


Parish: Kirdford	Ward: Loxwood
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KD/22/02154/FUL

Proposal	Rear extension with associated internal reconfiguration and works to external front and rear trade areas.		
Site	Foresters Arms Village Road Kirdford West Sussex RH14 0ND		
Map Ref	(E) 501693 (N) 126892		
Applicant	Mr Tim Jones	Agent	Mr Chris Hewitt

RECOMMENDATION TO PERMIT



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1.0 Reason for Committee Referral

1.1 Parish Objection - Officer recommends Permit

2.0 The Site and Surroundings

- 2.1 The application property is a Grade II Listed two storey detached building in use as a public house. It is located on the north-east side of Village Road, Kirdford and situated within the settlement boundary of Kirdford and the Kirdford Conservation Area. The building is constructed of bricks and clay tile hanging with clay tiles to the roof and timber fenestration.
- 2.2 To the front of the main part of the building there is an area of gravel with external seating, timber benches, sited on the gravel. In the middle of the gravelled area there is a Cherry tree. Adjacent to the north and south of the gravelled area are paved pathways leading to the building. To the north of the northern path is some planting. To the south of the southern path there are some trees. The garage to the north-west end of the building opens onto the road. To the south side of the building there is a detached smoking shelter and some paving stones which lead to the rear of the site. The front boundary of the site is open, the building forms the northern boundary and there are trees and hedging to the south boundary.
- 2.3 To the rear of the site there is an outbuilding, a paved patio area which is surrounded by a dwarf brick wall, grass, trees and planting. There is external seating and timber benches, to the patio and grass. At the far end of the site there is a petanque court. To the boundaries there is planting, trees and timber fencing. To the west and south-west of the site there is a road with open areas of grass beyond this which separates the site from the road. An access road to the north of the site separates it from the dwellings to the north, there are dwellings to the south of the site and agricultural land to the east.

3.0 The Proposal

- 3.1 The application proposes a rear extension with associated internal reconfiguration and works to the external front and rear trade areas.
- 3.2 The extension would be single storey and sited to the rear of the building, attached to part of the north elevation. It would have a half hip roof with the ridge height being sited below the eaves of the adjacent existing two storey part of the building. The extension would be approximately 6.2m in length, 6.1m in width and the ridge height would be 4.5m. It would be constructed of the same materials as the existing building, red bricks and timber fenestration, with clay tiles to the roof. As part of the works, part of an existing single storey storeroom would be demolished. The storeroom is approximately 1.8m in length and 2.8m in width.
- 3.3 A ground floor window on the north elevation and a door on the east elevation are proposed to be bricked up.
- 3.4 The existing paving and gravelled external seating area to the front of the site is proposed to be replaced with new paving. A timber pergola is proposed to be installed to the south-east of the seating area adjacent to the south-west of the building. The pergola would be approximately 2.25m in length, 2.22m in width and 2.29m in height. Four light bollards are proposed to be installed along the south path. Three light bollards are proposed to be installed to the planting to the north of the north path. A timber picket fence is proposed to be installed to the front, west, boundary of the seating area and it would wrap round the north and south of the seating area. The fence would be approximately 6.5m in length to

the front, west, boundary of the seating area, 1.9m in length to the north boundary of the seating area and 2.6m in length to the south boundary of the seating area. It would be approximately 0.75m in height.

- 3.5 To the rear of the site the patio and dwarf wall are proposed to be removed. These would be replaced with a new paved patio which would be sited adjacent to the rear elevation of the proposed extension and the part of the building to which the extension would be attached. The patio would also wrap round the north elevation of the proposed extension. It would extend from the rear elevation by approximately 5.4m and be 13.8m in length. Three planter beds and six light bollards are proposed to the east boundary of the patio.

4.0 History

87/00030/KD	PER	Convert store to restaurant and 1 additional window.
95/00699/ADV	PER	Existing sign writing on south elevation rewritten. New sign written lettering on west gable with new floodlight. New lantern under porch. Replacement pictorial sign & secondary signboards on existing roadside signpost (illuminated).
95/00700/LBC	PER	Existing sign writing on south elevation rewritten. New sign written lettering on west gable with new tungston halogen floodlight. New lantern under porch.
96/00275/DOM	PER	Erection of an outbuilding comprising a loose box and feed/hay store.
98/02723/LBC	PER	Removal of internal partition and fireplace. Re-positioning of ladies toilet.
07/01913/FUL	PER	Proposed erection of pergola style shelter for smokers.
07/02949/LBC	PER	Re-open old doorway presently part bricked up and hang new door.
16/03226/LBC	PER	Replacement of roof coverings, lead valley, tiles and timber board cladding. Rebuild chimney stack on side elevation. All materials to match existing.

17/00832/DOC	DOCDEC	Discharge of condition 3 from permission KD/16/03226/LBC.
22/02155/LBC	PER	Rear extension with associated internal reconfiguration and works to external front and rear trade areas.
22/02205/TCA	NOTPO	Notification of intention to fell 1 no. Ash tree.

