



TO: Planning Committee North

BY: Head of Development and Building Control

DATE: 1ST November 2022

DEVELOPMENT: Demolition of a pool house and storage building and erection of a single dwellinghouse. Creation of a new independent access and construction of a garage for Birchenbridge House.

SITE: Birchenbridge House Brighton Road Mannings Heath Horsham West Sussex RH13 6HY

WARD: Nuthurst and Lower Beeding

APPLICATION: DC/21/0761

APPLICANT: **Name:** Mr & Ms Pickering & Tinker **Address:** c/o New Bartram House 3-4 Swan Court Pulborough RH20 1RL

REASON FOR INCLUSION ON THE AGENDA: The application has returned to Committee due to the new material consideration of Water Neutrality.

RECOMMENDATION: To approve planning permission subject to appropriate conditions

1. THE PURPOSE OF THIS REPORT

1.1 To re-consider the planning application in light of new material planning considerations.

2. PLANNING ASSESSMENT

2.1 This application was presented at Planning Committee North on 7th September 2021 where members resolved that the application be approved, subject to the addition of a contaminated land assessment condition. The 7th September 2021 committee report is attached as Appendix A, which includes the description of the site and the full details of the application along with all consultee comments and an assessment of all material considerations undertaken at the time the application was considered.

2.2 Following the resolution to approve planning permission subject to the conditions, but before the decision was legally issued, a Position Statement from Natural England was received relating to the impacts of water abstraction on the protected habitat sites in the Arun Valley and the requirement for all developments to now demonstrate water neutrality. At the time of its receipt, the decision notice granting planning permission had not been issued and planning permission had not therefore been granted. The Position Statement is a new material planning consideration relevant to the determination of this application.

- 2.3 Subsequent to the previous planning committee resolution the Council has adopted two new documents- Facilitating Appropriate Development (FAD) and a Planning Advice Note (PAN) 'Biodiversity and Green Infrastructure' relating to the implementation of biodiversity net gain. The relevance of these documents to this application are discussed below. No other material considerations have changed since the resolution and therefore this committee report just addresses the new FAD and PAN documents and the requirement for the development to be water neutral.

Water Neutrality and the Arun Valley Sites

- 2.4 Horsham District is supplied with water by Southern Water from its Sussex North Water Resource Zone. This supply is sourced from abstraction points in the Arun Valley, which includes locations such as Amberley Wild Brooks Site of Special Scientific Interest (SSSI), Pulborough Brooks SSSI and Arun Valley Special Protection Area/Special Area of Conservation and Ramsar site.
- 2.5 On 14th September 2021, the Council received the Position Statement from Natural England. The Natural England position is that it cannot be concluded that the existing abstraction within the Sussex North Water Supply Zone is not having an impact on the Arun Valley sites. It advises that development within this zone must not add to this impact.
- 2.6 Developments within Sussex North must therefore must not add to this impact and one way of achieving this is to demonstrate water neutrality. The definition of water neutrality is the use of water in the supply area before the development is the same or lower after the development is in place.
- 2.7 The Position Statement is a new material consideration, and if an application cannot demonstrate water neutrality is reasonably achievable, this will mean the development will not meet the requirements of section 63 of the Conservation of Habitats and Species Regulations 2017 (known as the Habitats Regulations).
- 2.8 The Applicant has submitted a Water Neutrality Statement by Melin (dated 14th October 2022). This sets out the strategy for achieving water neutrality. The strategy is based on the extant planning permission approved under DC/19/0455 as a baseline figure for water usage on the site (234.81 litres per day). For the Council to accept the extant permission for water usage purposes, it must first be established that the fallback scheme would be implemented in the event this planning application is refused. To help demonstrate this, evidence is required that all relevant planning conditions on the fallback scheme have been discharged, and written evidence that the applicant intends to then build the fallback scheme if permission is not granted.
- 2.9 The applicants have applied to discharge all pre-commencement conditions relating to the fall-back planning permission DC/19/0455, and these conditions have now all been discharged (DISC/22/0267). These conditions are in relation to materials, drainage and an approved Natural England Bat Licence. The extant scheme can therefore now be implemented.
- 2.10 The applicants have also submitted a signed written statement of intent to the Council (dated 20th September 2022) which states that if this current planning application does not achieve planning permission then the extant permission will be implemented at the earliest opportunity. The extant planning permission requires implementation no later than 4th May 2023.
- 2.11 In light of the applicant's statement of intent and the relevant conditions on the fallback scheme having been discharged, there is now sufficient evidence that the fallback scheme would be implemented in the event planning permission for the current proposal is not forthcoming. The consequence of this is that the applicants now have an unfettered planning

permission for the fallback development which requires no further consents from the Council in order to commence. Although this fallback proposal is not yet consuming water, the water consumption and consequential impact of this consented development on the Arun valley sites is already known and cannot be prevented. As this additional level of water consumption is now established in principle, it can be used to offset the water consumption of the current alternative development on the site.

