

SUPPORTING STATEMENT

Application under Section 73 of the Town and Country Planning Act 1990

Removal of Conditions 11, 19, 20, 21, 27, 38 and 39 of planning permission DC/22/1458

Site	Denver Storage, Okehurst Lane, Billingshurst, West Sussex, RH14 9HR
Applicant	Denver Commercial LLP
Local planning authority	Horsham District Council
Original permission	DC/22/1458, granted 5 June 2024
Date	July 2026

1. Introduction

- 1.1 This statement is submitted by Denver Commercial LLP ("the applicant") in support of an application under Section 73 of the Town and Country Planning Act 1990 (as amended) for the removal of Conditions 11, 19, 20, 21, 27, 38 and 39 of planning permission DC/22/1458.
- 1.2 Each of those seven conditions was imposed for one purpose only: to secure water neutrality in response to Natural England's Water Neutrality Position Statement of September 2021, which applied to development within the Sussex North Water Supply Zone. Natural England formally withdrew that Position Statement on 31 October 2025.
- 1.3 The policy and evidential basis on which the seven conditions were imposed has therefore fallen away in its entirety. The conditions no longer satisfy the tests for the use of planning conditions set out in the National Planning Policy Framework and the Planning Practice Guidance, and in particular they are no longer necessary. Their removal is sought on that basis.
- 1.4 No change is proposed to the approved development. The scheme, its layout, scale, appearance, access arrangements and use remain exactly as permitted. This application is confined to the removal of conditions whose justification no longer exists.

2. The site and the permission

- 2.1 The application site comprises approximately 0.68 hectares of land at Denver Storage, Okehurst Lane, Billingshurst, West Sussex, RH14 9HR. The site was last used for poultry rearing and contains a redundant former poultry building.
- 2.2 Planning permission DC/22/1458 was granted by Horsham District Council on 5 June 2024 for:
- "Demolition of the existing building and erection of 3no storage units (Use Class B8), incorporating vehicular access, landscaping, and on-site parking provision."*
- 2.3 The permission is subject to 42 conditions. Development has not yet commenced. Condition 2 requires the development to be begun before the expiration of three years from the date of the permission, giving a commencement date of 5 June 2027.

3. The conditions subject to this application

- 3.1 The seven conditions to which this application relates are summarised below. The full text of each is set out in the decision notice for DC/22/1458 and is not reproduced here.

No.	Type	Summary of requirement
11	Pre-commencement (slab level)	Management and maintenance plan for the rainwater harvesting system to be submitted and approved before any development above ground floor slab level.
19	Pre-occupation	Development to be undertaken in full accordance with the approved water neutrality strategy (CGS Civils Report Ref C2182 Rev P3 and Silverline Component Schedule DC/22/1458-WNR-RWH-08).
20	Pre-occupation	Evidence that the water neutrality strategy has been implemented in full, including fittings, flow rates, rainwater harvesting system and minimum 35 days storage capacity.
21	Pre-occupation	Tap water to be sampled by a DWI-certified sampler and analysed by an ISO 17025 accredited laboratory, with findings submitted, before first occupation of any unit.
27	Post-occupation	Evidence of occupants' water consumption within 3 months of each occupation, demonstrating sufficient supply with 35 days drought storage, with remedial provision if the system underperforms.
38	Regulatory	No part of the building or site to be designated, equipped or used as a vehicle washing area without prior written consent.
39	Regulatory	No unit to be connected to or draw supply from the mains water supply except in emergency, with ongoing record-keeping of any mains draw.

- 3.2 Each of these seven conditions carries an identical reason, in the following terms:

"To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites in accordance with Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 179 and 180 of the National Planning Policy Framework (2021), its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species)."

- 3.3 That uniformity is material. Not one of the seven conditions carries any secondary or independent justification. Each stands or falls on water neutrality alone. This is confirmed by the Council's own Habitats Regulations Assessment (Appropriate Assessment) dated 5 December 2023, prepared by Place Services, which recommended precisely this suite of measures — pre-occupation implementation, a pre-commencement management and maintenance plan, a sampling regime, evidence of fittings and fittings performance, post-occupation monitoring, and a prohibition on drawing mains water — as the conditions necessary to enable the Council to conclude no adverse effect on the integrity of the Arun Valley sites.

