Date: 24 June 2025
Our ref: 516143
Your ref: DC/25/0676

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BY EMAIL ONLY

Dear Hannah Darley

Planning consultation: Retention of existing restaurant and take away use with extraction flue on rear elevation. (Retrospective).

Location: 37 East Street Horsham West Sussex RH12 1HR

Thank you for your consultation on the above, dated and received by Natural England on 16 June 2025.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

As submitted, the application could have potential significant effects on Arun Valley Ramsar site, Special Area of Conservation (SAC), Special Protection Area (SPA), as well as Amberley Wild Brooks Site of Special Scientific Interest (SSSI) and Pulborough Brooks SSSI. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- Robust information demonstrating how the proposed development will not result in increased levels of abstraction within the Sussex North Water Supply Zone.

Without this information, Natural England may need to object to the proposal. Please re-consult Natural England once this information has been obtained.

Natural England's further advice on designated sites/landscapes and advice on other issues is set out below.

Further Advice on Mitigation

The proposed development falls within the Sussex North Water Supply Zone (SNWSZ). As set out in Natural England's Advice Note regarding planning applications within the SNWSZ, the existing water supply in the zone cannot be ruled out as contributing to the declines in wildlife within the internationally protected Arun Valley SPA, SAC and Ramsar sites. Ensuring that there is no net increase in water consumption is recognised as a suitable method to rule out potential adverse effects on the integrity of these sites arising from development.

Habitats Regulations Assessment

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal, in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Your appropriate assessment concludes that your authority is **unable to rule out an adverse effect** on the integrity of the Arun Valley designated sites, due to insufficient consideration as to how the proposed application will not result in a net increase in abstraction within the Sussex North Water Supply Zone. Having considered the assessment, Natural England concurs with the conclusion you have drawn. Natural England advises that the proposal does not provide enough information and/or certainty to enable adverse effects on site integrity to be ruled out.

Regulation 63 states that a competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of the European site, subject to the exceptional tests set out in regulation 64 of the Conservation of Habitats and Species Regulations 2017 (as amended). As the conclusion of your Habitats Regulations Assessment states that it cannot be ascertained that the proposal will not adversely affect the integrity of the European site, your authority cannot permit the proposal unless it passes the tests of regulation 64; that is that there are no alternatives and the proposal must be carried out for imperative reasons of overriding public interest.

Your authority may now wish to consider the exceptional tests set out within regulation 64. Specific guidance about these tests can be found at: https://www.gov.uk/government/publications/habitats-and-wild-birds-directives-guidance-on-the-application-of-article-6-4.

Should the applicant provide additional information outlining how they intend to mitigate an adverse effect on the Arun Valley designated sites, Natural England would be happy to be reconsulted on the applicant's proposed approach to mitigation.

Final Comments

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

If you have any queries relating to the advice in this letter, please contact me [redacted]

Should the proposal change, please consult us again.

Yours sincerely,

Jacob Desmond
Higher Officer - Sustainable Development
Sussex and Kent Area Team

Annex A – Natural England general advice

Protected Landscapes
Paragraph 189 of the National Planning Policy Framework - GOV.UK (www.gov.uk) (NPPF) requires great weight to be given to conserving and enhancing landscape and scenic beauty within Areas of Outstanding Natural Beauty (known as National Landscapes), National Parks, and the Broads and states that the scale and extent of development within all these areas should be limited. Paragraph 190 requires exceptional circumstances to be demonstrated to justify major development within a designated landscape and sets out criteria which should be applied in considering relevant development proposals. Section 245 of the Levelling-up and Regeneration Act 2023 (legislation.gov.uk) places a duty on relevant authorities (including local planning authorities) to seek to further the statutory purposes of a National Park, the Broads or an Area of Outstanding Natural Beauty in England in exercising their functions. This duty also applies to proposals outside the designated area but impacting on its natural beauty.

The local planning authority should carefully consider any impacts on the statutory purposes of protected landscapes and their settings in line with the NPPF, relevant development plan policies and the Section 245 duty. The relevant National Landscape Partnership or Conservation Board may be able to offer advice on the impacts of the proposal on the natural beauty of the area and the aims and objectives of the statutory management plan, as well as environmental enhancement opportunities. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to development and its capacity to accommodate proposed development.