- 2.12 The consented scheme is required to be built to the Building Regulations Part G water consumption rate of 125 litres per person per day. The information submitted with the application details that it will have a total water consumption figure of 124.9 litres per person per day, which equates to 234.81 litres per day for the whole dwelling based on an average occupancy rate of 1.88 persons for a two-bed dwelling. The currently proposed scheme has a total water consumption rate of 94.9 litres per person per day, equivalent to 234.40 litres per day based on a higher average occupancy rate of 2.47 persons for a three-bedroom dwelling (based on census data).
- 2.12 The consumption rate of 94.9 litres per person per day is achieved through the installation of water efficient appliances (in particular showers, dishwasher and washing machine with lower water usage) to mitigate the increase in average occupancy rate of the new scheme (from the approved two bedroom house to the proposed three bedroom house). As the proposed consumption (234.40 litres per day) is lower than the approved consumption for the extant permission (234.81 litres per day), the development would be water neutral.
- 2.12 An Appropriate Assessment has been undertaken, where it has been concluded that subject to the mitigation and offsetting measures proposed, which would be secured by condition requiring that the development be carried out in strict accordance with the water strategy, the development would result in no significant impact on the Arun Valley SAC, SPA and Ramsar sites, either alone or in combination with other plans and projects. Natural England have raised no objection to this position. The grant of planning permission would not therefore adversely affect the integrity of these sites or otherwise conflict with policy 31 of the HDPF, NPPF paragraph 180 and the Council's obligations under the Conservation of Habitats and Species Regulations 2017.

Facilitating Appropriate Development (FAD) and Planning Advice Note (PAN) documents

- 2.13 The FAD has been adopted to provide guidance on how applications for housing development that fall outside of site allocations and built up area boundaries will be considered in the absence of a five year housing land supply, and presuming water neutrality is demonstrated. In this case the application site does not meet the requirements of the FAD, which essentially mirror those of Policy 4 of the HDPF with the exception of the need for a site to be allocated. This does not though alter the balance of considerations in this case as the site was already acknowledged to conflict with Policies 4 and 26 of the HDPF when considered at the 7th September 2021 Planning Committee. The key material consideration that justifies the grant of planning permission on this site remains the fact that there is an extant planning consent for a dwelling on this site granted under DC/19/0455.
- 2.14 The PAN document 'Biodiversity and Green Infrastructure' requires that applicants for small scale development of 1-9 homes with a site area less than 0.5ha demonstrate a net gain in biodiversity. This reflects the requirements for biodiversity enhancements that already sit within Policy 31 of the HDPF. The PAN states that applicants will be expected to use the Small Sites Metric to demonstrate the gain to be achieved. The delivery of a net gain is to be additional to any biodiversity mitigation/compensation otherwise required. The PAN has not been subject to public consultation and therefore does not carry the same weight as adopted policy. It forms guidance on how the local and national requirement to deliver biodiversity enhancements/gains can be demonstrated prior to the emerging statutory requirement for a 10% biodiversity net gain coming into force.

- 2.15 As submitted, the application included a detailed Ecological Impact Assessment that was fully considered within the original officer report appended to this item. The Assessment recommended a series of enhancements to achieve a net gain including use of flowering plants, nesting boxes, bat boxes, bug hotels, native seed and fruit bearing species, and pale and night scented species to increase bat foraging resources. These measures were supported by the Council's ecologist and were secured by condition 7, as replicated below.
- 2.16 Although a Small Sites Metric has not been completed in this instance, it is nevertheless considered that suitable net gain has been demonstrated in this case. It should be noted that the site already accommodates some built form whilst the extant planning permission forms a realistic fallback scheme that would be implemented in the event this application is refused. This extant consent includes a similar condition to that proposed in this case, and does not require that a Small Sites Metric be completed to demonstrate the strict percent gain being delivered. Given this extant consent, and the fact that the PAN provides guidance and not formal Council policy, it is considered that a suitable gain can be demonstrated in this case to comply with Policy 31 of the HDPF.