4. The change in circumstances

4.1 The September 2021 Position Statement

- 4.1.1 In September 2021, Natural England issued a Position Statement advising local planning authorities that new development within the Sussex North Water Supply Zone should demonstrate water neutrality, in order to protect the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar site from potential impacts associated with Southern Water's groundwater abstraction at Hardham, near Pulborough.
- 4.1.2 That advice was expressly interim. It was adopted while Southern Water's Hardham Basin Environmental Study was completed, and it was the sole reason for the imposition of the seven conditions on DC/22/1458.

4.2 Withdrawal of the Position Statement

- 4.2.1 Following the completion of the Hardham Basin Environmental Study, which was scrutinised by the Environment Agency and Natural England, and following an announcement by the Department for Environment, Food and Rural Affairs on 8 October 2025, Natural England issued a Withdrawal Statement on 31 October 2025 formally withdrawing its September 2021 Position Statement.
- 4.2.2 The withdrawal rests on an agreement between Natural England, the Environment Agency and Southern Water to reduce the licence cap on abstraction at Hardham, together with a package of measures supporting ecological resilience at the Arun Valley sites. Natural England's conclusion is that limiting the Hardham licence decouples abstraction from new development, preventing additional pressure on Arun Valley water resources.
- 4.2.3 Natural England advises in the Withdrawal Statement that local planning authorities are no longer required to consider water neutrality measures when determining relevant plans or

projects. Development within the Sussex North Water Supply Zone is no longer required to demonstrate that it is water neutral.

4.3 The position of Horsham District Council

- 4.3.1 Horsham District Council published a statement on 4 November 2025 confirming receipt of Natural England's withdrawal and stating that applicants would no longer be required to provide water usage statements or to find their own water neutrality solutions.
- 4.3.2 As an interim measure pending the revised abstraction licence, the Council treats all development in the district as water neutral from 1 November 2025 by reference to the water efficiency savings achieved by Southern Water in 2024/25, which amount to some 3,240,000 litres per day. Those savings were previously reserved for the Sussex North Water Certification Scheme, which the Council has confirmed will no longer be launched. The Council's published guidance states that applicants now require no water neutrality statement, no payment into that scheme, and no bespoke conditions or Section 106 obligations to demonstrate water neutrality. Its joint statement with West Chiltington Parish Council dated 19 December 2025 is to the same effect.
- 4.3.3 Materially for present purposes, the Council has expressly invited applications of exactly this kind. Its published guidance confirms that, for applicants holding existing permissions subject to conditions or Section 106 obligations requiring bespoke water neutrality mitigation, *"we will consider applications under s.73 ... to remove those conditions"*, together with any associated application to vary or discharge relevant Section 106 obligations. This application is made directly in response to that invitation and raises no new issue of principle.
- 4.3.4 The revised abstraction licence was expected to take effect from March 2026. The applicant notes that the Council's published guidance, as last updated on 11 November 2025, records that the licence change had not at that date taken place, and that pending it officers will continue to undertake an Appropriate Assessment as part of their overall consideration of proposals. The applicant does not suggest otherwise and welcomes such assessment. It is not necessary to the case advanced here: the interim mechanism described above already delivers water neutrality for all development in the district without site-specific measures, and Natural England has issued standing advice to assist officers in discharging their duties under Regulation 63(3) of the Habitats Regulations following the withdrawal.
- 4.3.5 Where a permission relates to new dwellings, the Council substitutes a condition requiring compliance with the Building Regulations Part G optional technical standard. That substitution has no application here. The permitted development is commercial storage within Class B8, not residential, and no replacement condition therefore arises on the removal of the seven conditions.

5. Planning assessment

- 5.1 The National Planning Policy Framework provides that planning conditions should be imposed only where they are necessary, relevant to planning and to the development to be

permitted, enforceable, precise and reasonable in all other respects. The Planning Practice Guidance (Use of planning conditions) reinforces that a condition which fails any of these tests should not be imposed, and that conditions should be kept under review.

