Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DISC/23/0234
Land at 521105 113285, New Hall Lane, Small Dole, West Sussex, BN5 9YH

DESCRIPTION:
Approval of details reserved by condition 3,4 and 5 to approved application DC/20/2269

RELEVANT PLANNING HISTORY:

DC/20/2269	Erection of a two storey detached dwelling with associated access, landscaping and parking.	Application Permitted on 10.03.2021

PLANNING ASSESSMENT
Planning Application DC/20/2269 was granted consent on 10.03.2021. This permission was for the following:

Erection of a two storey detached dwelling with associated access, landscaping and parking.

Consent is sought to discharge the details reserved by conditions 3, 4 and 5: -

Pre-Commencement Condition 3:
No development shall take place, including any works of demolition, until the following construction site set-up details have been submitted to, and approved in writing by, the Local Planning Authority.

i. the location for the loading and unloading of plant and materials, site offices, and storage of plant and materials (including any stripped topsoil)
ii. the provision of wheel washing facilities (if necessary) and dust suppression facilities

The approved details shall be adhered to throughout the construction period.

Reason: As this matter is fundamental in order to consider the potential impacts on the amenity of nearby occupiers during construction and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

To address the requirements of condition 3, the applicant has submitted drawing ref: 01114_R1_Con.3 Rev 000.

In regard to Condition 3 part I, this plan illustrates the siting of proposed siting of two storage containers, waste material storage, sorting and skip area, and a site office within the south eastern corner of the application site. The plan details that the storage containers will be used to securely store new and hazardous water materials. The plan further details the segregation of demolition and construction waste within the storage, sorting and skip area, and a waste management procedure to be implemented on site.

In regard to Condition 3 part ii, this plan illustrates the location of a wheel wash area directly off the site access immediately within the red line boundary. The plan further details dust mitigation measures, including the erection of effective barriers, no bonfires on site, locate any machinery and dust causing activities away from sensitive receptors, no idling vehicle engines on site, use of water as a dust

suppressant, securely cover skips when egressing the site, and minimise time of waste stockpiles on site.

WSCC Highways as the Local Highway Authority (LHA) has reviewed the submitted site-set up plan and are satisfied that the details are sufficient to address the requirements of condition 3.

Officers have also reviewed the submitted plan and concur with the LHA in that sufficient information has been provided to address the requirements of condition 3.

The submitted details are therefore considered acceptable in respect of condition 3.

Pre-Commencement Condition 4:
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).

To address the requirements of condition 3, the applicant has submitted drawing ref: 01114_R1_Con.4 Rev 000. This plan illustrates the proposed location for a new manhole to the north west of the new building to be connected to existing in road and the proposed location of a rainwater harvesting tank and rainwater soakaway to the south east of the new building. The plan also includes the assumed surface water drainage pipe connection routes between the new building and the rainwater tank and soakaway, and the assumed foul water drainage pipe connection routes between the new building and the proposed new manhole. No further written details are included.

Southern Water has reviewed the information submitted for Condition 4 and raises an objection to the discharge of condition 4 due to the submitted drainage plan only includes foul drainage details. Southern Water requests that a detailed drainage layout plan clearly indicating the on-site surface water drainage, including final discharge point, is provided to address the requirements of condition 4.

Officers have also reviewed the submitted plan and also consider that insufficient information has been provided to address the requirements of condition 4. While the proposed locations for the foul and surface water disposal methods have been provided, no further details which would comprise of a drainage strategy has been submitted.

The requirements of condition 4 have therefore not been satisfied.

Pre-Commencement Condition 5:
No development shall commence until a detailed plan showing the measures to divert the public sewers has been submitted to and approved in writing by the Local Planning Authority, in consultation with Southern Water. The development shall be carried out in accordance with the approved details.

Reason: As this matter is fundamental to ensure that the development is properly serviced and to comply with Policies 32, 33 and 38 of the Horsham District Planning Framework (2015).