Other matters

- 2.17 The resolution of the committee on 7th September 2021 was to approve planning permission subject to the recommended conditions plus a condition relating to contaminated land to be added. The conditions recommended below include all original conditions along with the recommended contaminated land condition as well as the necessary conditions to ensure water neutrality is achieved.

Conclusion

- 2.18 The new information submitted to address Water Neutrality has been considered, and an Appropriate Assessment has been carried out. Natural England has raised no objection to the approach and the Council is satisfied that the application is capable of achieving water neutrality and consequently will not adversely impact on the integrity of the Arun Valley habitat sites.
- 2.19 The Council is satisfied that the extant planning permission DC/19/0455 would be implemented if the new planning permission were not granted and it is therefore considered acceptable that this fall-back position is taken into account when determining the water neutrality position for the site. Suitable biodiversity enhancement are included in the submission to meet the requirements of Policy 31 and satisfy the guidance set out in the recently adopted Planning Advice Note 'Biodiversity and Green Infrastructure'.
- 2.20 The Officer's recommendation to approve planning permission therefore remains as previous, but with new conditions to secure the Water Neutrality mitigation and a contaminated land condition as requested by the planning committee on 7th September 2021.

3. RECOMMENDATIONS

- 3.1 To approve full planning permission, subject to the following conditions:

Conditions:

- 1 A list of the approved plans
- 2 **Regulatory (Time) Condition:** The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

3 **Pre-Commencement Condition:** No development shall take place, including any works of demolition, until the following construction site set-up details have been submitted to, and approved in writing by, the Local Planning Authority.

- i. the location for the loading and unloading of plant and materials, site offices, and storage of plant and materials (including any stripped topsoil)
- ii. the provision of wheel washing facilities (if necessary) and dust suppression facilities

The approved details shall be adhered to throughout the construction period.

Reason: As this matter is fundamental in order to consider the potential impacts on the amenity of nearby occupiers during construction and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

4 **Pre-Commencement Condition:** No development shall commence until a drainage strategy detailing the proposed means of foul and surface water disposal has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

Reason: As this matter is fundamental to ensure that the development is properly drained and to comply with Policy 38 of the Horsham District Planning Framework (2015).

5 **Pre-Commencement Condition:** No development shall commence until a detailed surface water drainage scheme including a Surface Water Drainage Statement, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall be fully coordinated with the landscape scheme. The development shall subsequently be implemented prior to first occupation in accordance with the approved details and thereafter retained as such.

Reason: As this matter is fundamental to prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance in accordance Policies 35 and 38 of the Horsham District Planning Framework (2015).

6 **Pre-Commencement Condition:** Any works which will impact the building identified as B2 shall not in in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To conserve protected species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s17 Crime & Disorder Act 1998 and in accordance with the Horsham District Planning Framework (2015).

7 **Pre-Commencement (Slab Level) Condition:** No development shall commence until a Biodiversity Enhancement Strategy for Protected and Priority species has been submitted to and approved in writing by the local planning authority. The content of the Biodiversity

Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;

- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: As these matters are fundamental to safeguard the ecology and biodiversity of the area in accordance with Policy 31 of the Horsham District Planning Framework (2015), and to enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

- 8 **Pre-Commencement (Slab Level) Condition:** No development above ground floor slab level of any part of the development hereby permitted shall take place until a schedule of materials and finishes and colours to be used for external walls, windows and roofs of the approved building(s) has been submitted to and approved by the Local Planning Authority in writing and all materials used in the construction of the development hereby permitted shall conform to those approved.

Reason: As this matter is fundamental to enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 9 **Pre-commencement (Slab Level) Condition:** No development above ground floor slab level shall commence until full details of the water efficiency measures by the approved water neutrality strategy (prepared by 'Melin' and dated 14/10/2022) have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA 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).

- 10 **Pre-Occupation Condition:** The development hereby permitted shall be undertaken in full accordance with the water neutrality strategy prepared by Melin dated 14/10/2022. The dwelling hereby permitted shall not 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 the dwelling has been implemented in full. 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.

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA 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).

