for maintenance purposes, and would therefore only be removed temporarily when required. The fencing would continue to screen the development from view. On this basis, and for the reasons contained within the Design and Appearance section above, the development is not considered to harm the character and appearance of the host building and would accord with Policy SNP19 of the Southwater Neighbourhood Plan.

Residential Amenity:

Paragraph 187 of the NPPF states that decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Paragraph 198 continues that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions, and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so, they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Paragraph 201 outlines that the focus of planning decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions. Planning decisions should assume that these regimes will operate effectively.

Policy 33 of the HDPF states that permission will be granted for development that does not cause unacceptable harm to the amenity of the occupiers/users of nearby properties and land.

The previous application DC/22/1715 was refused on amenity grounds as the system "*resulted in unacceptable harm to neighbouring amenity by way of noise and disturbance, with insufficient information submitted to demonstrate that mitigation is possible to address the magnitude of this impact*".

The current application is supported by a Proposal for Specification & EMAQ Report by Purified Air dated 20.10.2025. These details the proposed alterations to the control systems that would be fitted to reduce noise and odour. In consultation with Environment Health, it is recognised that this report identifies that a 'High-level' of odour control would be required at this site and the performance specification subsequently proposed is considered appropriate. Conditions have been recommended in order to secure the ongoing maintenance of the system, as well as verification that the system would not be audible from the nearest residential property.

Subject to these conditions, and including a condition requiring the removal of the unlawful system, it is considered that the proposal would not result in harm to the amenities of neighbouring residential properties, in accordance with the above policies.

Water Neutrality:

There is no clear or compelling evidence to suggest the nature and scale of the proposed development would result in a more intensive occupation of the dwelling necessitating an increased consumption of water that would result in a significant impact on the Arun Valley SAC, SPA and Ramsar sites, either alone or in combination with other plans and projects. The grant of planning permission would not therefore adversely affect the integrity of these sites or otherwise conflict with Policy 31 of the HDPF, NPPF paragraph 193 and the Council's obligations under the Conservation of Habitats and Species Regulations 2017.

Biodiversity Net Gain (BNG):

Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) mandates that every development must achieve at least a 10% Biodiversity Net Gain (BNG (unless the development qualifies as exempt under the Biodiversity Gain Requirements (Exemptions) Regulations 2024) and that every planning permission granted for the development of land in England shall be deemed to have been granted subject to the condition that development must not be begun unless a Biodiversity Gain Plan has been submitted to the planning authority and the planning authority has approved the Plan.

The Biodiversity Gain Plan must show how the development will achieve the required minimum 10% BNG using the statutory biodiversity metric tool, and must demonstrate how the habitats will be managed and maintained for 30 years, starting from the date the development is completed. Off-site gains (on unregistered sites) and significant on-site enhancements will be secured over this period by way of a Legal Agreement.

- The development qualifies as 'de minimis' under Regulation 4 of the Biodiversity Gain Requirements (Exemptions) Regulations 2024

Other Matters:

It is noted that the current unlawful equipment is subject of an Enforcement Notice, where the investigation and application/appeal site visits have demonstrated that the nearest residential properties along Netherton Close are impacted by noise and odour arising from the current extraction equipment.

Given the harm arising from the current equipment, and on the basis of the active Enforcement Notice, it is considered reasonable to impose a shorter time condition. A period of 6 months from the date the permission is granted is considered reasonable to ensure that the works are carried out, while providing sufficient time to accommodate the commissioning of the equipment.

Conclusions:

It is considered that the proposal abides with development principles above and is therefore recommended for approval.

Recommendation: Application Permitted

Conditions:

2 **Standard Time Condition**: The development hereby permitted shall begin before the expiration of six (6) months from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

3 **Pre Operation Condition**: Prior to the first operation of the extraction system hereby permitted, an ongoing cleaning, service and maintenance regime for the installation shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the intended frequency of any cleaning, servicing or replacement of critical fittings, filters and components and shall be in line with manufacturer's recommendations. The ongoing cleaning, servicing and maintenance regime shall be carried out in strict accordance with the approved details and shall thereafter be retained in accordance with the approved details.

