Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/25/1172
Chennells Brook House , North Heath Lane, Horsham, West Sussex, RH12 5PJ

DESCRIPTION:
Removal of Condition 5 of previously approved application DC/17/1129 (Proposed demolition of existing garage and erection of detached outbuilding/studio) relating to the use of the building for ancillary purposes.

RELEVANT PLANNING HISTORY:

DC/17/1129	Proposed demolition of existing garage and erection of detached outbuilding/studio	Application Permitted on 21.07.2017

DESCRIPTION OF THE SITE
The application site consists of a detached dwelling on the western side of North Heath Lane within the Built Up Area of Horsham. The site is positioned on the corner with Amundsen Road and includes a detached garage and the detached outbuilding subject to this application which is to the front of the plot.

DESCRIPTION OF THE APPLICATION
This application seeks to remove condition 5 from DC/17/1129, which states: -

> *Regulatory Condition: The detached outbuilding/studio building hereby permitted shall be used solely for purposes ancillary to the occupation and enjoyment of the main dwellinghouse at Chennells Brook House North Heath Lane Horsham and shall not be occupied as an independent planning unit of residential accommodation or used for any commercial/business purposes.*
>
> *Reason: The use of this building as an independent residential unit or for commercial/business purposes would be contrary to Policy 33 of the Horsham District Planning Framework (2015).*

RELEVANT PLANNING POLICIES
The National Planning Policy Framework (NPPF)

Horsham District Planning Framework (2015):
Policy 1 - Strategic Policy: Sustainable Development
Policy 3 - Strategic Policy: Development Hierarchy
Policy 15 - Strategic Policy: Housing Provision
Policy 28 - Replacement Dwellings and House Extensions in the Countryside
Policy 31 - Green Infrastructure and Biodiversity
Policy 32 - Strategic Policy: The Quality of New Development
Policy 33 - Development Principles
Policy 35 - Strategic Policy: Climate Change
Policy 36 - Strategic Policy: Appropriate Energy Use

Policy 37 - Sustainable Construction
Policy 38 - Strategic Policy: Flooding
Policy 40 - Sustainable Transport
Policy 41 - Parking

Paragraph 33 of the NPPF requires that all development plans complete their reviews no later than 5 years from their adoption. Horsham District Council is currently in the process of reviewing its development plan however at this stage the emerging policies carry only limited weight in decision making. As the HDPF is now over 5 years old, the most important policies for the determination of this application must be considered as to whether they are 'out of date' (NPPF paragraph 11d). This includes, for applications involving the provision of housing, whether the Council can demonstrate a five year supply of deliverable housing sites (NPPF footnote 8).

The Council is currently unable to demonstrate a five year supply of deliverable housing sites, with the supply currently calculated as being 2.9 years. The presumption in favour of development within Paragraph 11d) of the NPPF therefore applies in the consideration of all applications for housing development within the District (unless footnote 7 or Paragraph 14 applies to relevant applications), with Policies 2, 4, 15 and 26 now carrying only moderate weight in decision making.

All other policies within the HDPF as itemised above have been assessed against the NPPF and are considered to be consistent such that they continue to attract significant weight in decision making.

Horsham District Local Plan (2023-40) (Regulation 19):
Strategic Policy 1: Sustainable Development
Strategic Policy 2: Development Hierarchy
Strategic Policy 6: Climate Change
Strategic Policy 7: Appropriate Energy Use
Strategic Policy 9: Water Neutrality
Strategic Policy 10: Flooding
Strategic Policy 19: Development Quality
Strategic Policy 20: Development Principles
Policy 25: Parking
Strategic Policy 37: Housing Provision
Policy 40: Improving Housing Standards in the District
Policy 46: Ancillary Accommodation

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:
Natural England: Standing Advice: -

It cannot be concluded that existing abstraction within the Sussex North Water Supply Zone is not having an adverse effect on the integrity of the Arun Valley SAC/SPA/Ramsar sites. Developments within Sussex North must therefore must not add to this impact and one way of achieving this is to demonstrate water neutrality. The definition of water neutrality is the use of water in the supply area before the development is the same or lower after the development is in place.

To achieve this Natural England is working in partnership with all the relevant authorities to secure water neutrality collectively through a water neutrality strategy. Whilst the strategy is evolving, Natural England advises that decisions on planning applications should await its completion. However, if there are applications which a planning authority deems critical to proceed in the absence of the strategy, then Natural England advises that any application needs to demonstrate water neutrality.

Representations:
Two representations have been received, objecting to the application on the following grounds:

- No evidence of why the condition should be removed and the purpose for removal.
- Concern relating to increased parking during any construction work

Parish Comments:
Objection, concerned about the outbuilding being used as a separate unit for residential purposes.

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

Background

Planning permission DC/17/1129 entailed the erection of a detached outbuilding / studio, with the approved plans showing the outbuilding was to be ancillary to the primary residential use of the site as a dwellinghouse and related incidental curtilage. This s73 application has been submitted to remove condition 4 of this permission, which requires the outbuilding *"be used solely for purposes ancillary to the occupation and enjoyment of the main dwellinghouse at Chennells Brook House North Heath Lane Horsham*", and not *"occupied as an independent planning unit of residential accommodation or used for any commercial/business purposes".*

The supporting statement sets out that removal of the condition would "*enable the outbuilding not to be restricted, though maintaining its connection to the main dwelling*". The same statement does though also consider that "*…..the site would be appropriate to accommodate a further building, which is not required to be used for ancillary purposes*", and that removal of the condition would make more efficient use of the land and "*also provide additional housing in the area*".

