Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/24/0444
Former Builders Yard, Mead Farm, Stane Street, Slinfold, West Sussex,

DESCRIPTION:

Non Material Amendment to previously approved application DC/22/0370 (Redevelopment of existing builder's yard and erection of 1no detached dwelling and a detached carport/garage) Regulatory condition 15 of planning permission be removed in place of this Nature Space District Licence.

RELEVANT PLANNING HISTORY:

DC/22/0370	Redevelopment of existing builder's yard and erection of 1no detached dwelling and a detached carport/garage.	Application Permitted on 10.01.2024

RELEVANT PLANNING POLICIES

The National Planning Policy Framework (NPPF)

Horsham District Planning Framework (2015):
Policy 25- Strategic Policy: The Natural Environment and Landscape Character
Policy 26- Strategic Policy: Countryside Protection
Policy 32- Strategic Policy: The Quality of New Development
Policy 33- Development Principles
Policy 34- Cultural and Heritage Assets

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:

None received

Parish Comments:

None received

Representations:

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 ASSESSMENT

The main consideration of this application is whether the proposed alterations can be considered as non-material amendments to the approved scheme in accordance with Section 96A of the Town and Country Planning Act 1990 (as inserted by S190 of the Planning Act 2008). The discretion rests with the Council to decide to whether the revisions would constitute a non-material amendment to a planning permission, which would not take it outside the scope of the original permission.

DC/22/0370 was granted on 10.01.2024, with the following condition attached in relation to Great Crest Newts and Reptile Mitigation:

15 ***Regulatory Condition****: All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Great Crested Newt and Reptile Mitigation Strategy (AEWC Ltd., September 2023), Reptile Survey Report (AEWC Ltd., September 2023), Update Walkover and GCN Survey (May 2023) and Extended Phase 1 Habitat Survey (AEWC Ltd, October 2021), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.*

This will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance protected and Priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and Policy 31 of the Horsham Development Framework.

However, since the granting of the consent, the applicant has signed up to the Council's District Newt Licencing Scheme. Therefore, the mitigations detailed within the surveys, and the Natural England licencing required that accompanies the approved mitigations, is no longer required. As the wording of the condition does not grant flexibility for the licencing and mitigation, the applicant would not be able to adhere to the requirements of the condition if the District Licencing process were to be used. Accordingly, the condition could be revised to read:

15 ***Regulatory Condition****: All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Great Crested Newt and Reptile Mitigation Strategy (AEWC Ltd., September 2023), Reptile Survey Report (AEWC Ltd., September 2023), Update Walkover and GCN Survey (May 2023) and Extended Phase 1 Habitat Survey (AEWC Ltd, October 2021), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.*

This will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Alternatively, the development hereby permitted shall take place in accordance with the terms and conditions of the Council's Organisational Licence (WML-OR112, or a 'Further Licence') and with the proposals detailed as approved.

Reason: To conserve and enhance protected and Priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and Policy 31 of the Horsham Development Framework.

The proposed amendments to DC/22/0370 would not appreciably impact on the appearance of the building or amenities of adjacent occupiers, and would give rise to no other material impacts. The amendments are therefore considered non-material under Section 96A of the Town and Country Planning Act 1990.

Recommendation: Application Permitted

Conditions:

1 **Regulatory Condition**: All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Great Crested Newt and Reptile Mitigation Strategy (AEWC Ltd., September 2023), Reptile Survey Report (AEWC Ltd., September 2023), Update Walkover and GCN Survey (May 2023) and Extended Phase 1 Habitat Survey (AEWC Ltd, October 2021), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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2 **Regulatory Condition**: No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's Organisational Licence (WML-OR134, or a 'Further Licence') and with the proposals detailed on plan "Builders Yard, Mead Farm: Impact plan for great crested newt District Licensing (Version 1)" dated 20th March 2024.

Reason: In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the organisational licence (WML-OR134, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.

3 **Regulatory Condition**: No development hereby permitted shall take place except in accordance with Part 1 of the Great Crested Newt Mitigation Principles, as set out in the District Licence (WML-OR134, or a 'Further Licence'), and in addition in compliance with the following:

- Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.

Reason: In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the Organisational Licence (WML-OR134, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.

NOTE TO APPLICANT
It is recommended that the NatureSpace Best Practice Principles are taken into account and implemented where possible and appropriate.

NOTE TO APPLICANT
It is essential to note that any works or activities whatsoever undertaken on site (including ground investigations, site preparatory works or ground clearance) prior to receipt of the written authorisation from the planning authority which permits the development to proceed under the District Licence (WML-OR134, or a 'Further Licence') are not licensed under the great crested newt District Licence. Any such works or activities have no legal protection under the great crested newt District Licence and if offences against great crested newt are thereby committed then criminal investigation and prosecution by the police may follow.

NOTE TO APPLICANT
It is essential to note that any ground investigations, site preparatory works and ground / vegetation clearance works / activities (where not constituting development under the Town and Country Planning Act 1990) in a red zone site authorised under the District Licence but which fail to respect controls equivalent to those detailed in the planning condition above which refers to the NatureSpace great crested newt mitigation principles would give rise to separate criminal liability under the District Licence, requiring authorised developers to comply with the District Licence and (in certain cases) with the GCN Mitigation Principles (for which Natural England is the enforcing authority); and may also give rise to criminal liability under the Wildlife & Countryside Act 1981 (as amended) and/or the Conservation of Habitats and Species Regulations 2017 (as amended) (for which the Police would be the enforcing authority).

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/24/0444
Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Supporting Statement	NatureSpace Partnership Best Practice Principles	NONE	21.03.2024
Supporting Statement	NatureSpace Great Crested Newt Mitigation Principles	NONE	21.03.2024
Supporting Statement	Great Crested Newt District Licensing Scheme Certificate dated 20.03.2024	NSP659HDC	21.03.2024

DELEGATED

Case Officer sign/initial	RHERMITAGE	Date:	17.04.2024
Authorising Officer sign/initial	TDALE	Date:	18.04.2024