5.0 Constraints

Listed Building	YES
Conservation Area	YES
AONB	NO
Tree Preservation Order	NO
Flood Zone 2	NO
Flood Zone 3	NO
Historic Parks and Gardens	NO

6.0 Representations and Consultations

6.1 Kirdford Parish Council

Further comments 28.09.23:

Thank you for the opportunity to comment on this application and to restate Kirdford Parish Council's (KPC) support for the Foresters Arms. It was a long standing member of the village's "Asset Register" until CDC changed the selection criteria, but KPC remains supportive of its continued operation.

KPC supports Natural England (NE) as the competent authority on WN, when it states; "... it is up to CDC as the LPA to decide whether the WN statement is water neutral and can be conditioned and monitored in perpetuity".

KPC is not aware of any CDC process that actively monitors planning conditions in perpetuity, let alone WN. By example, KPC highlight application 23/01616/DOC for planning permission 21/00427/FUL, where CDC was wholly unaware that a pre-occupancy WN condition was breached since mid-March 2023, with all the water consumed to date not being water neutral and continues to be breached. Today we understand that the "Enforcement Team will seek to negotiate a resolution". If this is a portend to how the LPA handles WN breaches, then KPC is concerned.

NE support for this proposal is conditional, in that "... provided that your authority is satisfied that the occupancy rate used is reflective of the business and that maximum occupancy will not occur for the vast majority of the year." This places an additional obligation on the LPA to monitor the occupancy rate. Equally, KPC are not aware of how the LPA proposes to achieve occupancy monitoring.

KPC are aware of several CDC statements on how hard they are working to agree a cross-LPA mechanism, but despite it being two years since NE issued their Position Statement, no such agreement is evident to KPC.

We remind the LPA of NE FAQ V3, last para p14: "Any assessment methodology on water consumption for non-residential development must be consistent between authorities across the supply zone ... The alternative to using the strategic solution assumptions is to provide evidence from the meter readings from historic use where these are available ... The most important point to consider in the choice of methodology is to ensure the assumptions applied are sufficiently precautionary to meet the legislative test."

KPC agrees with NE that during maximum occupancy and peak water demand, this application is not WN. It is reasonable to argue, therefore, that the proposal fails to pass the 'legislative certainty test' with potential damage to protected habitats. KPC is minded to remind CDC that on the workshop application (21/00427/FUL), NE corrected that Planning Officer with; "... we have advised that in order to ascertain no adverse effect on integrity (AEOI) of the Habitats Sites developments within Sussex North must not result in even the most minor adverse impact (demonstrating water neutrality being one way of doing this). This is because environmental caselaw states that where existing impacts are already causing designated sites to decline in condition than any further change, however small, must be considered significant".

For these reasons, reluctantly, KPC maintains its objection to the proposal.

Finally we draw your attention to KPC's legal opinion on Water Neutrality submitted to CDC on 12th September 2023, on which we would rely.

Further comments 12.09.23:

On 12th September 2023 a legal opinion was submitted by Kirdford Parish Council. The legal opinion was from Cornerstone Barristers to Kirdford Parish Council in relation to the correct approach Local Planning Authorities should take to enforcement action against breaches of the requirement that development in the Sussex Northern Water Resource Zone should maintain water neutrality.

Further comments 08.08.23:

KPC's main concerns relate to the Forester's compliance with WN and so long as those are being properly considered under application 22/02154/FUL, it is content that the Officers will have scrutinised the plans in relation to the preservation of a Grade II listed building under application 22/02155/LBC.

Further comments 26.07.23:

Further to the NE letter dated 12th July, we make the following observations:

o KPC maintains that the water mitigation plans are not sufficiently precautionary. Habitat harm therefore cannot be discounted with certainty, which is at variance to the regulations and all European and domestically applied case law.

o Certainty is required to ensure that the protection to the relevant habitats is secured beyond all reasonable doubt. We consider that you cannot reach such a conclusion in the absence of (1) a robust precautionary water neutrality strategy that delivers water neutrality against all possible usage scenarios and (2) without a credible enforcement mechanism which will step in to ensure that the problems are remedied swiftly.

o We consider that water neutrality is an area which is difficult to remedy post-permission, consequently we feel habitat protection needs to be vigorously pursued at the application stage.

o Finally, we consider NE's response to this application to be a departure from their published advice and extant FAQs (FAQ V3 - March 2022).

Further comments 27.06.23:

Please find below Kirdford Parish Council's comments on the Water Neutrality Statement for the Foresters Arms.

Kirdford Parish Council welcomes the latest update to the Water Neutrality Statement, however there remain a few points for consideration to achieve water neutrality:

o In a letter to KPC from Head of business Partnerships Operation at Hall & Woodhouse dated 12 May 2023, he confirms "Following the feedback received from Natural England, a further revision of the Water Neutrality Statement is currently being finalised, including reflecting a longer 9-month trade period of previous water consumption (including a summer season) at the Foresters". It appears that only 6 months has been evidenced in the calculations.

o KPC would have preferred to see water bill summaries laid out, going back as far as records allow, and the highest quarter be used for the purposes of calculating the base usage. This is a commercial business which presumably is seeking greater success and popularity through these improvements which would translate to greater usage, greater footfall, higher rates of consumption, all leading to significant rates of water usage. Natural England needs to satisfy itself that the current approach sufficiently addresses their concerns.

