

Mr Thomas Andrews
78 Fawn Rise
Henfield
West Sussex
BN5 9EZ
United Kingdom

Please call Customer Services
Tel No.: 01243 534740
Ask for: Jenny Fawn-Telford
Email: contact@chichester.gov.uk

24th October 2023

Dear Sir/Madam

Town and Country Planning Act 1990 (as amended)

**Town and Country Planning (Development Management Procedure)
(England) Order 2015**

Application for Discharge of conditions 23/01757/DOC

Proposal: Discharge of conditions 3 (Schedule of Materials), 4 (Energy and Sustainability Statement), 5 (Utilities and Services Infrastructure Details), 6 (Tree Protection Plan), 7 (Proposed Fire Hydrant location) and 8 (Construction Environmental Management Plan) from planning permission 21/00858/FUL.

Location: Land Adjacent To Waters Edge The Drive Ifold Loxwood West Sussex RH14 0TD

The Authority has considered your application, and I can confirm the following condition(s) have **NOT** been discharged:

3. External Material

Details as per Schedule of Materials document for Land Adjacent to Waters Edge, The Drive, Ifold (dated July 2023) are considered acceptable in regard to the development permitted.

However, due to a recent High Court Judgement (CG Fry & Sons Ltd v SSLuHC), it is not possible to discharge the condition. The judgement makes clear that applications to approve details reserved by conditions are subject to Habitats Regulation Assessments (HRA) where one has not previously been carried out for all current issues, in this case, protected bats.

Bats

The proposal relates to a project within the 6.5km Zone of Influence for The Mens Special Area of Conservation (SAC) and Ebernoe Common Special Area of Conservation (SAC) designated for important Barbastelle and Bechstein's bat species. The absence of relevant survey information and any necessary mitigation which might stem from that means that it cannot be established that the project

would not be likely to have a significant effect on the SACs in question. Accordingly, the local planning authority must refuse permission in accordance with Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations). Furthermore, the proposal conflicts with paragraph 180 of the National Planning Policy Framework (September 2023).

In the absence of any information submitted to undertake an HRA, it cannot be established that the project would not be likely to have a significant effect on the Mens SAC and Ebernoe Common SAC (Barbastelle and Bechstein's bat species). Therefore the application to discharge the submitted details in relation to condition 3 of 21/00858/FUL is refused in accordance with the National Planning Policy Framework (September 2023) and Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations).

4. **Energy, Sustainability**

Details as per the Energy & Sustainability Statement for Land Adjacent to Waters Edge, The Drive, Ifold by Atelier T&B (dated July 2023) are considered acceptable in regard to the development permitted. The details have been reviewed in consultation with the Council's Environmental Strategy Officer who has considered the details to be acceptable.

However, due to a recent High Court Judgement (CG Fry & Sons Ltd v SSLuHC), it is not possible to discharge the condition. The judgement makes clear that applications to approve details reserved by conditions are subject to Habitats Regulation Assessments (HRA) where one has not previously been carried out for all current issues, in this case, protected bats.

Bats

The proposal relates to a project within the 6.5km Zone of Influence for The Mens Special Area of Conservation (SAC) and Ebernoe Common Special Area of Conservation (SAC) designated for important Barbastelle and Bechstein's bat species. The absence of relevant survey information and any necessary mitigation which might stem from that means that it cannot be established that the project would not be likely to have a significant effect on the SACs in question. Accordingly, the local planning authority must refuse permission in accordance with Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations). Furthermore, the proposal conflicts with paragraph 180 of the National Planning Policy Framework (September 2023).

In the absence of any information submitted to undertake an HRA, it cannot be established that the project would not be likely to have a significant effect on the Mens SAC and Ebernoe Common SAC (Barbastelle and Bechstein's bat species). Therefore the application to discharge the submitted details in relation to condition 4 of 21/00858/FUL is refused in accordance with the National Planning Policy Framework (September 2023) and Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations).

5. Utilities and Services Infrastructure Details

Details as per the:

- Scottish and Southern Electricity Networks: connection works quote, job ref FAB321/1 (dated 05.05.2023)
- Scottish and Southern Electricity Networks: Approximate Supply Position plan by Violeta Holmes, drawing no.1 version 1(dated 05.05.2023)
- Scottish and Southern Electricity Networks: Customer Works Guide (received 28.07.2023)
- Southern Water Connection quote details ref 10291 (dated 09.06.2023)
- Photograph by Southern Water of water connection point (received 28.07.2023)
- Southern Water connection plan, printed by Harkath, DRG 001 (dated 28.04.2023)
- Openreach Telecom Connection Plan drawing no. AT-047-OTP-01 (dated July 2023)

are considered acceptable in regard to the development permitted.

However, due to a recent High Court Judgement (CG Fry & Sons Ltd v SSLuHC), it is not possible to discharge the condition. The judgement makes clear that applications to approve details reserved by conditions are subject to Habitats Regulation Assessments (HRA) where one has not previously been carried out for all current issues, in this case, protected bats.

Bats

The proposal relates to a project within the 6.5km Zone of Influence for The Mens Special Area of Conservation (SAC) and Ebernoe Common Special Area of Conservation (SAC) designated for important Barbastelle and Bechstein's bat species. The absence of relevant survey information and any necessary mitigation which might stem from that means that it cannot be established that the project would not be likely to have a significant effect on the SACs in question. Accordingly, the local planning authority must refuse permission in accordance with Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations). Furthermore, the proposal conflicts with paragraph 180 of the National Planning Policy Framework (September 2023).