Wider landscapes
Paragraph 187 of the NPPF highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland, or dry-stone walls) could be incorporated into the development to respond to and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape and Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Guidelines for Landscape and Visual Impact Assessment (GLVIA3) - Landscape Institute for further guidance.

Biodiversity duty
Section 40 of the Natural Environment and Rural Communities Act 2006 (legislation.gov.uk) places a duty on the local planning authority to conserve and enhance biodiversity as part of its decision making. We refer you to the Complying with the biodiversity duty - GOV.UK (www.gov.uk) for further information.

Designated nature conservation sites
Paragraphs 193-195 of the NPPF set out the principles for determining applications impacting on Sites of Special Scientific Interest (SSSI) and habitats sites (Special Areas of Conservation (SACs) and Special Protection Areas (SPAs)). Both the direct and indirect impacts of the development should be considered.

A Habitats Regulations Assessment is needed where a proposal might affect a habitat site (see Habitats regulations assessments: protecting a European site - GOV.UK (www.gov.uk) and Natural England must be consulted on 'appropriate assessments' (see Appropriate assessment - GOV.UK (www.gov.uk) for more information for planning authorities).

Natural England must also be consulted where development is in or likely to affect a SSSI and provides advice on potential impacts on SSSIs either via the SSSI Impact Risk Zones (England) (arcgis.com) or as standard or bespoke consultation responses. Section 28G of the Wildlife and Countryside Act 1981 places a duty on all public bodies to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the features for which an SSSI has been notified (Sites of special scientific interest: public body responsibilities - GOV.UK (www.gov.uk).

Protected Species
Natural England has produced Protected species and development: advice for local planning authorities - GOV.UK (standing advice) to help planning authorities understand the impact of particular developments on protected species.

Annex A – Natural England general advice

Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances. A protected species licence may be required in certain cases. We refer you to Wildlife licences: when you need to apply (www.gov.uk) for more information.

Local sites and priority habitats and species
The local planning authority should consider the impacts of the proposed development on any local wildlife or geodiversity site, in line with paragraphs 187, 188 and 192 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity to help nature's recovery. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local environmental records centre, wildlife trust, geoconservation groups or recording societies. Emerging Local nature recovery strategies - GOV.UK (www.gov.uk) may also provide further useful information.

Those habitats and species which are of particular importance for nature conservation are included as 'priority habitats and species' in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest on the Magic website or as Local Wildlife Sites. We refer you to Habitats and species of principal importance in England (gov.uk) for a list of priority habitats and species in England. You should consider priority habitats and species when applying your 'biodiversity duty' to your policy or decision making

Natural England does not routinely hold priority species data. Such data should be collected when impacts on priority habitats or species are considered likely.

Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land. We refer you to the Brownfield Hub - Buglife for more information and Natural England's Open Mosaic Habitat (Draft) - data.gov.uk (Open Mosaic Habitat inventory), which can be used as the starting point for detailed brownfield land assessments.

Biodiversity and wider environmental gains
Development should provide net gains for biodiversity in line with the NPPF paragraphs 187(d), 192 and 193. Major development (defined in the National Planning Policy Framework (publishing.service.gov.uk) glossary) is required by law to deliver a biodiversity gain of at least 10% from 12 February 2024 and this requirement is also applies extended to small scale development from April 2024. For nationally significant infrastructure projects (NSIPs), it is anticipated that the requirement for biodiversity net gain will be implemented from 2025.

Biodiversity Net Gain guidance (gov.uk) provides more information on biodiversity net gain and includes a link to the Biodiversity Net Gain Planning Practice Guidance (gov.uk).

The statutory biodiversity metric should be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. We refer you to Calculate biodiversity value with the statutory biodiversity metric for more information. For small development sites, The Small Sites Metric may be used. This is a simplified version of the statutory biodiversity metric and is designed for use where certain criteria are met.

