Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

HRA/24/0013
Copsale Barn, Copsale Road, Copsale, West Sussex, RH13 6QU

DESCRIPTION:

Application under Regulation 77 of the Conservation of Habitats and Species Regulations 2017 relating to Prior Approval consent DC/21/2590

RELEVANT PLANNING HISTORY:

DC/21/2590	Prior notification for the convesrion of an existing agricultural building to a residential dwelling.	Prior Approval Required and PERMITTED on 03.02.2022

STATUTORY BACKGROUND

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

CONSULTATION

Natural England: No Objection subject to appropriate mitigation being secured: -

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England concur with the assessment conclusions within the Appropriate Assessment, providing that all mitigation measures are appropriately secured in any planning permission given.

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.

ASSESSMENT

Prior Approval consent was granted on 13.03.2022 for the following:

"Prior notification for the conversion of an existing agricultural building to a residential dwelling."

An informative was attached to the consent that advised the applicant that the decision relates solely to whether the Prior Approval of the Local Planning Authority was required. It did not confirm that the proposal represented Permitted Development. 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.

The Water Neutrality Statement outlines that the development would result in a water demand of 94.31 litres per day, where the 1-bed dwelling would have an average occupancy of 1.88. Based upon this, the total water demand arising from the development would be 177.3 litres per day.

The water strategy seeks to offset this demand through the Sussex Water Neutrality Offsetting Scheme, where credits have been purchased to retrofit a 6-bedroom HMO known as 73 Ditchling Hill, Southgate, Crawley. A Part G Calculator has been provided based upon the existing fixtures and fittings, where it is shown that the current water consumption is 799.82 litres per day. It is proposed to install flow restricting valves on the fixtures and fittings in the property, including the basin and kitchen taps and the showers. This would reduce the water consumption of the property to 541.85 litres per day, a reduction of 257.97 litres per day.

The proposed strategy confirms that a total of 185 credits would be purchased through Sussex Water Neutrality Offsetting Scheme, which would allow an appropriate buffer to the demand as calculated. As such, a portion of the credits arising from the retrofitting of 73 Ditchling Hill, Southgate, Crawley has been allocated to this development. Evidence that this has been allocated has been provided. The proposed water credits are considered to meet the water demands arising from the development.

The Applicant has submitted a draft Unilateral Undertaking which seeks to covenant that the offsetting measures be secured and requiring that additional information to include specifications and photographs of installed measures and a Part G Water Calculator be submitted. The draft UU seems to reflect the wording of a previous agreed s106 Agreement under reference HRA/23/0004 and does not take account of the strategy now proposed. The current strategy proposes to purchase water credits which would offset

a property outside of Horsham District. The wording of the UU does not reflect this strategy, with the clauses proposed not considered to appropriately secure this strategy.
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 the Agreement be amended and a bilateral agreement entered into, but they have not sought to pursue 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).

Plans list for: HRA/23/0013
Schedule of plans/documents **not approved**:

Plan Type	Description	Drawing Number	Received Date
Supporting Docs	Technical Note 1: Water Neutrality Statement by Motion dated 31.07.2024	1chcop/2407066	28.08.2024

DELEGATED

Case Officer sign/initial Tamara Dale Date: 22.11.2024

Authorising Officer sign/initial RHERMITAGE Date: 22.11.2024