7 April 2025

Development Management
Horsham District Council
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Horsham
R12 2GB

Hannah Keyte
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Runway East – York and Elder
50 New England Street
Brighton BN1 4AW
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Dear Sir or Madam,

Section 73 application seeking variation of condition 3 attached to planning permission DC/24/0498 Keepers Cottage, Coolham Road, Coolham, Horsham

This application is submitted under Section 73 of the Town and Country Planning Act 1990, seeking the removal of Condition 3 attached to planning permission reference DC/24/0498.

Background

Planning permission was granted on 16 January 2025 for:

"*Demolition of existing 2No cottages and erection of 1No dwelling with associated landscaping and car parking*."

As shown on the approved site layout plans, the proposed footprint and built form are broadly comparable to the existing arrangement. The use remains similar, replacing two 2-bedroom cottages with a single 4-bedroom dwelling. Importantly, the development is set away from existing planting and hedgerows, which will remain unaffected—an important material consideration for this S73 application and detailed further in the supporting ecological letter by Phlorum.

The planning permission was granted subject to 14 conditions. This application relates specifically to Condition 3, which reads:

Pre-Commencement Condition: No development shall commence until a Non-Licensed Precautionary Method Statement for Hazel Dormouse has been submitted to and approved in writing by the Local Planning Authority), and to enhance Protected and Priority Species/habitats in line with the LPA's duties under Section 40 of the NERC Act 2006.

We consider Condition 3 to be unnecessary, as its objectives are already addressed by Condition 6 of the same permission, which requires measures for the protection of protected species. As such, we request the removal of Condition 3.

Justification

The applicant's position on Condition 3 was made clear to the case officer during the determination of the original application, informed by advice from the project ecologist at Phlorum, who prepared the submitted Preliminary Ecological Appraisal (PEA). A copy of the relevant correspondence is enclosed.

In response to consultation on the application, Horsham District Council's ecology adviser (Place Services) requested justification for the decision not to undertake species surveys, and more specifically asked for

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measures to protect any Hazel Dormice that may be present. Crucially, Place Services did not insist on the submission of surveys, but rather required the inclusion of appropriate mitigation measures, should Hazel Dormice be found to be present. Such measures, designed by a qualified ecologist, are already capable of being secured through Condition 6.

Reference is made by the Council to paragraph 99 of Circular 06/2005, which provides:

"However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development."

In this context, the key question is whether there is a "reasonable likelihood" of Hazel Dormice being present and affected by the proposal.

The submitted PEA concluded that:

- While the native hedgerows could theoretically support dormice, these habitats are not being directly affected by the proposals.
- Paragraphs 3.66 and 3.67 of the PEA confirm that no further surveys were recommended, and that a precautionary method of site clearance is appropriate.

This precautionary approach extends to other species groups, including bats, birds, badgers, reptiles, and hedgehogs. The only targeted surveys recommended in the PEA were for bats.

A further letter from Phlorum is submitted with this application, confirming their professional view that Condition 3 is not reasonable or necessary in this instance.

Conclusion

For the reasons set out above, we respectfully request that Condition 3 be removed from the planning permission, on the grounds that:

- There is not a reasonable likelihood of Hazel Dormice being present and affected by the development;
- Condition 6 already secures the necessary ecological safeguards; and
- The requirement for further survey work is not justified in accordance with national guidance.

We trust the application will be validated without delay and look forward to engaging constructively with the case officer and Place Services as part of its determination.

Should you require any further information, please do not hesitate to contact me.

Yours sincerely,

Hannah Keyte
Graduate Planner

Enclosed – Email Correspondence between Planning Agent and Case Officer for application reference DC/24/0498

Hannah Keyte

From: Hannah Keyte
Sent: 26 November 2024 15:25
To: Hannah.Darley
Cc: Andrew Watson
Subject: RE: Keepers Cottages (DC/24/0498)
Attachments: Keepers Cottages (DC/24/0498)

Dear Hannah,

Following the previous advice received by our ecologist and our correspondence (attached for reference), we consider that Condition 6 is suffice to cover protected species, including hazel dormouse. Therefore we do not consider that Condition 3 is required in addition to this.