Based on the above statements, it is not clear from the submission whether the applicant intends the outbuilding to continue to be used in a manner connected to the main dwelling, or if the intention is to create a new self-contained dwellinghouse on the site. The 'Conclusion' of the statement suggests an intention for non-family members to occupy the building, though this is not clearly articulated or expanded upon elsewhere in the submission. As a consequence, it is not possible to conclude that the intended use of the building would remain ancillary to Chennells Brook House.

A s73 planning application cannot be used to alter the fundamental description of development approved in the original planning permission, as this would go beyond the scope of the permission. The purpose of a s73 application is therefore to allow for variations to planning conditions, not to change the core nature of the development itself. This is reflected by the PPG, which confirms that a new planning application would need to be submitted where modifications to proposals are fundamental or substantial, and that section 73 cannot be used to change the description of the development.

The approved development was for a domestic outbuilding which was clearly ancillary to the host dwelling. This is reflected by the wording of condition 5, which requires use of the building in a manner consistent to what was proposed by the application. The removal of the condition would not allow occupation of the building as a self-contained dwellinghouse, as appears to be suggested within the supporting statement, and the use would instead remain as being ancillary to and within the same planning unit as Channels Brook House.

The use of the building as a self-contained dwellinghouse would clearly go beyond that entailed in the original planning permission, and such a use would instead constitute development in its own right for which planning permission would be required.

The application is accompanied by insufficient information to set out the intended use of the outbuilding, with the submission referring to occupation by non-family members, which suggests use in a manner akin to a single-dwellinghouse. In the absence of sufficient information it has not been demonstrated that the intended use of the outbuilding would not go beyond the scope of the original planning permission on the site.

Character and Appearance

Policy 33 of the HDPF promotes development that is of a high-quality design, which is sympathetic to the character and distinctiveness of the site and surroundings, contributing to a sense of place through appropriate scale, massing, and appearance, respecting the amenities and sensitivities of neighbouring properties.

The existing outbuilding is a detached outbuilding that clearly reads as a subservient addition to Chennells Brook House. If the outbuilding were to be used in a manner more akin to a separate, non-ancillary building, which it appears that the removal of the condition is attempting to do, it is likely to result in a cramped and incongruous stand-alone building which would not accord with policies 32 and 33 of the HPDF.

Residential Amenity:

Policy 33 of the HDPF states that development should consider the scale, massing, and orientation between buildings, respecting the amenities and sensitivities of neighbouring properties.

As set out above, the supporting statement suggests that '*the removal of the condition would not change the impact already assessed under previously approved application*'. This original assessment was based on an ancillary outbuilding / studio to be built and used as part of a single planning unit. The potential use of the outbuilding in a different manner would potentially raise new considerations in respect of amenity related impacts. This would need to be resolved were the application to be approved, which is not the case for the reasons set out above.

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 original application approved an ancillary outbuilding/ studio. It is unclear from the submission what impact the removal of condition 5 could have on the water use at the site. The application is accompanied by insufficient information to set out the intended use of the outbuilding, with the submission referring to occupation by non-family members, which suggests use in a manner akin to a single-dwellinghouse. Without this information it is not possible to determine whether the proposal is water neutral or not. Were the application to be recommended for approval, more information would be required to ensure that the proposal would not have an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.

Biodiversity Net Gain (BNG):

Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) mandates that every development must achieve at least a 10% Biodiversity Net Gain (BNG) unless the development qualifies as exempt under the Biodiversity Gain Requirements (Exemptions) Regulations 2024).

The original planning permission to which this section 73 planning application relates was made or granted before 12th February 2024 (in respect of major development), or before 2nd April 2024 (in respect of non-major development) under Regulation 3 of the Biodiversity Gain Requirements (Exemptions) Regulations 2024. This current application is therefore exempt.

Conclusions:

It has not been demonstrated that removal of condition 5 of planning permission DC/17/1129 would result not in a use of the outbuilding which would go beyond the scope of the original development. It cannot therefore be concluded that the proposal is within the parameters of an application under Section 73 of the Town & Country Planning Act 1990, as amended.

Notwithstanding reason for refusal no. 1, use of the outbuilding in a manner which was not ancillary to Channels Brook House would, on the basis of the available information, result in a cramped and incongruous standalone building, with the scale and layout in relation to surrounding development considered contrary to policies 32 and 33 of the Horsham District Planning Framework (2015).

The application is therefore recommended for refusal, with no justified or acceptable reason to remove the condition.

Recommendation: Application Refused

Reason(s) for Refusal:

1. It has not been demonstrated that removal of condition 5 of planning permission DC/17/1129 would not result in a use of the outbuilding which would go beyond the scope of the original development. It cannot therefore be concluded that the proposal is within the parameters of an application under Section 73 of the Town & Country Planning Act 1990, as amended.

2. Notwithstanding reason for refusal no. 1, use of the outbuilding in a manner which was not ancillary to Channels Brook House would, on the basis of the available information, result in a cramped and incongruous standalone building, with the scale and layout in relation to surrounding development considered contrary to policies 32 and 33 of the Horsham District Planning Framework (2015).

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/25/1172
(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
Elevation plan		CBH/03 REV A	16.07.2025
Floor plan		CBH/02 REV A	16.07.2025
Supporting Statement	Planning	131/2024	16.07.2025

DELEGATED

Case Officer sign/initial Kate Turner Date: 10.09.2025

Authorising Officer sign/initial Guy Everest Date: 10.09.2025