o The water calculations appear somewhat confusing. It would be clearer and more accurate to have a comparison for water usage before and after the proposed work is carried out. This should therefore be based on the daily assumption of 40 pax before and 76 after. Additionally, there is no evidence to support the assumption of an average of 40 pax per day being a current "norm". It has been 'several years' since the pub has operated at that level.

o The applicant proposes a tank of 3,500 litres to achieve a maximum daily rainwater requirement of 234.25 litres, ie, 14.94 days of supply. British Standard BS8515 dictate that 18 days water storage is required, however additional drought storage is now required

by NE equivalent to 35 days of full capacity (for information, Horsham DC are the lead LPA on WN and provide this website: <https://www.horsham.gov.uk/planning/water-neutrality-in-horsham-district/water-neutrality-and-planning-applications>).

o It is disappointing to still see a "cut and paste" approach to an official document. "Grand Parade Water Neutrality Statement" Pages 3-5

In summary; KPC is pleased with the progress. It is now for the LPA and NE to make its own judgement on whether the proposed mitigation plan for a commercial operation of this nature is capable of meeting the tests of "certainty" and "perpetuity" requirements laid out for the Water Neutrality Zone.

Further comments 17.04.23:

Kirdford Parish Council welcomes the submission of the Water neutrality Statement uploaded to the portal on the 05th April 2023. KPC endeavours to maintain a consistent appraisal to WN, and to that end provides the following comments:

A. Section 2: Water Neutrality

Makes reference and relies on documents that have been superseded by more recent studies with higher provenance. JBA Part C. NE position Statement & FAQs. The applicant also makes reference to "Crawley Borough Council".

B. Section 3: Water Neutrality in Practice

(i) The applicant makes obscure references not commonly used or recognised by CDC or KPC.

(ii) Grey water harvesting and its proposed deployment as mitigation measures requires new paperwork outlining design, pipework, and location of storage tanks. As a listed building CDC may require a further pass through LBC.

(iii) If CDC permit the development, the replacement of bath, taps and other water fixtures will need to be conditioned and a monitoring process in place to confirm water neutrality is maintained.

C. Section 4: Water usage assessment methodology

(i) The applicant says "As previously stated, the proposed development is to be constructed in place of an existing building, therefore water neutrality in this particular instance can only compare the water consumption of the existing building against the proposed.". The proposal is to "extend", not to replace and is materially in error.

(ii) Regarding the BREEAM calculation, the NE FAQ V3 says (bold added for accentuation); "Any assessment methodology on water consumption for non-residential development must be consistent between authorities across the supply zone but also is consistent with the assumptions for non-residential water consumption used in the calculation of the strategic water budgets. The alternative to using the strategic solution assumptions is to provide evidence from the meter readings from historic use where these are available. The data, for example the use of full occupancy for the historic use needs to

be justified by evidence. The most important point to consider in the choice of methodology is to ensure the assumptions applied are sufficiently precautionary to meet the legislative test. The test is a high bar and full occupancy supports legal certainty".

(iii) The applicant claims 20 additional covers from 56 to 76. The design and heritage statement states "another 24 seats" Section 2.4.

D. Appendix C

This appendix shows a water bill for period Oct 2022 - Jan 2023. We believe this does not provide a fair reflection of use. During this period the pub had been operating on a reduced level of service and our recollection are that the provision of food in the restaurant had been stopped or significantly reduced. This should be easy to verify through till receipts. It is clear however that it is possible to establish real water usage of The Foresters over a busy/successful period as it has been on a water meter for some years. It would not be too onerous of a task to obtain these bills from the water company and set as the base, the highest 3 or 4 months on record.

KPC stresses that when it comes to Water Neutrality it is not sufficient to look at historical data and assume that this trend will continue into the future, any calculation based on historical data provides little certainly going forward. The only way to ensure a greater level of certainty is to take the precautionary principle approach and apply an aggressive overestimation of usage and mitigate the very worst case scenario, thereby future proofing the commercial operations. Any approach to take "averages" are not sound, as this is counter to the direction from NE to achieve the necessary legislative test.

Heritage Statement:

We welcome the heritage statement but offer the following comments:

- (i) Section 2.4 claims growth of 24 covers, counter to WN calculations.
 - (ii) Section 3.1 - The use of double glazing will require LBC
 - (iii) Section 4.1 - Should read River Kird
 - (iv) Section 5.2 - Makes reference to Barford Inn (another Hall & woodhouse Pub).
- On reading that Heritage Statement it makes reference to Halfway Inn. It is clear this document stems from an earlier heritage.

In conclusion, the Parish Council is supportive of the proposed plans. However, we stress the need of ensuring that mitigation plans for Water Neutrality are robust and future proofed in the expectation that the commercial operation will be successful and will fully utilise its water neutral state.

Further comments 27.01.23:

The Parish Council did meet on the 16th January and discussed this application. We note that the applicant has submitted a subsequent update to the plan which has not been considered by the full Parish Council. I am however authorised to respond with the following comments:

1. The garage - We are pleased to see that change of use of the garage has been removed from the plan which both satisfied the concern of the conservation officer and that of the Parish Council.
2. We acknowledge the removal of the 1.8m high fencing from the plans.
3. Bats/ Lighting - We remain alert to the fact that any development needs to respect and protect natural habitats and species. As such we look forward to CDC's ecology officer's comments once the appropriate surveys have been carried out.
4. We have not yet seen a water neutrality calculation to accompany this application. Officers will want to be certain that actual use / intensity of use is well assessed before presenting a final view on this application's impact on WN. Logic would suggest that an increase in capacity would lead to an increase in usage and officers should take great care in satisfying it's duty to deliver certainty of no additional pressure on the system.