In the absence of any information submitted to undertake an HRA, it cannot be established that the project would not be likely to have a significant effect on the Mens SAC and Ebernoe Common SAC (Barbastelle and Bechstein's bat species). Therefore the application to discharge the submitted details in relation to condition 5 of 21/00858/FUL is refused in accordance with the National Planning Policy Framework (September 2023) and Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations).

6. Trees

Details as per the Tree protection plan AT-047-TPP-01 Rev A (received 10.10.2023) are considered acceptable in regard to the development permitted.

However, due to a recent High Court Judgement (CG Fry & Sons Ltd v SSLuHC), it is not possible to discharge the condition. The judgement makes clear that applications to approve details reserved by conditions are subject to Habitats Regulation Assessments (HRA) where one has not previously been carried out for all current issues, in this case, protected bats.

Bats

The proposal relates to a project within the 6.5km Zone of Influence for The Mens Special Area of Conservation (SAC) and Ebernoe Common Special Area of Conservation (SAC) designated for important Barbastelle and Bechstein's bat species. The absence of relevant survey information and any necessary mitigation which might stem from that means that it cannot be established that the project would not be likely to have a significant effect on the SACs in question. Accordingly, the local planning authority must refuse permission in accordance with Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations). Furthermore, the proposal conflicts with paragraph 180 of the National Planning Policy Framework (September 2023).

In the absence of any information submitted to undertake an HRA, it cannot be established that the project would not be likely to have a significant effect on the Mens SAC and Ebernoe Common SAC (Barbastelle and Bechstein's bat species). Therefore the application to discharge the submitted details in relation to condition 6 of 21/00858/FUL is refused in accordance with the National Planning Policy Framework (September 2023) and Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations).

7. Fire hydrant

Details as per the Fire Hydrant Location Plan drawing no AT-047-FHP-01 (dated July 2023) are considered acceptable in regard to the development permitted. The details have been reviewed in consultation with West Sussex Fire & Rescue Service who have considered the details to be acceptable. The fire hydrant indicated on the site layout plan should be installed in the agreed position, ready for use on the site, prior to occupation of the new chalet bungalow. Notify West Sussex Fire & Rescue Service once it is ready for use as a private fire hydrant.

However, due to a recent High Court Judgement (CG Fry & Sons Ltd v SSLuHC), it is not possible to discharge the condition. The judgement makes clear that applications to approve details reserved by conditions are subject to Habitats Regulation Assessments (HRA) where one has not previously been carried out for all current issues, in this case, protected bats.

Bats

The proposal relates to a project within the 6.5km Zone of Influence for The Mens Special Area of Conservation (SAC) and Ebernoe Common Special Area of

Conservation (SAC) designated for important Barbastelle and Bechstein's bat species. The absence of relevant survey information and any necessary mitigation which might stem from that means that it cannot be established that the project would not be likely to have a significant effect on the SACs in question. Accordingly, the local planning authority must refuse permission in accordance with Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations). Furthermore, the proposal conflicts with paragraph 180 of the National Planning Policy Framework (September 2023).

In the absence of any information submitted to undertake an HRA, it cannot be established that the project would not be likely to have a significant effect on the Mens SAC and Ebernoe Common SAC (Barbastelle and Bechstein's bat species). Therefore the application to discharge the submitted details in relation to condition 7 of 21/00858/FUL is refused in accordance with the National Planning Policy Framework (September 2023) and Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations).

8. **Construction and Environmental Management Plan**

Details as per the:

- Construction and Environmental Management Plan ref AT/23/047-CEMP by Atelier T&B (dated July 2023)
- Construction and Environmental Management Plan page 3 driving route image ref AT/23/047-CEMP (received 28.07.2023)

are considered acceptable in regard to the development permitted. The details have been reviewed in consultation with West Sussex County Highways and the Council's Environmental Protection Officer who have considered the details to be acceptable.

However, due to a recent High Court Judgement (CG Fry & Sons Ltd v SSLuHC), it is not possible to discharge the condition. The judgement makes clear that applications to approve details reserved by conditions are subject to Habitats Regulation Assessments (HRA) where one has not previously been carried out for all current issues, in this case, protected bats.

Bats

The proposal relates to a project within the 6.5km Zone of Influence for The Mens Special Area of Conservation (SAC) and Ebernoe Common Special Area of Conservation (SAC) designated for important Barbastelle and Bechstein's bat species. The absence of relevant survey information and any necessary mitigation which might stem from that means that it cannot be established that the project would not be likely to have a significant effect on the SACs in question. Accordingly, the local planning authority must refuse permission in accordance with Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations). Furthermore, the proposal conflicts with paragraph 180 of the National Planning Policy Framework (July 2021).

In the absence of any information submitted to undertake an HRA, it cannot be established that the project would not be likely to have a significant effect on the Mens SAC and Ebernoe Common SAC (Barbastelle and Bechstein's bat species). Therefore the application to discharge the submitted details in relation to condition 8 of 21/00858/FUL is refused in accordance with the National Planning Policy Framework (February 2019) and Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations).

INFORMATIVE NOTES

None.

Reasons: For the avoidance of doubt and in the interests of proper planning.

This letter constitutes a legal document which should be regarded as an addendum to the original planning application.

If you have any queries or require further information, please do not hesitate to contact the Case Officer.

Yours sincerely



Andrew Frost

Director of Planning and the Environment