Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

HRA/24/0004
56A High Street, Steyning, West Sussex, BN44 3RD

DESCRIPTION:

Application under Regulation 77 of the Conservation of Habitats and Species Regulations 2017 in respect of Prior Approval consent DC/23/1525

RELEVANT PLANNING HISTORY:

DC/22/0490	Prior Approval for Change of Use from retail to a single dwellinghouse.	Prior Approval Required and permitted on 23.05.2022
DC/23/2215	Change of use of first floor and part of ground floor from Commercial to 2 bed dwellinghouse including internal alterations (Full)	Refused 15/03/2023
DC/23/1525	Prior Notification for Change of Use of Class E Commercial to 2 bed residential flat.	Prior notification approved 19/09/2023

STATUTORY BACKGROUND

The Conservation of Habitats and Species Regulations 2017
The Town and Country Planning Act 1990

CONSULTATION

Natural England: No Objection subject to the mitigations within the Water neutrality statement

ASSESSMENT

Prior Approval (DC/23/1525) was granted on 19.09.2023 for the following:

Prior Approval for Change of Use of Class E Commercial to 2 bed residential flat.

Part of the consent advised the applicant that the decision relates solely to whether the Prior Approval of the Local Planning Authority was required. The site lies within the Sussex North Water Supply Zone where Natural England has advised that water abstraction cannot be concluded as having no adverse effect on the integrity of the Arun Valley Special Area Conservation (SAC), the Arun Valley Special protection Area (SPA) and the Arun Valley Ramsar Site, following the publication of their Position Statement (September 2021).

Article 3(1) of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended states that planning permission for development described as permitted development in Schedule 2 is granted subject to the provisions of the Order, and Regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). Regulation 75 of the Habitat Regulations states that it is a condition of any planning permission granted by a general development order (such as the GPDO) that development likely to have a significant effect on a

European Site 'must not be begun' until the developer has received written notification of the approval of the local planning authority under Regulation 77.

Regulation 76 provides that an applicant may first apply in writing to the appropriate nature conservation authority for its opinion as to whether their development is likely to have a relevant effect.

This present application represents a submission under Regulation 77 of the Habitat Regulations for the Council's confirmation as to whether or not the proposal would have an adverse effect on the integrity of the designated areas Arun Valley sites.

Regulation 77(1) of the Habitats Regulations states that an application must be made to the Local Planning Authority and for the purposes of its consideration, the Local Planning Authority must assume that the development is likely to have a relevant affect (2). As per Section (3) of the Regulation, the appropriate nature conservation body (in this case, Natural England) must be consulted on the application. Where the nature conservation body does not consider that the development is likely to have a relevant affect, their representation must be forwarded to the applicant (4 and 5).

Regulation 77(6) states that *'In any other case in which the application has been sent to the appropriate nature conservation body, the local planning authority must, taking account of any representations made by the appropriate nature conservation body, make an appropriate assessment of the implications of the development for the European site or European offshore marine site in view of that site's conservation objectives.* Regulation 77(7) then states that: *In the light of the conclusions of the assessment the local planning authority may approve the development only after having ascertained that it will not adversely affect the integrity of the site.* Conversely, if it cannot be ascertained that the development would not result in an adverse effect, the local planning authority may refuse the application.

Prior approval consent DC/23/1525 relates to a prior Notification for Change of Use of Class E Commercial to 2 bed residential flat.

The submitted strategy indicates an existing baseline water demand of 217.2l/p/d. The proposed development would comprise a water demand on 207l/p/d. This would be divided by the commercial usage which would be 62.80 litres per day and the residential use of 145.9 litres per day. The strategy therefore demonstrates that the proposed use would use less water than the existing use.

An Appropriate Assessment was prepared on this basis and Natural England have raised no objection to the assessment, with the consultation response received concurring with the above view. The project will not have a Likely Significant Effect on the designated features of the Arun Valley SAC/SPA/Ramsar site, either alone or in combination with other plans and projects. Therefore, the Local Planning Authority consider that the proposal would not result in a significant adverse impact on the integrity of the Arun Valley SAC, the Arun Valley SPA, and the Arun Valley Ramsar Site. The Council can therefore approve the development under Regulation 75 of the Habitats Regulations.

While the water strategy proposed would be agreeable in principle, and an Appropriate Assessment has been undertaken and accepted, the mechanism to secure the water strategy is not considered sufficient and would not support water neutrality in perpetuity. The Applicant has been advised that a legal agreement would be required however they have not pursued this. The application is therefore recommended for refusal on this basis.

Recommendation: Application Refused

1 It has not been possible to secure a planning obligation that would secure the water neutrality strategy in perpetuity. It cannot therefore be demonstrated with a sufficient degree of certainty that the proposed development would not contribute to an existing adverse effect upon the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites by way of increased water abstraction. Therefore, the Council

is unable to discharge its duties under Regulation 75 of the Conservation of Habitats and Species Regulations 2017 (as amended).

DELEGATED

Case Officer sign/initial	Hannah Darley	Date:	24/02/2025
Authorising Officer sign/initial	RHERMITAGE	Date:	28.02.2025