To address the requirements of condition 3, the applicant has submitted drawing ref: 201114_R1_Con.5 Rev 000. This plan illustrates the assumed removal of existing drainage pipework beneath the location for the new building and manhole, the assumed creation of a new manhole with existing and new drainage pipework connection routes across the front of the application site. No detail has been provided to explain and ascertain measures for the diversion of the public sewer.

Southern Water has reviewed the information submitted for Condition 5 and raises an objection to the discharge of condition 5 as the proposed block plan indicated a diversion/abandonment of public sewer. Southern Water advises that any public sewer diversion proposals should be approved by Southern Water under Section 185 of the Water Industry Act.

Officers have also reviewed the submitted plan and consider that insufficient information has been provided to address the requirements of condition 5. The plan does not include any detail and explanation of measures for the division of the public sewer. The requirements of the condition have not therefore been satisfied.

Water Neutrality

The application site falls within the Sussex North Water Supply Zone as defined by Natural England which draws its water supply from groundwater abstraction at Hardham. Natural England has issued a Position Statement for applications within the Sussex North Water Supply Zone which states that it cannot be concluded with the required degree of certainty that new development in this zone would not have an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.

Natural England advises that plans and projects affecting sites where an existing adverse effect is known will be required to demonstrate, with sufficient certainty, that they will not contribute further to an existing adverse effect. The received advice note advises that the matter of water neutrality should be addressed in assessments to agree and ensure that water use is offset for all new developments within the Sussex North Water Supply Zone.

The decision of the High Court pursuant to CG Fry & Son Limited v Secretary of State for Levelling Up Housing and Communities and Somerset Council [2023] EWHC 1622 (Admin), confirms that the provisions of the provisions of the Habitat Regulations (2017) apply in respect of all consents and/or authorisations, in requiring that an appropriate assessment be completed pursuant to Regulation 63 of the Habitat Regulations in advance of any determination to grant consent/authorisation which would prove tantamount to taking an implementing decision. As considered by the High Court this would include an approval of details reserved by condition where no appropriate assessment had been undertaken in advance of an initial determination to grant planning permission, deemed consistent with circumstances before the LPA in this instance.

The above conditions would prevent any development from taking place until the required details have been approved in writing by the Local Authority. The approval of details reserved by the above conditions would therefore enable development to take place in the form of one dwellinghouse.

The proposal falls within the Sussex North Water Supply Zone and in the absence of any information to indicate otherwise would result in a greater level of water abstraction than the site presently generates. In the absence of a strategy to demonstrate water neutrality through the incorporation of on-site measures and/or appropriate offsetting actions capable of achieving water neutrality, there is no certainty that the proposal will not contribute further to the existing adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites. There are no considerations of overriding public interest that would alternatively warrant the grant of permission under s.64 of the Regulations. In such circumstances the grant of permission would be contrary to policy 31 of the HDPF, NPPF paragraph 186 and the Council's obligations under the Conservation of Habitats and Species Regulations 2017.

Recommendation: Application Refused

Reason(s) for Refusal:

1 Insufficient information has been provided with regards to Condition 4 (means of foul and surface water disposal) thus the Local Plannig Authority are unable to discharge this condition.

2 Insufficient information has been provided with regards to Condition 5 (measures to divert the public sewers) thus the Local Plannig Authority are unable to discharge this condition.

3 Conditions 3, 4 and 5 are considered to form a conditions precedent. Following the CG Fry v SoS and Somerset Council High Court decision, the grant of the details submitted pursuant to these conditions would constitute an implementing consent that would enable development that

has not previously demonstrated water neutrality to be delivered. 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 water abstraction, contrary to Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 185 and 186 of the National Planning Policy Framework (2021), thus the Local Planning Authority 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).

Plans list for: DISC/23/0234
(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **not approved**:

Plan Type	Description	Drawing Number	Received Date
Block Plan	None.	201114_R1_CON 3	03/11/2023
Block Plan	None.	201114_R1_CON4	03/11/2023
Block plan	None.	201114_R1_CON 5	03/11/2023

DELEGATED

Case Officer sign/initial Stephanie Bryant Date: 16/09/2024

Authorising Officer sign/initial Guy Everest Date: 16.09.2024