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Development Management
Horsham District Council
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21 October 2026

Dear Development Management,

Re: Section 73 application for the variation of Condition 1 (approved plans/documents) and the removal of Condition 3 (water neutrality) attached to planning permission DC/21/2875, and the discharge of the Section 106 Agreement dated 22 January 2024

Land Adjacent to Raydon, Lordings Lane, West Chiltington, West Sussex RH20 2QU

Introduction

Wilbury Planning Ltd acts on behalf of the applicants, Mr & Mrs G. Rice, and submits this Supporting Statement in support of an application made to Horsham District Council (HDC) under Section 73 of the Town and Country Planning Act 1990 (as amended). The application has been submitted via the Planning Portal (PP-15314550).

The application seeks to develop the land without complying with the conditions subject to which planning permission DC/21/2875 was granted, and specifically seeks the following:

- The variation of Condition 1 (approved plans/documents), to remove the water neutrality documents from the schedule of approved plans/documents and to substitute the surface water drainage layout only (see below);
- The removal of Condition 3 (water neutrality); and
- The discharge of the Section 106 (S106) Agreement dated 22 January 2024 in its entirety, on the basis that the water neutrality offsetting obligations it secures are no longer necessary to make the development acceptable in planning terms, and that any planning permission granted pursuant to this application is not made subject to a planning obligation.

The basis for the application is the withdrawal by Natural England on 31 October 2025 of its September 2021 Position Statement on water neutrality within the Sussex North Water Supply Zone (SNWSZ), the subsequent variation by the Environment Agency of the Hardham groundwater abstraction licence on 09 October 2026, and HDC's confirmation that it is no longer necessary for planning assessment to consider water neutrality.

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No other changes are proposed to the approved development, the approved drawings or the remaining conditions.

The application is accompanied by the following documents:

Document	Author	Reference
Application Form	Wilbury Planning Ltd	PP-15314550
Supporting Statement	Wilbury Planning Ltd	21 October 2026
CIL Form 1 (Additional Information)	Wilbury Planning Ltd	21 October 2026
Site Location Plan (1:1250)	Wilbury Planning Ltd	Rice_LocR_1_1250 FINAL
Site Location Plan (1:2500)	Wilbury Planning Ltd	Rice_LocR_1_2500 FINAL
Proposed Layout of New Dwelling and Location of RWH Tank (Appendix 1.3 of the Water Neutrality Statement)	Aegaea Limited	Extract from AEG0319_RH10_Poundhill_07_WNS (24/06/2022)
Decision Notice	Horsham District Council	DC/21/2875 (23 January 2024)
Section 106 Agreement	Horsham District Council	Legal Ref: SMS/2697 (22 January 2024)

Planning Context

On 23 January 2024, HDC granted planning permission (DC/21/2875 refers) for the *"Erection of 1no two-storey dwelling with hard and soft landscaping and parking provision."* In accordance with Condition 2, the development must begin before the expiration of three years from the date of the permission, and therefore before 23 January 2027.

Condition 1 requires the development to be carried out in accordance with the approved plans and documents listed in its schedule. The schedule includes two water neutrality documents, these being the *"Water Neutrality Statement and Surface Water Drainage Strategy"* received on 30 December 2021, and the Supporting Statement reference *"AEG03 19_RH10"* received on 29 June 2022. The latter is the Water Neutrality Statement prepared by Aegaea Limited (reference AEG0319_RH10_Poundhill_07_WNS) dated 24 June 2022.

Condition 3 states the following:

- *"The development hereby permitted shall be undertaken in full accordance with the Water Neutrality Strategy (prepared by 'aegaea' Reference: AEG03 19_RH10_Poundhill_07_WNS. Dated 24 June 2022, received by the Council on 29 June 2022). No dwelling hereby permitted shall be first occupied until evidence has been submitted to and been approved in writing by the Local Planning Authority that the approved water neutrality strategy for that dwelling has been implemented in full (including any offsetting / retrofitting measures in relation to the existing property at 16 Riverside, Codmore Hill, Pulborough). The evidence shall include the specification of fittings and appliances used, evidence of their installation, and completion of the as built Part G water calculator or equivalent. The installed measures shall be retained as such thereafter."*

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The reason given for Condition 3 is the following:

- *"To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SAC SPA 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), and to enable the Local Planning Authority 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)."*

The permission is subject to a S106 Agreement dated 22 January 2024 (Legal Ref: SMS/2697) between the Owner of the Site, the Third Party Landowners of 16 Riverside, Codmore Hill, Pulborough (the Offsetting Land), the Mortgagee of the Offsetting Land, and HDC. The S106 Agreement was needed because Natural England's Position Statement required new development within the SNWSZ to be water neutral, and that the parties entered into it in order to secure the required mitigation and Offsetting Measures. The obligations of the S106 Agreement are the following:

- Schedule 4 (the Owner's covenants): to submit a Water Neutrality Strategy and not to Commence Development until it has been approved in writing, to pay the Monitoring Fee, and not to Occupy the Development until HDC has confirmed in writing that the Offsetting Measures at 16 Riverside have been implemented in full; and
- Schedule 5 (the Third Party Landowners' covenants): to retain and maintain the Offsetting Measures at 16 Riverside in perpetuity, to allow HDC to inspect them, and to impose equivalent covenants on any transfer of the Offsetting Land.