Finally, and more generally, the Parish Council supports any internal modifications and design improvements to the existing footprint which respects the status of the building.

Further comments 25.11.22, summarised as thirteen pages (see Appendix 1 for full comments):

- o It is not clear what is being proposed in regards to the fence and gates.
- o The application does not refer to the Kirdford Neighbourhood Plan and the NPPF.
- o The submitted Design and Access Statement and Heritage Statement are not in accordance with CDC's Validation requirements.
- o A Lighting Assessment, a Noise Assessment and a Preliminary Ecology Appraisal have not been submitted.
- o A Pre-application was not made prior to the submission of the application.
- o The proposal is not in accordance with Policy 47 of the Chichester Local Plan: there is not a strong design rational or functional need for the pergola, the works to the garage would give it a domestic appearance rather than be in keeping with the local area, the proposed landscaping is not necessary, would not be in keeping with the character of the Listed Building and would impact on wildlife.
- o The works proposed to the garage have not been correctly described.
- o The proposed works would impact on neighbouring amenity in regards to noise.
- o The proposed lighting would impact on the dark skies of the area and biodiversity.
- o The doors proposed to the garage would cause a safety issue between patrons on the public house and vehicles using the adjacent access road.
- o The site is within Sussex North's Water Supply Zone. No reference has been made to this in the application and a Water Neutrality Statement has not been submitted. The proposal is likely to impact on water usage therefore a statement should be submitted.
- o The application should be refused for these reasons.

Further comments 04.10.22:

Additionally, the application is in the water neutrality area. The proposed plans will increase capacity (24 additional seating) and proposed function space. Increasing capacity will result in additional pressure on water resources. Natural England has made it

clear that not even the smallest increase must be permitted within the zone. On that basis, this application should be rejected.

Original comments 28.09.22:

While the Parish Council welcomes the idea of these improvements to the business, the following should be taken into consideration:

The new bifold doors to the existing garage appear to open directly onto the car park area and access road to Herons Farm Lane. This could pose a serious safety issue for children running out into the path of a moving vehicle.

The design for outside lighting of gardens and planters would not conform to the village's Dark Skies status - this should be reconsidered.

6.2 Natural England

Summarised:

Further comments 21.09.23:

Thank you for your consultation regarding the application 22/02154/FUL following additional comments by the parish council.

Natural England has previously commented on this proposal and made comments to the authority in our response dated 12 July 2023 reference number 438157. Our previous response sets out our advice to your authority regarding this proposal with an explanation provided in the Additional Advice section.

Given this our view is that advice provided in our previous response applies equally to this consultation.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

Further comments 12.07.23:

No objection - Subject to appropriate mitigation being secured.

We consider that without appropriate mitigation the application would:

o Have an adverse effect on the integrity of Arun Valley Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site
<https://designatedsites.naturalengland.org.uk/>.

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:

- o Delivery, management and maintenance of measures identified in the Water Neutrality Statement to achieve water neutrality.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

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

Water Neutrality: The proposed development falls within the Sussex North water supply zone; As set out in Natural England's Advice Note regarding Water Neutrality within the Sussex North Water Supply Zone, the existing water supply in the Sussex North water supply zone cannot be ruled out as contributing to the declines in wildlife within internationally protected sites in the Arun Valley SPA, SAC and Ramsar site. Achieving water neutrality is recognised as a suitable method to rule out potential adverse effects on the integrity of these sites arising from development.

Habitats Regulations Assessment (HRA): 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. Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question.

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 advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given. You, as the competent authority, should ensure conditions are sufficiently robust to ensure that the mitigation measures can be fully implemented and are enforceable in perpetuity and therefore provide a sufficient degree of certainty to pass the Habitats Regulations.

Additional Advice: Natural England notes that the submitted Water Neutrality Statement dated 02 June 2023 provides two separate proposed water use calculations, one for 'reasonable use' and another for the 'maximum use' scenario. The reasonable scenario is based upon an average capacity of 40 persons and the maximum scenario is based upon a 76 person capacity. While the maximum use scenario does not quite demonstrate water neutrality, it is stated clearly in the document that the maximum capacity does not constitute a typical day and is only expected during peak holiday season. Natural England is therefore satisfied that the proposal will be water neutral, provided that your authority is satisfied that the occupancy rate used is reflective of the business and that maximum occupancy will not occur for the vast majority of the year.

In addition, the water use calculated in the reasonable use scenario results in a water surplus of 132m³ per annum. Should the applicant seek to utilise any of this surplus as credits to enable further development, we would recommend that calculations are revised

to reflect fluctuating occupancy rates over the 12 month operational cycle to ensure no double counting.

Further comments 04.05.23:

Thank you for your consultation on the above dated 05 April 2023 which was received by Natural England on the same date.

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 site.

As submitted, the application could have potential significant effects on:

- o Arun Valley Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site
- o Pulborough Brooks and Amberley Wild Brooks Site of Special Scientific Interest (SSSI)

Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- o Further evidence of the application's existing water use.
- o Further evidence of the application's proposed rainwater harvesting measures.