Please could you let us know your thoughts?

Many thanks,

Hannah Keyte (She/Her)
Graduate Planner
Planning

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Mobile : +447816184124
Email : hannah.keyte@savills.com
Website : www.savills.co.uk

From: Hannah.Darley <Hannah.Darley@horsham.gov.uk>
Sent: Tuesday, November 26, 2024 9:17 AM
To: Hannah Keyte <hannah.keyte@savills.com>
Subject: Keepers Cottages (DC/24/0498)

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Hello Hannah,

Sorry for the delay in responding, I've been hoping we'd have confirmation that the engrossments have been progressed. Most are standard conditions so I wont send you these (things like standard time condition). The report has been finalised with my team leader and follows the considerations within your preliminary ecological appraisal, we have confirmed with the ecologist that we need to attach these to have fulfilled the statutory requirements as a long authority in respect of protected species, without which we would not be able to demonstrate we have carried out these duties.

3 **Pre-Commencement Condition**: No development shall commence until a Non-Licensed Precautionary Method Statement for Hazel Dormouse has been submitted to and approved in writing by the Local Planning Authority. This shall include, but not be limited to, a presence/absence survey and assessment, mitigation measures, and enhancement measures where necessary. The works shall be implemented in accordance with the approved recommendations and shall be maintained thereafter.

Reason: As these matters are fundamental to safeguard the ecology and biodiversity of the area in accordance with Policy 31 of the Horsham District Planning Framework (2015), and to enhance Protected and Priority

Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority Habitats & Species).

4 **Pre-Commencement Condition:** Prior to the commencement of the development, a European Protected Species Mitigation Licence (EPSML) shall be submitted to and approved in writing by the local planning authority. The measures and/works shall be carried out strictly in accordance with the approved details submitted and approved within the License and shall be retained in that manner thereafter

Reason: To allow the LPA 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.

6 **Pre-Commencement Condition**: No development shall commence until a precautionary method statement for protected species have been submitted to and approved in writing by the Local Planning Authority. This shall include, but not limited to consideration of mitigation measures for avoiding harm to reptiles, dormice and owls and enhancement measures where necessary. The development shall be carried out in accordance with the approved details.

Reason: As these matters are fundamental to safeguard the ecology and biodiversity of the area in accordance with Policy 31 of the Horsham District Planning Framework (2015), and to enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority Habitats & Species).

Thank you and kind regards,

Hannah Darley
Senior Planning Officer

Telephone: 01403 215538
Email: Hannah.Darley@horsham.gov.uk

Horsham District Council
50 YEARS

Horsham District Council, Parkside, Chart Way, Horsham, West Sussex RH12 1RL
Telephone: 01403 215100 (calls may be recorded) www.horsham.gov.uk Chief Executive: Jane Eaton

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From: Hannah Keyte <hannah.keyte@savills.com>
Sent: 25 November 2024 15:12
To: Hannah.Darley <Hannah.Darley@horsham.gov.uk>
Cc: Andrew Watson <AJWatson@savills.com>
Subject: RE: Keepers Cottages (DC/24/0498)

Dear Hannah,

I hope you are well.

I just wanted to check whether you have had the chance to review my email below?

Many thanks,

Hannah Keyte (She/Her)
Graduate Planner
Planning

Savills, Runway East - York and Elder, 50 New England Street, Brighton, BN1 4AW
Tel : 01273 200 081
Mobile : +447816184124
Email : hannah.keyte@savills.com
Website : www.savills.co.uk

From: Hannah Keyte
Sent: Thursday, November 21, 2024 10:39 AM
To: Hannah.Darley <Hannah.Darley@horsham.gov.uk>
Cc: Andrew Watson <AJWatson@savills.com>
Subject: RE: Keepers Cottages (DC/24/0498)

Dear Hannah,

Now that Nature Space have confirmed they have no comments on the application I trust we can proceed with finalising the decision.

