

PLANNING SUPPORTING STATEMENT

Section 73 Application — Variation of Conditions

Application Site: Denver Storage, Okehurst Lane, Billingshurst, West Sussex, RH14 9HR

Original Permission: DC/22/1458 (Granted 5 June 2024)

Description of Original Permission: Demolition of the existing building and erection of 3no storage units (Use Class B8), incorporating vehicular access, landscaping, and on-site parking provision

Nature of S73 Application: Removal of Conditions 19, 20, 21 and 39 (Water Neutrality Conditions)

Applicant: Denver Commercial LLP

1. Introduction

This Supporting Statement accompanies a Section 73 application under the Town and Country Planning Act 1990 (as amended) seeking to vary planning permission DC/22/1458, granted by Horsham District Council (HDC) on 5 June 2024.

The application seeks the removal of Conditions 19, 20, 21 and 39, which together comprise the water neutrality requirements attached to the original permission. These conditions were imposed to ensure the development would not increase net water demand in the Sussex North Water Supply Zone (WSZ), in order to protect the Arun Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar sites.

As set out in detail below, the policy and regulatory basis upon which these conditions were imposed has been formally withdrawn by Natural England, the statutory nature conservation body, with effect from 31 October 2025. Horsham District Council has confirmed that water neutrality conditions and obligations are no longer required on any new development in the district. The conditions are therefore no longer necessary, relevant or justified, and their removal is sought accordingly.

2. The Conditions Sought to be Removed

The following conditions from Decision Notice DC/22/1458 (dated 5 June 2024) are the subject of this application:

Condition 19: *The development hereby permitted shall be undertaken in full accordance with the water neutrality strategy (WATER NEUTRALITY REPORT — Development at Denver, Okehurst Lane, Billingshurst RH14 9HR For Denver Commercial LLP: Ref C2182 Rev P3 22.06.23 by CGS Civils Ltd and WATER NEUTRALITY COMPONENT SCHEDULE — RAINWATER HARVESTING: DC/22/1458-WNR-RWH-08 Date 29th June 2023 by Silverline UK Ltd). Reason: 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), its duties under the Conservation of Habitats and*

Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

Condition 20: *No unit 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 unit has been implemented in full. The evidence shall include the specification of fittings and appliances used, evidence of their installation, evidence they meet the required water consumption flow rates, and evidence of the installation and connection of the rainwater harvesting system and appropriate storage tanks to provide a minimum 35 days storage capacity. The installed measures shall be retained and operated as such at all times thereafter. Reason: To ensure the development is water neutral...*

Condition 21: *No unit shall be first occupied until evidence has been submitted to and been approved in writing by the Local Planning Authority that water taken from the tap within the unit(s) has been sampled by a person who has undertaken the DWI certification of persons scheme for sampling private water supplies, analysed by a laboratory that is accredited to the ISO 17025 Drinking Water Testing Specification and the findings submitted to the Local Planning Authority... Reason: To ensure the development is water neutral...*

Condition 39: *No unit hereby permitted shall be connected to or draw supply from the mains water supply except for emergency purposes in the event of a temporary failure of the rainwater harvesting system. Where a temporary failure has occurred, the occupiers shall immediately undertake the contingency measures set out in the management and maintenance plan agreed under condition 11 until such time as the system is fully operational. The occupiers of each unit shall keep an ongoing record of all water taken from the mains supply... Reason: To ensure the development is water neutral...*

3. Background: The Water Neutrality Requirement

In September 2021, Natural England issued a Position Statement on Water Neutrality in the Sussex North Water Supply Zone. This statement required that all new development within the zone — including Billingshurst and the wider Horsham District — must demonstrate that it would not increase net demand for water abstracted from the Arun Valley. The rationale was to protect the Arun Valley SAC, SPA and Ramsar sites from the potential adverse impacts of increased water abstraction by Southern Water from the Pulborough borehole and Hardham pumping station.

The requirement had a significant impact across Horsham District. It blocked or delayed planning permissions for over 2,600 new homes, as well as employment uses and community facilities. To comply with the requirement, applicants were required to demonstrate water neutrality through a combination of water-efficient fittings, rainwater harvesting systems, and in some cases off-site offsetting measures.

In the case of DC/22/1458, the applicant invested substantially in designing a bespoke rainwater harvesting solution (a nine-stage treatment system by Silverline UK Ltd, with 4 x 1,500 litre tanks providing 60 days of storage capacity) to ensure the development would draw no water from the mains supply under normal operating conditions. This was the basis on which Conditions 19, 20, 21 and 39 were imposed.

4. Change in Circumstances: Withdrawal of the Water Neutrality Requirement

4.1 Natural England's Withdrawal

On 31 October 2025, Natural England formally withdrew its September 2021 Water Neutrality Position Statement for the Sussex North Water Supply Zone. This withdrawal followed an agreement reached between Natural England, the Environment Agency, and Southern Water, based on significant evidence that the link between water abstraction and harm to the Arun Valley habitats had been effectively resolved.

The withdrawal was made possible by two key factors:

- Southern Water delivered substantial water efficiency savings of approximately 3,240,000 litres per day during 2024/25 through a programme of leakage reduction. These savings provide sufficient headroom to accommodate new development without increasing net abstraction above baseline levels; and
- The Environment Agency has been progressing a formal revision to Southern Water's abstraction licence, which will cap abstraction at a level that protects the Arun Valley habitats. This licence amendment is expected to take effect from March 2026.