The S106 Agreement secures no other planning obligation. Under clause 10.18, its obligations would bind any permission granted under Section 73, although clause 10.18.3 confirms that this does not fetter HDC's discretion in determining the appropriate planning obligations (if any) required in connection with a Section 73 application.

Change in circumstances since the granting of planning permission (DC/21/2875 refers)

The change in circumstances since the granting of planning permission are referred to below:

1. Natural England's Withdrawal Statement

On 31 October 2025, Natural England issued its Withdrawal Statement for applications within the SNWSZ and withdrew its September 2021 Position Statement. Following its review of Southern Water's Hardham Basin Environmental Study (2025), and the measures agreed with Southern Water and the Environment Agency, the Withdrawal Statement confirms the following:

- *"Natural England advises that new development which is supplied by abstraction from groundwater at Pulborough is not likely to have a significant effect on the following protected sites ('the Sites') - Arun Valley Special Area Conservation, Arun Valley Ramsar Site, Arun Valley Special Protection Areas."*

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The Withdrawal Statement goes on to advise that *"your authority does not need to undertake an appropriate assessment or consult us on water scarcity issues affecting the Sites."* It identifies the modification of the Hardham abstraction licence as *"the primary element of interest to local authorities in making decisions regarding relevant plans or projects as it removes connection between abstraction and growth."*

2. Variation of the Hardham abstraction licence

On 09 October 2026, the Environment Agency issued a variation of Southern Water's Hardham groundwater abstraction licence, and this licence cap constitutes what the Natural England Withdrawal Statement relies upon.

3. HDC's current position

HDC's water neutrality webpage, headed *"Water Neutrality Requirements Withdrawn"*, now states the following:

- *"The licence to reduce extraction at Hardham was formally agreed by the Environment Agency on 9th October 2026. Following this, the matter of water neutrality has been resolved and it is no longer necessary for planning assessment to consider this."*

Prior to this, the Joint Statement of HDC and West Chiltington Parish Council on water neutrality (19 December 2025) had already confirmed the following:

- *"…from 1 November 2025, all new developments in Horsham District are deemed water neutral using Southern Water's 2024/25 water efficiency savings. No bespoke condition or Section 106 clause is any longer required to demonstrate water neutrality and no payment is required into an offsetting scheme."*

4. The development plan and emerging plan

The same change in circumstances has been reflected in plan-making. The West Chiltington Neighbourhood Plan 2023 to 2031 was made on 24 June 2026, and HDC's Decision Statement of 20 March 2026 accepted the Examiner's modifications, which removed the water neutrality policies from the Plan at the joint request of HDC and the Parish Council.

In respect of the emerging Horsham District Local Plan 2023 to 2040, HDC's Water Supply and Water Quality Topic Paper (HDCJB28, October 2026) confirms at paragraph 8.1 the following:

- *"There is no longer a need for a local plan policy requiring all development to achieve water neutrality."*

Planning policy and legislative context

In determining an application under Section 73, HDC shall consider only the question of the conditions subject to which planning permission should be granted. The principle of the dwelling,

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its design, and its effects on amenity, highways and trees were assessed and found acceptable under DC/21/2875 and ought not to be assessed again by HDC as part of this application.

The development plan comprises the Horsham District Planning Framework (2015) (HDPF) and the West Chiltington Neighbourhood Plan 2023 to 2031. HDPF Policy 31 (cited in the reason for Condition 3) seeks to protect and enhance biodiversity, and does not itself impose a requirement for water neutrality. That requirement derived from Natural England's Position Statement, which has now been withdrawn. The made Neighbourhood Plan contains no water neutrality requirement.

The National Planning Policy Framework (NPPF) (August 2026) is a material consideration which must be taken into account from the day of its publication. The following national decision-making policies are relevant:

- Policy DM6(1) confirms that planning conditions should only be attached where they are necessary to make the development acceptable in planning terms, relevant to the development and to planning considerations generally, sufficiently precise, and reasonable in all other respects;
- Policy DM6(4) confirms that planning obligations should only be used where it is not possible to address potential unacceptable impacts through a planning condition;
- Policy N6(1)(a) addresses development proposals affecting a habitats site; and
- Policy DM3(1) requires local planning authorities to work with applicants in a positive and proactive manner to enable a timely decision (DM3(1)(a)), and not to refuse applications for development which should clearly be approved (DM3(1)(f)).

In respect of the S106 Agreement, Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) provides that a planning obligation may only constitute a reason for granting planning permission if it is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.