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.

Water Neutrality Arun Valley SPA, SAC and Ramsar Site: The proposed development falls within the Sussex North water supply zone; As set out in Natural England's Advice Note regarding Water Neutrality within the Sussex North Water Supply Zone, the existing water supply in the Sussex North water supply zone cannot be ruled out as contributing to the declines in wildlife within internationally protected sites in the Arun Valley SPA, SAC and Ramsar site. Achieving water neutrality 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 able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for any adverse effects, it is the advice of Natural England that it is not possible to ascertain that the proposal will not result in adverse effects on the integrity of the sites in question.

Natural England advises that the assessment does not currently provide enough information and/or certainty to justify the assessment conclusion and that your authority should not grant planning permission at this stage.

We advise that the following additional work on the assessment (please see below) is required to enable it to be sufficiently rigorous and robust. We welcome ongoing engagement with your authority to address these matters. Natural England should be re-consulted once this additional work has been undertaken and the appropriate assessment has been revised.

Additional Information Required: We advise that the Water Neutrality statement dated 23 March 2023 is revised to include the following supporting evidence:

Existing Water Use: It is our understanding that the existing water use figures given, 630m³ per annum for reasonable usage and 908m³ for maximum usage, are based upon a combination of BREEAM Wat 1 calculations and data from water meter readings for the period October 2022 and January 2023 (170m³ total).

This would be an acceptable method of calculation, however an email from Kirdford Parish Council (17 April 2023) has raised concerns regarding the accuracy of the water meter readings. They have advised that during the period October 2022-January 2023, the pub had been operating on a reduced level of service (i.e. food service had been stopped or significantly reduced) and therefore the meter readings would not provide an accurate baseline figure.

We would advise that if your authority does not have certainty in the values being proposed, then they should not be considered at HRA AA and further evidence demonstrating actual water use should be submitted. In addition, we recommend that the applicant confirms the number of additional seats proposed as two differing figures have been given within the submitted documents.

Rainwater Harvesting Measures: It is noted that rainwater harvesting has been proposed as part of the mitigation package, to meet the demands of toilet flushing within the building. While this is an acceptable form of mitigation, there is currently no information available confirming that there will be a sufficient drought capacity incorporated into the proposed tank.

We advise that either a sufficient drought contingency is included or the amount of mains water required as a 'back-up' in the event of a system failure is factored into the calculations.

Securing Mitigation Measures in Perpetuity: Natural England advise that any offsetting measures required to achieve water neutrality will need to have their maintenance and management appropriately secured with the competent authority, in perpetuity.

Original comments 10.03.23:

Thank you for consulting with Natural England regarding the proposal 22/02154/FUL.

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 not able to ascertain that the proposal will not result in adverse effects on the integrity of any of the European sites in question; chiefly due to insufficient water neutrality consideration with regards to potential impacts on the Arun Valley Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site. Having considered the assessment, Natural England concurs with the conclusion you have drawn that it is not possible to ascertain that the proposal will not result in adverse effects on site integrity. 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>.

6.3 CDC Conservation and Design

Summarised:

Further comments 23.03.23:

The lighting scheme details submitted show a very low key and unobtrusive lighting scheme. The luminance levels are low and focused on the walking surfaces around the property. The festoon lights are not designed to project light and will merely wash a warm yellow light over the immediate area.

I am convinced that the proposed lighting scheme presents no harm to either the listed building or conservation area. As part of a well received refurbishment the proposals will assist the Foresters in maintaining its viability as a historic inn.

Further comments 24.01.23:

I have thoroughly reviewed the submitted information from the applicants and asked for revisions and additional detail where I felt it was required. The information submitted was useful and did not need to be exhaustive to enable an assessment of the works proposed. In conservation terms the amount and detail of the information provided should be in accordance with the detail and complexity of the works and the significance of the heritage asset. It is my view that following revisions and additional information received this has been achieved by the applicants.

I have already given detailed comments on why I consider the works to be acceptable in general terms, and further to additional details and the fulfilment of conditions I still consider this to be the case.

Further comments 22.12.22:

The plan submitted for the relocation of the internal bar negates the need for these details to be submitted by condition.

Original comments 19.12.22:

The proposed extension would be well sited in terms of avoiding the 17C core and will entail the removal of historic fabric that is only of incidental importance to the wider significance of the listed building. The chimney stack in this area is preserved with internal circulation patterns to each side. The external materials and design are appropriate for the location.

Internally the relocation of the bar is acceptable, the bar is not of any clear historic merit and bisects two very different phases of the historic building, rather than confining itself to one, which it will do in the new location. A short section of wall is to be removed here but it is not clear where, and whether it is significant so details are requested. All other internal alterations are minor and will have a negligible impact on the listed building.

The conversion of the existing garage is almost certainly acceptable in principle but we need more information about the survival of the interior. It is highly likely that this is the building that contained the original forge and careful consideration must be given to the survival of any interior features that may recall this use, a condition is suggest to secure this information. Full interior details of the refit of this area will also need to be submitted. The external treatment of the garage door elevation is likely to be acceptable subject to the above details.