Prior to this please can you send through the full list of proposed conditions?

Many thanks,

Hannah Keyte (She/Her)
Graduate Planner
Planning

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Mobile : +447816184124
Email : hannah.keyte@savills.com
Website : www.savills.co.uk

From: Hannah.Darley <Hannah.Darley@horsham.gov.uk>
Sent: Tuesday, November 5, 2024 9:33 AM
To: Hannah Keyte <hannah.keyte@savills.com>
Subject: Keepers Cottages (DC/24/0498)

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Hello Hannah,

I'm not going to consult the ecologist again with the suggestions, what you have said in terms of a precautionary method statement I think is reasonable as a mitigation such that I will proceed to add a pre-commencement condition for this as you have suggested rather than further surveys for the hazel dormouse. Please keep in mind that whilst I think this and will draft it, recommendations are always subject to line manager sign off.

Thank you for confirming the EOT.

Kind regards,

Hannah Darley
Senior Planning Officer

Telephone: 01403 215538
Email: Hannah.Darley@horsham.gov.uk

Horsham District Council
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Horsham District Council, Parkside, Chart Way, Horsham, West Sussex RH12 1RL
Telephone: 01403 215100 (calls may be recorded) www.horsham.gov.uk Chief Executive: Jane Eaton

From: Hannah Keyte <hannah.keyte@savills.com>
Sent: 04 November 2024 17:33
To: Hannah.Darley <Hannah.Darley@horsham.gov.uk>
Subject: RE: Keepers Cottages (DC/24/0498)

Dear Hannah,

Thank you for your email.

To confirm I agree to the extension of time until Friday 29th November 2024.

I am slightly unclear about the first paragraph of your email. Can you confirm whether our ecologist's view, set out in my email below, will be sent to your ecologist for consideration in relation to the survey work/pre-commencement conditions?

Please can you also confirm when the PEA has been sent to NatureSpace.

We can then look to clarify the wording of the conditions once we have heard back from your ecologist.

Many thanks,

Hannah Keyte (She/Her)
Graduate Planner
Planning

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Email : hannah.keyte@savills.com
Website : www.savills.co.uk

From: Hannah.Darley <Hannah.Darley@horsham.gov.uk>
Sent: Monday, November 4, 2024 9:53 AM
To: Hannah Keyte <hannah.keyte@savills.com>
Subject: Keepers Cottages (DC/24/0498)

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Hello Hannah,

I can do a pre-commencement condition for the precautionary method statement for reptiles, dormice and owls so that it covers all the potential protected species on site but without knowing whether they are present within the site this would be a requirement, so this would need to be agreed. If you are doing this for the hazel dormouse then a lot of the measures would also apply to these other species in any case ie controlled clearance, buffers to hedges, lighting and toolbox talks and time of year when the site would be cleared.

You've asked 'Our client has asked us why Nature Space wasn't consulted when the ecology reports were submitted in September 2024 if reptiles are a consideration for the site.'

In response, whilst I understand the applicant may be wondering about the delay to consult Naturespace, we have agreed an extensive EOT to allow for the surveys to be submitted in the first instance, I would say that this is working proactively to try to help facilitate the development and that it is expected that the applicant conduct the necessary surveys for potential protected species proactively. In this instance, it wasn't until our ecologist had reviewed the information that they required reptiles to be a consideration for the site. I note that you have not agreed to the EOT. I am also asking for an EOT to try to get this signed off for yourselves as soon as possible however you do not have to agree to this. Without an agreement this will be out of time and may not be signed off for quite some time after that suggested date as it would get added to the backlog list.