Removal of Condition 3

Condition 3 was imposed to ensure that the development is water neutral so as to avoid an adverse impact on the Arun Valley SAC, SPA and Ramsar sites. That purpose no longer applies. Natural England, as the appropriate nature conservation body, now advises that new development supplied from the SNWSZ is not likely to have a significant effect on the Arun Valley sites, and the licence cap on which that advice relies has been in force since 09 October 2026. HDC itself confirms that the matter of water neutrality has been resolved and that it is no longer necessary for planning assessment to consider it.

As such, Condition 3 is no longer necessary to make the development acceptable in planning terms, and it fails the first of the tests in NPPF policy DM6(1). Its retention would also be unreasonable in all other respects, contrary to DM6(1)(d), as it would continue to require the installation and retention in perpetuity of retrofitting measures at a third party property some distance from the site, at the applicants' expense, for no remaining planning purpose. It is therefore respectfully requested that Condition 3 is removed.

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Variation of Condition 1

The variation of Condition 1 is consequential upon the removal of Condition 3. If the two water neutrality documents remained in the schedule of approved plans/documents, Condition 1 would continue to require the development to be carried out in accordance with the water neutrality measures, and the removal of Condition 3 would be ineffective.

However, the Water Neutrality Statement also contains, at Appendix 1.3, the proposed surface water drainage layout for the dwelling. Therefore so that the approved drainage arrangements are retained, Appendix 1.3 has been extracted from the Water Neutrality Statement and is submitted as a standalone document as part of this application for inclusion in the revised wording of Condition 1.

The revised schedule of approved plans/documents proposed for Condition 1 is set out below:

Plan Type	Description	Drawing Number	Received Date
Supporting Statement		MATERIALS	29.07.2022
~~Supporting Statement~~		~~AEG03 19_RH10~~	~~29.06.2022~~
Design & Access Statement	Planning	NONE	30.12.2021
Supporting Statement	Arboricultural Impact Assessment and Method Statement	NONE	30.12.2021
~~Supporting Statement~~	~~Water Neutrality Statement and Surface Water Drainage Strategy~~	~~NONE~~	~~30.12.2021~~
Drainage layout	Proposed Layout of New Dwelling and Location of RWH Tank (Appendix 1.3 of Aegaea Water Neutrality Statement, 24/06/2022)	Extract from AEG0319_RH10_Poundhill_07_WNS	Date of this application
Location plan		01	30.12.2021
Block plan		02	30.12.2021
Elevation & Floor plan		D1905.1D	30.12.2021
Elevation plan	Section	D1905.2D	30.12.2021
Site plan		D1905.3F	30.12.2021
Section plan	Existing	D1905.5A	30.12.2021
Tree plan		1.01	30.12.2021

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Discharge of the Section 106 Agreement

Every obligation in the S106 Agreement seeks to secure water neutrality, and the S106 Agreement secures no other planning obligation. As set out above, water neutrality is no longer required by Natural England, by HDC, or by the development plan. The obligations are therefore no longer necessary to make the development acceptable in planning terms, and they no longer meet the first of the tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended). HDC's own position, as set out in the Joint Statement, is that no Section 106 clause is any longer required to demonstrate water neutrality.

A planning obligation under the S106 Agreement could not therefore constitute a reason for granting planning permission pursuant to this application, and it is requested that any permission granted under Section 73 is not made subject to a new or varied planning obligation. In accordance with clause 10.18.3 of the S106 Agreement, HDC retains the discretion to determine this.

Because clause 10.18 would otherwise carry the obligations forward to any Section 73 permission, and the obligations will continue to bind the original permission, the applicants request that HDC agrees to discharge the S106 Agreement in its entirety and in pursuant to Section 106A(1)(a) of the Town and Country Planning Act 1990.

A formal application to discharge under Section 106A(3) is not yet available, as the S106 Agreement is less than five years old. However it is proposed that the discharge is effected by a short deed of release, completed in parallel with the determination of this application.

Community Infrastructure Levy

The development is CIL liable. CIL Form 1 (Additional Information) accompanies this application along with CIL Form 7 Part 1.

CIL Form 2 (Assumption of Liability) and CIL Form 6 (Commencement Notice) will be submitted to HDC in the correct order, before any works begin on site.

Conclusion

Condition 3 and the S106 Agreement dated 22 January 2024 were imposed and entered into for the sole purpose of securing water neutrality. Following Natural England's withdrawal of its Position Statement on 31 October 2025, the variation of the Hardham abstraction licence on 09 October 2026, and HDC's confirmation that water neutrality no longer needs to be considered in planning assessment, Condition 3 is no longer necessary and fails the tests in NPPF policy DM6(1), and the planning obligations no longer meet the tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended).

It is therefore respectfully requested that HDC grants planning permission under Section 73 for the variation of Condition 1 and the removal of Condition 3 as set out in this Supporting Statement, without a planning obligation, and agrees to the discharge of the Section 106 Agreement.

Please do not hesitate to contact me should there be any questions or queries regarding the application.

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Yours faithfully,



Henry Wagstaff
BA (Hons) MPLAN MRTPI
Director