Reason: To safeguard the amenities of the residential properties of Netherton Close and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

4 **Regulatory Condition**: Within 3 months of the date of the installation of the new plant, a Post Installation Noise Assessment shall be carried out and verification report submitted to and approved in writing by the Local Planning Authority. The Post Installation Noise Assessment shall demonstrate the plant noise levels for daytime and night-time operation do not exceed background levels as measured at a position closest to the nearest residential dwelling. The Assessment shall be undertaken in accordance with BS 4142: 2014 (or subsequent superseding equivalent) and current best practice and shall include full spectrum analysis to confirm that there is no tonality or other acoustically distinctive features present in the noise. Any additional steps required to mitigate noise shall be detailed and implemented, as necessary. The details as approved shall thereafter be maintained and retained in perpetuity.

Reason: To safeguard the amenities of the residential properties of Netherton Close and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

5 **Regulatory Condition**: The external ducting / flue hereby permitted shall be painted / finished in a matte black colour and shall be maintained as such thereafter.

Reason: To ensure that the character, appearance, and interest of the Parish Heritage Asset, is not prejudiced, and to comply with Policy SNP19 of the Southwater Neighbourhood Plan.

6 **Regulatory Condition**: The development hereby permitted shall strictly accord with the details and specification contained within the approved document titled "Proposal for Specification & EMAQ Report" by PurifiedAir dated 20.10.25. The system shall be maintained and retained in strict accordance with these details.

Reason: To safeguard the amenities of the residential properties of Netherton Close and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

7 **Regulatory Condition**: All building works, finishes, and making-good shall match the relevant existing work in respect of method, detail, and finished appearance unless otherwise approved in writing by the Local Planning Authority. Where new materials are to be used externally, the colour match shall make allowance for future weathering.

Reason: To ensure that the significance of the designated heritage asset, and the character, appearance and integrity of the building, is not prejudiced, thereby preserving the special architectural or historic interest which it possesses, and to comply with Policy 34 of the Horsham District Planning Framework (2015).

NOTE TO APPLICANT

Biodiversity Net Gain Condition

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the "biodiversity gain condition" which means development granted by this notice must not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and
(b) the planning authority has approved the plan.

Under Regulations 4, 5, 7 & 8 of the Biodiversity Gain Requirements (Exemptions) Regulations 2024 the statutory biodiversity gain condition required by Schedule 7A to the Town and Country Planning Act 1990 (as amended) does not apply in relation to planning permission for development which:

1. does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (a hedgerow habitat or watercourse habitat identified for the purposes of the biodiversity metric);

2. is the subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015;

3. is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the biodiversity gain planning condition which applies in relation to another development (In determining whether a development is undertaken solely or mainly for this purpose, no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee);

4. consists of no more than 9 dwellings, is carried out on a site which has an area no larger than 0.5 hectares, and consists exclusively of dwellings which are self-build or custom housebuilding ("Self-build or custom housebuilding" has the same meaning as in section 1(A1) of the Self-build and Custom Housebuilding Act 2015 (as amended)).

In addition, the Biodiversity Gain Plan Condition does not apply to applications for major development made before 12 February 2024, or non-major development made before 2 April 2024.

Based on the information submitted in the planning application documents, the Planning Authority considers that this permission is exempt from biodiversity net gain, and as such does not require approval of a biodiversity gain plan before development is begun.

Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at https://www.gov.uk/guidance/biodiversity-net-gain.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

POSITIVE AND PROACTIVE STATEMENT

Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

Plans list for: DC/25/1900
(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Supporting Statement	Proposal for Specification & EMAQ Report by PurifiedAir dated 20.10.25	NONE	19.11.2025
Location plan		2023.406.01	19.11.2025
Block plan	Proposed	2023.406.02	03.12.2025
Elevation & Floor plan		20250110-11	03.12.2025

Case Officer sign/initial JBurrowes Date: 18.02.2026

Authorising Officer sign/initial TDale Date: 18.02.2026