- 5.2 The determinative test here is necessity. A condition is necessary only where the development would be unacceptable in planning terms without it. Conditions 11, 19, 20, 21, 27, 38 and 39 were necessary in June 2024 because, absent water neutrality measures, the Council could not lawfully conclude under the Conservation of Habitats and Species Regulations 2017 that the development would not adversely affect the integrity of the Arun Valley sites.
- 5.3 That is no longer the case. Natural England, as the statutory nature conservation body, has withdrawn the advice on which that conclusion depended, and has confirmed that authorities are no longer required to consider water neutrality when determining applications. The Council, as competent authority, has confirmed that development in the district is treated as water neutral without site-specific measures and that no bespoke condition is required. The development is therefore entirely acceptable in planning terms without any of the seven conditions.
- 5.4 It follows that each of the seven conditions now fails the necessity test. Retaining them would impose obligations on the applicant, and in the case of Conditions 27 and 39 on future occupiers in perpetuity, for no planning purpose whatsoever. That would also engage the reasonableness test: a condition which serves no purpose cannot be reasonable in all other respects.
- 5.5 The practical consequences of retention are not trivial. Condition 11 prevents any development above ground floor slab level. Conditions 19, 20 and 21 prevent occupation of any unit. Condition 27 imposes a continuing monitoring and reporting obligation on the landlord and occupiers of every unit. Condition 39 would permanently prohibit a commercial development from connecting to the mains water supply other than in an emergency, and would require occupiers to keep written records justifying any mains water taken. Each of these is a substantial constraint on the delivery and operation of the development, and each now rests on a policy requirement that has been withdrawn.
- 5.6 For completeness, the applicant confirms that the rainwater harvesting infrastructure approved under the permission is not in itself objectionable and the applicant retains the ability to install water efficiency measures as a matter of choice. What is sought is the removal of the *obligation* to do so, and of the pre-commencement, pre-occupation and post-occupation controls that enforce it, none of which now serves any planning purpose.

6. Condition-by-condition assessment

- 6.1 Condition 11 (management and maintenance plan for the rainwater harvesting system). This condition secures the long-term operation of a system installed solely to achieve water neutrality. With the water neutrality requirement withdrawn, there is no planning purpose in requiring a management and maintenance plan for that system, still less in making it a bar to development above slab level. Removal is sought.

- 6.2 Condition 19 (compliance with the water neutrality strategy). The condition requires the development to be undertaken in accordance with a water neutrality strategy which is no longer required. It has no residual function. Removal is sought.
- 6.3 Condition 20 (evidence of implementation). The condition exists only to verify compliance with Condition 19. If Condition 19 is removed, Condition 20 has nothing to verify. Removal is sought.
- 6.4 Condition 21 (drinking water sampling and analysis). This condition addresses the potability of water drawn from a private rainwater supply. It is directed at the consequences of the water neutrality solution rather than at any independent planning harm, and its stated reason is water neutrality alone. Where units are supplied from the mains, the condition is redundant; where a private supply is installed by choice, it is regulated under the Private Water Supplies (England) Regulations 2016, which is the appropriate regime. Removal is sought.
- 6.5 Condition 27 (post-occupation water consumption monitoring). This condition imposes an open-ended monitoring, reporting and remediation obligation on landlords and occupiers, triggered within three months of each occupation and continuing thereafter. It is the most onerous of the seven and is directed exclusively at demonstrating continued water neutrality. Removal is sought.
- 6.6 Condition 38 (no vehicle washing area). The prohibition was imposed to prevent an increase in water demand. Its reason is water neutrality alone, and it was recommended as such in the Council's Appropriate Assessment. It is acknowledged that vehicle washing can raise separate considerations of surface water drainage and pollution control; those matters are addressed by the SuDS conditions attached to the permission, which are unaffected by this application, and by the Environmental Permitting regime. Removal is sought.
- 6.7 Condition 39 (prohibition on mains water connection). This is the condition with the most significant long-term effect on the operation of the development. It prevents three commercial storage units from being connected to the public water supply save in an emergency, and imposes record-keeping obligations on occupiers whenever mains water is taken. Its sole justification is water neutrality. With that justification withdrawn, and with the Council treating all development in the district as water neutral by reference to Southern Water's efficiency savings, the condition cannot be sustained. Removal is sought.