The NPPF, Historic England guidance and conservation best practice make it clear that the best way to ensure the survival of historic buildings is to ensure they remain within a long term viable use. The Foresters Arms like many important historic public houses faces

a battle to remain viable. If the public house functionality were to cease the property would only be suitable for residential use which would entail a great deal of unsympathetic alterations and forever change its relationship with the wider historic village. The proposals seek to address the viability in a positive manner, with a modest number of extra covers and some long overdue improvements to the external areas. As such, the application is very clearly in the interests of the continued conservation of this important heritage asset and should be approved subject to conditions.

Details on the following to be submitted as part of the application or by condition: the relocation of the internal bar, external lighting and works to refit the forge/garage building.

6.4 CDC Environmental Protection - Land contamination

Further comments 20.01.23:

Further to your email as below I have reviewed the comments from the Parish Council and discussed with Paul Thomson. Our response is as follows:

The application is for extensions and reconfiguration of the pub - the fundamental use is still the same, ie as a pub. Although there will be new outdoor seating on the west side facing the village green and nearer neighbours, it is not a large area and there are other controls in place to restrict noise eg the Licence requirements currently only allow use of the outside areas till 11pm and it appears that the outside area is not licensed so no regulated entertainment can currently take place there (will check this with the licensing team).

We don't have a history of noise complaints from the current use of the pub. From our point of view it would appear onerous to require a noise impact assessment. It may be that if there is to be an intensification of use of the premises eg for functions, the landlord should consider producing a noise management plan - this is something we would regulate under the Environmental Protection Act 1990 provisions. Controls can then be agreed on managing noise from the premises depending on the types of events that are to be held.

Original comments 12.12.22:

Thank you for consulting the EP team on the above application. Our comments are as follows.

Land contamination: A desk study and preliminary risk assessment has been submitted dated Oct 2022, produced by Apple Environmental. The report has been undertaken in accordance with appropriate guidance and has concluded that there are no identified sources of potential land contamination at or close to this location. The report recommends that a 'watching brief' is undertaken while construction works are taking place - we agree with this strategy and recommend condition DC13 is applied.

It is noted that a new oil tank is to be installed - if an existing tank is to be removed, care must be taken to ensure there is no pollution of the ground during the removal process. It is recommended that the new tank is double skinned and located on hardstanding in order to reduce the chance of land contamination if there was to be a leak or spillage of oil in the future. The tank should be installed by an accredited installer and should be regularly maintained.

Noise: It is noted that the former garage area is to be converted to increase the trade area and that this area may be used as a function room at times. The applicant is advised to check with the Council's licensing team to determine if it is necessary to apply for a licence for this new trading area.

Construction works: Measures should be taken during demolition and construction works to minimise noise, dust, wastes, traffic and other environmental impacts to reduce the impact of the works at neighbouring properties.

The applicant should ensure that any asbestos containing materials are identified prior to demolition commencing in order that the requirements of the Control of Asbestos Regulations 2012 can be taken into account.

Parking: It is recommended that cycle parking spaces are provided and electric vehicle charging points in order to encourage the use of sustainable forms of transport.

6.5 CDC Environmental Strategy

Further comments 16.02.23:

Following submission of the lighting plan we are satisfied that this is suitable for the proposal. Please can we ask that any festoon lighting avoids any light spill into any trees surrounding the site.

Further comments 26.01.23:

Bats: Following submission of the Preliminary Bat Roost Assessment Report (Dec 2022) we are happy that the mitigation proposed would be suitable. A condition should be used to ensure this takes place.

The lighting scheme for the site will need to take into consideration the presence of bats in the local area and the scheme should minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding.

We require that a bat box is installed on the buildings onsite facing south/south westerly positioned 3-5m above ground.

Nesting Bird: Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March ' 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work).

We would like a bird box to be installed on the building / and or tree within the garden of the property.

Hedgehogs: Any brush piles, compost and debris piles on site could provide shelter areas and hibernation potential for hedgehogs. These piles must be removed outside of the hibernation period mid-October to mid-March inclusive. The piles must undergo soft demolition. A hedgehog nesting box should be installed within the site to provide future nesting areas for hedgehogs.

Further comments 19.01.23:

Due to the impacts of water consumption within the Sussex North Water Supply Zone on the Arun Valley site, development proposals within this area that would lead to a material increase in water demand will need to demonstrate 'water neutrality'. This means that there would be no increase in water consumption, demonstrated by a combination of water efficiency, water recycling and offsetting measures. Following guidance from Natural England relating to the requirement for water neutrality, a water budget, showing the baseline and proposed water consumption and mitigation measures proposed must be submitted as part of this application.

Further information and guidance can be found on the CDC website:
<https://www.chichester.gov.uk/waterresources>

Further comments 11.01.23:

Bat: Following submission of the Preliminary Bat Roost Assessment Report (Dec 2022) we are happy that the mitigation proposed would be suitable. A condition should be used to ensure this takes place.

The lighting scheme for the site will need to take into consideration the presence of bats in the local area and the scheme should minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding.

We require that a bat box is installed on the buildings onsite facing south/south westerly positioned 3-5m above ground.

Nesting Birds: Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March ' 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work).

We would like a bird box to be installed on the building / and or tree within the garden of the property.