Thank you and kind regards,

Hannah Darley
Senior Planning Officer

Telephone: 01403 215538
Email: Hannah.Darley@horsham.gov.uk

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Horsham District Council, Parkside, Chart Way, Horsham, West Sussex RH12 1RL
Telephone: 01403 215100 (calls may be recorded) www.horsham.gov.uk Chief Executive: Jane Eaton

From: Hannah Keyte <hannah.keyte@savills.com>
Sent: 04 November 2024 09:08
To: Hannah.Darley <Hannah.Darley@horsham.gov.uk>
Subject: RE: Keepers Cottages (DC/24/0498)

Dear Hannah,

Thank you for your email and for setting out the proposed wording of the pre-commencement conditions.

Although we are happy to agree to the second and third pre-commencement conditions, we do not consider that additional survey work in relation to hazel dormice and reptiles is required.

Our ecologist has explained that due to the small size of the site garden and the availability of better adjacent offsite habitats it was considered that precautionary working methods such as controlled clearance would be sufficient for reptiles. Secondly none of the hedgerows or habitats are to be directly impacted by the proposed site works and therefore precautionary working methods are considered sufficient to protect hazel dormice.

Therefore our view is that instead of survey work for these species, a conditioned working method statement relating to reptiles and hazel dormice would be sufficient to safeguard these species. This could all be covered in a document such as a biodiversity method statement or ecological design strategy, which would include working measures such as controlled clearance, buffers to hedges, lighting and toolbox talks.

Our client has asked us why Nature Space wasn't consulted when the ecology reports were submitted in September 2024 if reptiles are a consideration for the site. We are not sure about this. Could you clarify?

On the basis of the above, please can you ask the ecologist if they can reconsider the wording for the conditions in relation to hazel dormice and reptiles?

Many thanks,

Hannah Keyte (She/Her)
Graduate Planner
Planning

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Email : hannah.keyte@savills.com
Website : www.savills.co.uk

From: Hannah.Darley <Hannah.Darley@horsham.gov.uk>
Sent: Thursday, October 31, 2024 12:23 PM
To: Hannah Keyte <hannah.keyte@savills.com>
Subject: Keepers Cottages (DC/24/0498)

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Hi Hannah,

The ecologist has highlighted that no survey work was carried out in respect of the Hazel dormouse which has been identified in the locality and the site would be suitable for this protected species. I am seeking advice as to whether this can be submitted via a pre-commencement condition and will let you know if this is acceptable to our ecologist instead. The pre-commencement conditions thus far are as follows:

Pre-Commencement Condition: No development shall commence until a Non-Licensed Precautionary Method Statement for Hazel Dormouse has been submitted to and approved in writing by the Local Planning Authority. This shall include, but not be limited to, a presence/absence survey and assessment, mitigation measures, and enhancement measures where necessary. The works shall be implemented in accordance with the approved recommendations and shall be maintained thereafter.

Reason: As these matters are fundamental to safeguard the ecology and biodiversity of the area in accordance with Policy 31 of the Horsham District Planning Framework (2015), and to enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority Habitats & Species).

Pre-commencement condition: Prior to the commencement of the development, European Protected Species Mitigation Licence (EPSML) shall be submitted to and approved in writing by the local planning authority. The measures and/works shall be carried out strictly in accordance with the approved details submitted and approved within the License and shall be retained in that manner thereafter

Reason: To allow the LPA 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.

Pre-commencement condition: All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal Bat Emergence Activity Survey (Phlorum Limited, September 2024) and Preliminary Ecological Appraisal V2 (Phlorum Limited, September 2024) 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.

Pre-Commencement Condition: No development shall commence until a Presence/Absence Survey and Assessment for Reptiles has been submitted to and approved in writing by the Local Planning Authority. This shall include, but not limited to, a presence/absence survey and assessment, mitigation measures, and enhancement measures where necessary.

Reason: As these matters are fundamental to safeguard the ecology and biodiversity of the area in accordance with Policy 31 of the Horsham District Planning Framework (2015), and to enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority Habitats & Species).

Please can you confirm the above would be acceptable and then we can proceed to finalise the legal agreement provided the ecologist agrees to these as an appropriate form of mitigation in the absence of the required surveys.

