Horsham District Council

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Our ref:	DISC/24/0081
Your ref:	The Sussex Barn, Thistleworth...
Email:	planning@horsham.gov.uk
Direct Line:	01403 215538
If Calling Please ask for:	Hannah Darley
Date:	13th June 2024

Dear Sir/Madam,

Town and Country Planning Act 1990 (as amended)
Town and Country Planning (Development Management Procedure England) Order 2015

Application for Approval of Details Reserved by Condition 3, 4, 6 and 10 to approved application DC/20/0653 (Full Application)

Thistleworth Farm The Sussex Barn Worthing Road Dial Post

The Authority has considered your application, and I can confirm that the submitted information is **NOT** acceptable pursuant to the following condition(s):

3. **Pre-Commencement Condition**: No development shall commence until the following components of a scheme to deal with the risks associated with contamination, (including asbestos contamination), of the site be submitted to and approved, in writing, by the local planning authority:

(a) A preliminary risk assessment which has identified:
- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- Potentially unacceptable risks arising from contamination at the site.

The following aspects (b) - (d) shall be dependent on the outcome of the above preliminary risk assessment (a) and may not necessarily be required.

(b) An intrusive site investigation scheme, based on (a) to provide information for a detailed risk assessment to the degree and nature of the risk posed by any contamination to all receptors that may be affected, including those off site.

(c) Full details of the remediation measures required and how they are to be undertaken based on the results of the intrusive site investigation (b) and an options appraisal.

(d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action where required.

The scheme shall be implemented as approved. Any changes to these components require the consent of the local planning authority.

Reason: As this matter is fundamental to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

4. **Pre-Commencement Condition**: No development shall commence until a drainage strategy detailing the proposed means of foul and surface water disposal has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

Reason: As this matter is fundamental to ensure that the development is properly drained and to comply with Policy 38 of the Horsham District Planning Framework (2015).

6. **Pre-Commencement Condition**: No development shall commence until a Preliminary Ecology Survey has been submitted to and approved in writing by the Local Planning Authority. The survey shall include details of mitigation and enhancement measures and a timetable for their implementation. These measures shall allow for the provision of a bat loft for Brown Long-eared roost and additional mitigation for Common Pipistrelle bat roost. The development shall take place in accordance with the agreed details and timetable, and shall thereafter be retained and maintained in accordance with the approved details.

Reason: As this matter is fundamental to safeguard the ecology and biodiversity of the area in accordance with Policy 31 of the Horsham District Planning Framework (2015).

For the following reasons:

1 Insufficient information to deal with the risks associated with contamination has been provided pursuant of condition 3. Furthermore, planning approval DC/20/0653 expired on 11.05.2024 and no longer remains extant. It is not possible to discharge a condition on an expired planning permission.

2 Insufficient information detailing the proposed means of foul and surface water disposal has been provided pursuant of condition 4. Furthermore, planning approval DC/20/0653 expired on 11.05.2024 and no longer remains extant. It is not possible to discharge a condition on an expired planning permission.

3 Insufficient information detailing the ecological mitigation and enhancement measures and a timeline for their implementation has been submitted. Furthermore, planning approval DC/20/0653 expired on 11.05.2024 and no longer remains extant. It is not possible to discharge a condition on an expired planning permission.

4 Conditions 3, 4 and 6 are considered to form a conditions precedent. Following the determination of the High Court in CG Fry & Son Limited v Secretary of State for Levelling Up Housing and Communities and Somerset Council [2023] EWHC 1622 (Admin), the approval of details submitted pursuant to these conditions would constitute an implementing consent that would enable development to be delivered without a prior demonstration of water-neutrality. The development would consequently contribute to an existing adverse effect upon the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites by way of increased demand for public mains-water

resources, contrary to Policy 31 of the Horsham District Planning Framework (2015) and Paragraphs 185 and 186 of the National Planning Policy Framework (2023). The Local Planning Authority, therefore, is unable to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority Habitats & Species).

This letter constitutes a legal document which should be regarded as an addendum to the original planning application.

If you have any queries or require further information, please do not hesitate to contact the Case Officer.

Yours faithfully



Emma Parkes
Head of Development and Building Control

ADDITIONAL INFORMATION

Right of Appeals
If you are aggrieved by the decision to refuse permission for the proposed development then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

You must appeal within 12 weeks of the date of the decision notice for a householder application or 'minor commercial' (shop front) development, and within 6 months for other types of planning applications. There are different timescale – usually 28 days – if an enforcement notice is/has been served for the same (or very similar) land and development. Please note, only the applicant possesses the right of appeal.

Appeals can be made online at: https://www.gov.uk/planning-inspectorate. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are at https://www.gov.uk/government/collections/casework-dealt-with-by-inquiries.