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Further comments 19.12.22:

Bats: Following submission of the Preliminary Bat Roost Assessment Report (Dec 2022) we are happy that the mitigation proposed would be suitable. A condition should be used to ensure this takes place.

The lighting scheme for the site will need to take into consideration the presence of bats in the local area and the scheme should minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding.

We require that a bat box is installed on the buildings onsite facing south/south westerly positioned 3-5m above ground.

Nesting Birds: Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March ' 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work).

We would like a bird box to be installed on the building / and or tree within the garden of the property.

Hedgehogs: Any brush piles, compost and debris piles on site could provide shelter areas and hibernation potential for hedgehogs. These piles must be removed outside of the hibernation period mid-October to mid-March inclusive. The piles must undergo soft demolition. A hedgehog nesting box should be installed within the site to provide future nesting areas for hedgehogs.

Original comments 08.12.22:

Bats: Due to the location of the site, the propose works and the records of bats within close proximity of the site there is a moderate likelihood of bats roosting within the building. Unfortunately no bat surveys have been undertaken on the site so we are unable to establish if bats are present. Prior to determination we require that an initial bat survey is undertaken on the building to determine if there is evidence of bats roosting within the building. If there is evidence of bats, further bat activity surveys would be required and mitigation strategies will need to be produced. These surveys plus mitigation strategies required will need to be submitted as part of the planning application prior to determination. Due to the level of protection bats hold within European legislation, if bats are found to be roosting onsite the application will also require a Natural England Protected Species License for the works.

Due to the sites location within the Mens and Ebernoe Common SAC buffer zone the bat survey will need to also assess the impact this development may have on any SAC species potentially using the site.

We require that a bat box is installed on the buildings onsite facing south/south westerly positioned 3-5m above ground.

The lighting scheme for the site will need to take into consideration the presence of bats in the local area and the scheme should minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding.

Hedgehogs: Any brush pile, compost and debris piles on site could provide shelter areas and hibernation potential for hedgehogs. If any piles need to be removed outside of the

hibernation period mid-October to mid-March inclusive. The piles must undergo soft demolition. A hedgehog nesting box should be installed within the site to provide future nesting areas for hedgehogs

Nesting Birds: Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March ' 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work).

We would like a bird box to be installed on the building / and or tree within the site.

6.6 Third party objection comments

3 no. third party representations of objection have been received concerning the following matters, summarised:

- a) A separate change of use application should be submitted for the garage.
- b) The proposed change of the garage to use as a seating area would impact on neighbouring amenity due to additional noise.
- c) The doors of the proposed seating area within the garage would be a safety issue as children would run out of them into an area where cars pass.
- d) The gates and fence would impact on access for neighbouring properties and delivery vehicles, the character of the property and the area and would block off a wildlife corridor.
- e) The proposed lighting would impact on the dark skies nature of the village.
- f) The proposed hard landscaping would not be in keeping with the area.
- g) An assessment on the impact of the proposed works on bats in the area has not been submitted.
- h) The proposal would increase water usage.

2.23 Third party support comments

7 no. third party representations of support have been received concerning the following matters, summarised:

- a) The Foresters Arms is an important community hub in Kirdford and it is extremely disappointing that this facility is no longer available.
- b) The Foresters Arms is an important employer of hospitality staff.
- c) It is sensible that the landlord of The Foresters Arms wants to upgrade the facilities and improve the ambiance and capacity of the restaurant so that it becomes a more pleasant environment and a viable business.
- d) Water Neutrality should not be used as a reason to not improve the property.
- e) Appropriate signage and information on the public house's website would prevent a lack of parking at the site being an issue. This should not be a barrier to the proposed works.
- f) The delay with the application is impacting on the community.

7.0 Planning Policy

The Development Plan

- 7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029, the CDC Site Allocation Development Plan Document and all made neighbourhood plans. The Kirdford Parish Neighbourhood Plan was made on the 22nd July 2014 and forms part of the Development Plan against which applications must be considered.
- 7.2 The principal planning policies relevant to the consideration of this application are as follows:

Chichester Local Plan: Key Policies 2014-2029:

Policy 1: Presumption in Favour of Sustainable Development
Policy 2: Development Strategy and Settlement Hierarchy
Policy 6: Neighbourhood Development Plans
Policy 25: Development in the North of the Plan area
Policy 33: New Residential Development
Policy 38: Local and Community Facilities
Policy 39: Transport, Accessibility and Parking
Policy 47: Heritage
Policy 48: Natural Environment
Policy 49: Biodiversity

Kirdford Parish Neighbourhood Plan:

Policy EM.3 - Conserving and enhancing the historic environment
Policy DS.2 - Encouraging quality design
Policy DS.3 - Provision of Off-road Parking
Policy R.4 - Tourist accommodation and facilities

Chichester Local Plan Review Preferred Approach 2016 - 2035

- 7.3 Work on the review of the adopted Local Plan to consider the development needs of the Chichester Plan Area through to 2039 is now well advanced. Consultation on a Preferred Approach Local Plan has taken place. Following detailed consideration of all responses to the consultation, the Council has published a Submission Local Plan under Regulation 19, which was approved by Cabinet and Full Council for consultation in January 2023. A period of consultation took place from 3rd February to 17th March 2023, and the Submission Local Plan is expected to be submitted to the Secretary of State for independent examination in late 2023. In accordance with the Local Development Scheme, it is anticipated that the new Plan will be adopted by the Council in 2024. At this stage, the Local Plan Review is an important material consideration in the determination of planning applications, the weight that can be attached to the policies contained therein is dependent on the significance of unresolved objection attributed to any relevant policy, commensurate with government policy at paragraph 48 of the NPPF (2021).