In its Withdrawal Statement, Natural England advises that local authorities are no longer required to consider water neutrality measures when determining relevant plans or projects. Specifically, with effect from 1 November 2025, all new development in the Sussex North Water Supply Zone is deemed water neutral, and no bespoke condition, Section 106 obligation, or offsetting payment is required.

4.2 Horsham District Council's Position

Horsham District Council confirmed Natural England's withdrawal by formal statement on 4 November 2025, published on its website. The Council confirmed that water neutrality is no longer a requirement for new development in the district.

Consistent with this position, Horsham's Planning Committee has already approved a series of Section 73 applications from other developers to remove equivalent water neutrality conditions from extant permissions. In all cases, the applications received unanimous committee approval. The applications in question were DC/24/2006, DC/24/1581, DC/24/0982 and DC/19/2464, each of which had water neutrality conditions removed on the same basis as is sought here.

The Council and West Chiltington Parish Council issued a Joint Statement in December 2025 confirming that water neutrality policy requirements should be removed from neighbourhood plans across the district. The Local Plan Inspector has also agreed to reopen examination hearings to allow consequential amendments to the emerging Horsham Local Plan.

5. Assessment Against the Tests for Planning Conditions

Under Section 73 of the Town and Country Planning Act 1990, the Local Planning Authority must consider the application on its own planning merits. The National Planning Policy Framework (2023) at paragraph 56 sets out that planning conditions should only be imposed where they meet all six tests: necessary, relevant to planning, relevant to the development, enforceable, precise, and reasonable in all other respects.

It is submitted that, in light of the changed circumstances described above, Conditions 19, 20, 21 and 39 no longer meet these tests for the following reasons:

5.1 Necessity

The conditions were imposed exclusively to secure water neutrality in accordance with the Natural England Position Statement of September 2021 and Policy 31 of the Horsham District Planning Framework (2015). That Position Statement has been formally and unconditionally withdrawn. Natural England, as statutory consultee, has confirmed that no water neutrality measures are required on new development. The conditions are therefore no longer necessary.

5.2 Relevance to Planning and the Development

The policy basis cited in the reason for each condition — Natural England's Position Statement, Policy 31 of the HDPF, and the associated Habitats Regulations obligations — no longer applies. The Environment Agency's revised abstraction licence for Southern Water will provide the formal regulatory mechanism to protect the Arun Valley habitats going forward, removing the need for individual development-level mitigation. The conditions are therefore no longer relevant to the development or to planning considerations.

5.3 Habitats Regulations Compliance

The Applicant is mindful that the original conditions were imposed not only as a matter of planning policy but also as mitigation secured through the Habitats Regulations Assessment process, to ensure compliance with the Conservation of Habitats and Species Regulations 2017.

However, Natural England's Withdrawal Statement expressly addresses this point. The withdrawal is based on the finding that Southern Water's 2024/25 leakage savings have decoupled the link between new development and increased abstraction at the Arun Valley, and that the forthcoming licence cap will provide permanent protection. On this basis, Natural England is satisfied that new development in the Sussex North WSZ will not adversely affect the integrity of the Arun Valley SAC, SPA and Ramsar sites. No individual mitigation at development level is therefore required under the Habitats Regulations.

The Council is invited to undertake its own Appropriate Assessment screening in accordance with its duties as Competent Authority under the Habitats Regulations 2017. Given Natural England's clear position, it is submitted that the Council will readily be able to conclude that removal of the conditions will not adversely affect the integrity of the protected sites, and that no further assessment is required.

5.4 Reasonableness

Requiring the applicant to install, maintain, and operate a complex private rainwater harvesting and water treatment system — including ongoing DWI-certified water sampling and regulatory record-keeping under Condition 39 — when the policy imperative for such measures has been entirely removed, would be unreasonable and disproportionate. The system would impose a substantial and unnecessary operational burden without delivering any corresponding planning or environmental benefit.

6. Conclusion

This application seeks the removal of Conditions 19, 20, 21 and 39 from planning permission DC/22/1458, granted on 5 June 2024. These conditions required the development to meet

water neutrality standards through a bespoke rainwater harvesting system and associated monitoring obligations.

The sole purpose of these conditions was to ensure compliance with Natural England's September 2021 Water Neutrality Position Statement for the Sussex North Water Supply Zone. That Position Statement was formally withdrawn by Natural England on 31 October 2025, following Southern Water's substantial leakage savings and agreement with the Environment Agency on a revised abstraction licence to protect the Arun Valley habitats.

Horsham District Council has confirmed that water neutrality is no longer required on new development in the district. The Council has already unanimously approved equivalent S73 applications by other applicants on identical grounds.

Considering these material changes in circumstances, the water neutrality conditions no longer meet the NPPF tests for planning conditions. They are no longer necessary, no longer relevant to planning or the development, and their continued imposition would be unreasonable.

It is respectfully submitted that Horsham District Council should grant this Section 73 application and remove Conditions 19, 20, 21 and 39 from permission DC/22/1458, allowing all other conditions to remain in full force and effect.