The mitigation hierarchy as set out in paragraph 193 of the NPPF should be followed to firstly consider what existing habitats within the site can be retained or enhanced. Where on-site measures are not possible, provision off-site will need to be considered.

Where off-site delivery of biodiversity gain is proposed on a special site designated for nature (e.g. a SSSI or habitats site) prior consent or assent may be required from Natural England. More information is available on Sites of Special Scientific Interest: managing your land

Annex A – Natural England general advice

Development also provides opportunities to secure wider biodiversity enhancements and environmental gains, as outlined in the NPPF (paragraphs 8, 77, 109, 125, 187, 188, 192 and 193). Opportunities for enhancement might include incorporating features to support specific species within the design of new buildings such as swift or bat boxes or designing lighting to encourage wildlife.

The Environmental Benefits from Nature Tool - Beta Test Version - JP038 (naturalengland.org.uk) may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside the statutory biodiversity metric.

Natural environment - GOV.UK (www.gov.uk) provides further information on biodiversity net gain, the mitigation hierarchy and wider environmental net gain.

Ancient woodland, ancient and veteran trees
The local planning authority should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 193 of the NPPF. The Natural England Access to Evidence - Ancient woodlands Map can help to identify ancient woodland. Natural England and the Forestry Commission have produced Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK (www.gov.uk) (standing advice) for planning authorities. It should be considered when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Best and most versatile agricultural land and soils
Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 187, 188). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in the Guide to assessing development proposals on agricultural land - GOV.UK (www.gov.uk). Find open data - data.gov.uk on Agricultural Land Classification or use the information available on MAGIC (defra.gov.uk).

The Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (publishing.service.gov.uk) provides guidance on soil protection, and we recommend its use in the design and construction of development, including any planning conditions. For mineral working and landfilling, we refer you to Reclaim minerals extraction and landfill sites to agriculture - GOV.UK (www.gov.uk), which provides guidance on soil protection for site restoration and aftercare. The Soils Guidance (quarrying.org) provides detailed guidance on soil handling for mineral sites.

Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

Green Infrastructure
For evidence-based advice and tools on how to design, deliver and manage green and blue infrastructure (GI) we refer you to Green Infrastructure Home (naturalengland.org.uk) (the Green Infrastructure Framework). GI should create and maintain green liveable places that enable people to experience and connect with nature, and that offer everyone, wherever they live, access to good quality parks, greenspaces, recreational, walking and cycling routes that are inclusive, safe, welcoming, well-managed and accessible for all. GI provision should enhance ecological networks, support ecosystems services and connect as a living network at local, regional and national scales.

Development should be designed to meet the 15 GI How Principles (naturalengland.org.uk). The GI Standards can be used to inform the quality, quantity and type of GI to be provided. Major development should have a GI plan including a long-term delivery and management plan. Relevant aspects of local authority GI strategies should be delivered where appropriate.

Annex A – Natural England general advice

The Green Infrastructure Map (naturalengland.org.uk) and GI Mapping Analysis (naturalengland.org.uk) are GI mapping resources that can be used to help assess deficiencies in greenspace provision and identify priority locations for new GI provision.

Access and Recreation:
Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths, together with the creation of new footpaths and bridleways should be considered. Links to urban fringe areas should also be explored to strengthen access networks, reduce fragmentation, and promote wider green infrastructure.

Rights of Way, Access land, Coastal access and National Trails:
Paragraphs 105, 185, 187 and 193 of the NPPF highlight the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development.

Consideration should also be given to the potential impacts on any nearby National Trails. We refer you to Find your perfect trail, and discover the land of myths and legend - National Trails for information including contact details for the National Trail Officer.

The King Charles III England Coast Path (KCIIIECP) is a National Trail around the whole of the English Coast. It has an associated coastal margin subject to public access rights. Parts of the KCIIIECP are not on Public Rights of Way but are subject to public access rights. Consideration should be given to the impact of any development on the KCIIIECP and the benefits of maintaining a continuous coastal route.

Appropriate mitigation measures should be incorporated for any adverse impacts on Rights of Way, Access land, Coastal access, and National Trails.

Further information is set out in the Planning Practice Guidance on the Natural environment - GOV.UK (www.gov.uk).