7. Conditions not affected by this application

- 7.1 The applicant has reviewed the full schedule of conditions attached to DC/22/1458 and confirms that this application is limited to the seven conditions identified. In particular:
- Condition 41 (restriction to Class B8 use) is not included. Although its reason refers in part to water neutrality, it is expressly and primarily justified on independent grounds — ensuring the development remains in appropriate employment use and controlling potentially harmful impacts on local amenity under Policies 7, 9 and 33 of the Horsham District Planning Framework (2015) and Policy BILL 10 of the Billingshurst

Neighbourhood Plan (2021). That justification is unaffected by the withdrawal of the Position Statement and the condition should remain.

- Conditions 22 and the associated surface water drainage conditions are not included. These are justified by flood risk, water quality, habitat and amenity considerations under Policies 35 and 38 of the Horsham District Planning Framework (2015) and Policy BILL 16 of the Billingshurst Neighbourhood Plan (2021), and are unrelated to water neutrality.
- All ecological, contamination, highways, landscape, amenity and construction conditions are unaffected and should be carried forward without alteration.

7.2 The applicant asks that all conditions other than those subject to this application be replicated on any permission granted, in the same terms and with the same numbering so far as practicable, to avoid any doubt as to the obligations that continue to apply.

8. Procedural matters

- 8.1 It is understood that a grant of permission under Section 73 creates a new planning permission which sits alongside the original. The applicant confirms that it does not seek to disturb DC/22/1458, which will remain extant, and intends to implement whichever permission is appropriate.
- 8.2 The applicant draws the Council's attention to Section 73(5) of the Town and Country Planning Act 1990, which provides that permission may not be granted under Section 73 to the extent that it would have the effect of extending the time within which development must be started. The applicant does not seek any such extension. It is accepted and requested that any permission granted pursuant to this application be subject to a condition requiring the development to be begun no later than **5 June 2027**, consistent with Condition 2 of DC/22/1458.
- 8.3 The applicant confirms that the description of development is unchanged and that no amendment to the approved plans is sought.
- 8.4 The permission is accompanied by an agreement under Section 106 of the Act dated 5 June 2024 between the Council, West Sussex County Council and the owners. That agreement secures travel plan obligations only: payment of a travel plan monitoring fee to the County Council on commencement, submission of a Travel Plan prior to first occupation, appointment of a Travel Plan Co-ordinator, and implementation of the approved Travel Plan thereafter. It contains no water neutrality obligation of any kind. No application to vary or discharge any Section 106 obligation therefore arises alongside this application.
- 8.5 The applicant further notes that the agreement defines "Section 73 Consent" as a permission granted pursuant to Section 73 of the Act which varies or removes any condition subject to which the planning permission was granted. The obligations in the agreement accordingly bind any permission granted pursuant to this application, and no supplemental deed of variation is required to secure them.

9. Conclusion

- 9.1 Conditions 11, 19, 20, 21, 27, 38 and 39 of DC/22/1458 were imposed for a single, identical and expressly stated reason: to secure water neutrality in accordance with Natural England's September 2021 Position Statement. None carries any independent justification.
- 9.2 Natural England withdrew that Position Statement on 31 October 2025. It has advised that local planning authorities are no longer required to consider water neutrality when determining plans or projects. Horsham District Council has confirmed that applicants are no longer required to provide water usage statements or their own water neutrality solutions, that all development in the district is treated as water neutral from 1 November 2025, and that no bespoke condition or Section 106 obligation is any longer required.
- 9.3 The conditions are accordingly no longer necessary, and no longer reasonable, within the meaning of national policy and guidance. Retaining them would place substantial and permanent constraints on the delivery and operation of an approved commercial development for no planning purpose at all.
- 9.4 The applicant respectfully requests that permission be granted under Section 73 for the removal of Conditions 11, 19, 20, 21, 27, 38 and 39, with all remaining conditions carried forward unaltered and subject to a commencement date of 5 June 2027.
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Denver Commercial LLP

July 2026