- 11 **Pre-Occupation Condition:** Prior to occupation of the dwelling hereby permitted, a lighting design scheme for biodiversity shall be submitted and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it

can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: As these matters are fundamental to safeguard the ecology and biodiversity of the area in accordance with Policy 31 of the Horsham District Planning Framework (2015), and to enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

12 **Pre-Occupation Condition:** No part of the development hereby permitted shall be first occupied until full details of all hard and soft landscaping works shall have been submitted to and approved, in writing, by the Local Planning Authority. The details shall include plans and measures addressing the following:

- Details of all existing trees and planting to be retained
- Details of all proposed trees and planting, including schedules specifying species, planting size, densities and plant numbers and tree pit details
- Details of all hard surfacing materials and finishes
- Details of all boundary treatments
- Details of all external lighting
- Ecological enhancement measures set out in LLD1713-ECO-REP- 002-01-EcIA of the Ecological Impact Assessment by LIZARD, dated 29 July 2019

The approved landscaping scheme shall be fully implemented in accordance with the approved details within the first planting season following the first occupation of any part of the development. Unless otherwise agreed as part of the approved landscaping, no trees or hedges on the site shall be wilfully damaged or uprooted, felled/removed, topped or lopped without the previous written consent of the Local Planning Authority until 5 years after completion of the development. Any proposed or retained planting, which within a period of 5 years, dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure a satisfactory development that is sympathetic to the landscape and townscape character and built form of the surroundings, and in the interests of visual amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015).

13 **Pre-Occupation Condition:** No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the approved drawing P221-101 Rev A.

Reason: In the interests of road safety and in accordance with Policy 40 of the Horsham District Planning Framework (2015).

14 **Pre-Occupation Condition:** No part of the development hereby permitted shall be occupied until the parking and turning facilities necessary to serve that dwelling have been implemented in accordance with the approved details as shown on plan P221-101 Rev A and shall be thereafter retained as such.

Reason: To ensure adequate parking, turning and access facilities are available to serve the development in accordance with Policy 40 of the Horsham District Planning Framework (2015).

- 13 **Pre-Occupation Condition:** No part of the development hereby permitted shall be occupied until the cycle parking facilities serving it have been provided within the garage or side or rear garden for that dwelling. The facilities shall thereafter be retained for use at all times. The cycle parking facilities shall thereafter be retained as such for their designated use.
- Reason: To ensure that there is adequate provision for the parking of cycles in accordance with Policy 40 of the Horsham District Planning Framework (2015).
- 14 **Pre-Occupation Condition:** : No part of the development hereby permitted shall be occupied until a fast charge electric vehicle charging point for that dwelling has been installed. As a minimum, the charge point specification shall be 7kW mode 3 with type 2 connector. The means for charging electric vehicles shall be thereafter retained as such.
- Reason: To mitigate the impact of the development on air quality within the District and to sustain compliance with and contribute towards EU limit values or national objectives for pollutants in accordance with Policies 24 & 41 of the Horsham District Planning Framework (2015).
- 15 **Regulatory Condition:** No part of the development hereby permitted shall be occupied until the necessary in-building physical infrastructure and external site-wide infrastructure to enable superfast broadband speeds of 30 megabytes per second through full fibre broadband connection has been provided to the premises.
- Reason: To ensure a sustainable development that meets the needs of future occupiers in accordance with Policy 37 of the Horsham District Planning Framework (2015).
- 16 **Regulatory Condition:** The development hereby permitted shall be undertaken in strict accordance with the ecological mitigation and enhancement measures set out in Ecological Impact Assessment (Lizard Landscape, Design and Ecology, July 2019) and the Ecological Addendum (Lizard Landscape, Design and Ecology, July 2021
- Reason: As these matters are fundamental to safeguard the ecology and biodiversity of the area in accordance with Policy 31 of the Horsham District Planning Framework (2015), and to enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).
- 17 **Regulatory Condition:** If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy has been submitted to and approved by the local planning authority detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.
- Reason: To ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).
- 18 **Regulatory Condition:** No works for the implementation of the development hereby approved, no deliveries of construction materials or plant and machinery and no removal of any spoil from the site, shall take place outside of 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays nor at any time on Sundays, Bank or public Holidays
- Reason: To safeguard the amenities of adjacent occupiers in accordance with Policy 33 of the Horsham District Planning Framework (2015).
- 19 **Regulatory Condition:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and/or any Order revoking and/or re-enacting that Order) no development falling within Classes A, AA, B, C, D, E, and F Part 1 of Schedule 2 of the order shall be erected, constructed or placed within the curtilages of

all plots without express planning consent from the Local Planning Authority first being obtained.

Reason: As this matter is fundamental to enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with Policy 33 of the Horsham District Planning Framework (2015) and Policy 5 of the Slinfold Neighbourhood Plan.

20 **Regulatory Condition:** The garage(s) hereby permitted shall be used only as private domestic garages incidental to the use of the properties as dwellings and for no other purposes.

Reason: To ensure adequate off-street provision of parking in the interests of amenity and highway safety, and in accordance with Policy 40 of the Horsham District Planning Framework (2015).