I have to consult the Naturespace officer given the moderate potential for reptiles on site and the absence of information in respect of their presence on site – we will need to agree to an EOT to accommodate this for 30th November please confirm.

Thank you and kind regards,

Hannah Darley
Senior Planning Officer

Telephone: 01403 215538
Email: Hannah.Darley@horsham.gov.uk

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From: Hannah Keyte <hannah.keyte@savills.com>
Sent: 29 October 2024 16:53

To: Hannah.Darley <Hannah.Darley@horsham.gov.uk>
Subject: RE: Keepers Cottages (DC/24/0498)

Dear Hannah,

I just wanted to check if you have had the chance to review my email below? It would be much appreciated if you could send over the draft text for the pre-commencement conditions for us to sign off.

Many thanks,

Hannah Keyte (She/Her)
Graduate Planner
Planning

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Tel : 01273 200 081
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Website : www.savills.co.uk

From: Hannah Keyte
Sent: Friday, October 25, 2024 4:46 PM
To: Hannah.Darley <Hannah.Darley@horsham.gov.uk>
Subject: RE: Keepers Cottages (DC/24/0498)

Dear Hannah,

In response to the ecologist's query, building 2 was re-assessed internally prior to the first activity survey. The gaps were noted to be too large and exposed to the elements to provide suitable roosting crevices or cavities and therefore the building was classified as negligible.

In terms of the pre-commencement conditions, these seem fairly standard but I wanted to check if the wording has been drafted for them so that we can review before formally confirming?

Many thanks,

Hannah Keyte (She/Her)
Graduate Planner
Planning

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Tel : 01273 200 081
Mobile : +447816184124
Email : hannah.keyte@savills.com
Website : www.savills.co.uk

From: Hannah.Darley <Hannah.Darley@horsham.gov.uk>
Sent: Tuesday, October 22, 2024 1:04 PM
To: Hannah Keyte <hannah.keyte@savills.com>
Subject: Keepers Cottages (DC/24/0498)

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Hello Hannah,

Our ecologist has gotten back to me today.

Please can you outline why the further surveys weren't done on building 2 so that I can send a response to our ecologist who has queried this? You are likely to be required to submit some mitigation measures in any case as part of the European Protected Species Mitigation Licence (EPSML) application.

I would need to attach some pre-commencement conditions so would need an agreement to attach these. They are in terms of mitigation measures/ compensation to be carried out by a licensed Ecologist outside of the nesting season and for a European Protected Species Mitigation Licence (EPSML) to be submitted prior to any works on site. Please can you confirm.

Please give me a call if you want to discuss this.

Thank you and kind regards,

Hannah Darley
Senior Planning Officer

Telephone: 01403 215538
Email: Hannah.Darley@horsham.gov.uk



Horsham District Council, Parkside, Chart Way, Horsham, West Sussex RH12 1RL
Telephone: 01403 215100 (calls may be recorded) www.horsham.gov.uk Chief Executive: Jane Eaton

From: Hannah Keyte <hannah.keyte@savills.com>
Sent: 27 September 2024 09:56
To: Hannah.Darley <Hannah.Darley@horsham.gov.uk>
Cc: Andrew Watson <AJWatson@savills.com>
Subject: Keepers Cottages (DC/24/0498

Dear Hannah,

Please find attached the Preliminary Ecological Appraisal and Bat Survey Report for Keepers Cottage.

I trust the attached resolve the queries raised by HDC's ecologist but please let me know if there are any questions.

Many thanks,

Hannah Keyte (She/Her)

Graduate Planner
Planning

Savills, Runway East - York and Elder, 50 New England Street, Brighton, BN1 4AW

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Email: hannah.keyte@savills.com
Website: savills.co.uk

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formal ("Red Book") valuation, and neither Savills nor the author can accept any responsibility to any third party who may seek to rely upon it, as a whole or any part as such. If formal advice is required this will be explicitly stated along with our understanding of limitations and purpose.

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We are registered with the Scottish Letting Agent Register, our registration number is LARN1902057.

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