7.4 Relevant policies from the published Chichester Local Plan 2021 - 2039: Proposed Submission (Regulation 19) are:

Policy S2 Settlement Hierarchy
Policy NE2 Natural Landscape
Policy NE5 Biodiversity and Biodiversity Net Gain
Policy NE6 Chichester's Internationally and Nationally Designated Habitats
Policy NE16 Water Management and Water Quality
Policy NE17 Water Neutrality
Policy NE21 Lighting
Policy NE24 Contaminated Land
Policy P1 Design Principles
Policy P2 Local Character and Distinctiveness
Policy P6 Amenity
Policy P7 Alterations and Extensions
Policy P8 Materials and Detailing
Policy P9 The Historic Environment
Policy P10 Listed Buildings
Policy P11 Conservation Areas
Policy P17 New and Existing Local and Community Facilities including Local Shops
Policy E8 Built Tourist and Leisure Development
Policy T4 Parking Provision

National Policy and Guidance

7.5 Government planning policy now comprises the revised National Planning Policy Framework (NPPF 2023), which took effect from 5 September 2023. Paragraph 11 of the revised Framework states that plans and decisions should apply a presumption in favour of sustainable development, and for decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed;

or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

7.6 Consideration should also be given to the following paragraph and sections: Sections 2, 3, 4, 12, 15 and 16.

Other Local Policy and Guidance

7.7 The following documents are material to the determination of this planning application:

- Kirdford Village Design Statement
- Kirdford Conservation Area Character Appraisal and Management Proposals
- Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
- Conservation of Habitats and Species Regulations 2017

7.8 The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Support local businesses to grow and become engaged with local communities
- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

8.0 Planning Comments

8.1 The main issues arising from this proposal are:

- i. Principle of development
- ii. Design and impact upon character of the surrounding area/heritage assets
- iii. Impact upon amenity of neighbouring properties
- iv. Impact upon highway safety and parking
- v. Ecological considerations
- vi. Water Neutrality
- vii. Land contamination
- viii. Trees

Assessment

- i. Principle of development

8.2 The application site is located within the settlement boundary, where development is generally supported, providing that the proposal respects the setting, form and character of the settlement. The general principle of the development is therefore acceptable, subject to the considerations set out within this report.

- ii. Design and impact upon character of the surrounding area/heritage assets

8.3 S. 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Paragraph 130 of the NPPF states that decisions should ensure that developments are visually attractive and are sympathetic to local character including the surrounding built environment. Policy 47 of the Local Plan requires that development proposals conserve or enhance the special interest and setting of heritage assets. Section 16 of the NPPF reiterates this requirement to conserve and enhance the historic environment.

- 8.4 The Council's Conservation and Design officer was consulted on the proposal. They commented that the extension would be well sited in terms of avoiding the 17C core and would entail the removal of historic fabric that is only of incidental importance to the wider significance of the Listed Building. They also stated that the proposed external materials and design are appropriate for the location. In order to ensure that the proposed materials for the extension and the fenestration would not cause harm to the character and appearance of the Listed Building, it is considered that a condition be added requiring that full details of the materials be submitted. Subject to this condition, the proposals would safeguard the special interest of the listed building.
- 8.5 Due to the siting of the extension being to the rear of the building and that it would be mostly obscured from the street scene, it is considered that the extension would not have a harmful impact on the character of the area.
- 8.6 Listed Building Consent for 'Rear extension with associated internal reconfiguration and works to external front and rear trade areas' was granted on 4th September 2023. The planning application remained un-determined due to the issues around Water Neutrality, rather than any concerns regarding design or the impact upon heritage assets.
- 8.7 Due to the size, siting and design of the proposed pergola, picket fence and paving area to the front of the site, they are considered appropriate to both the site and the area. Furthermore, the proposed paving area to the rear of the site, is considered appropriate given the character of the site being a public house. Its rear location also reduces any impact, and this part of the proposal would not impact on the character of the area.
- 8.8 Details of the proposed external lighting were submitted as part of the application. Conservation and Design were consulted on the proposed lighting, and they do not have any concerns with these works. Due to the amount of lighting proposed and its siting, it is considered that the proposed lighting would be appropriate to the site and would not impact on the site or on the character of the area. To ensure that the lighting installed is appropriate, a condition is recommended requiring the lighting to be installed in accordance with the submitted details.
- 8.9 When the application was first submitted, works were proposed to the garage to enable it to be used as part of the public house for an additional serving area. Following the raising of concerns by the Parish Council and third parties on noise and safety issues from using the garage for these purposes, these works were removed from the application. No further assessment on the design impact of this original part of the proposals is therefore needed. In addition, when the application was first submitted, a fence and gates were also proposed. These would have been sited across the entrance to the access to the north of the site. Following the raising of concerns with these works by third parties during the consultation of the application regarding ownership issues and the impact of these works on the character of the area, these works are no longer proposed.
- 8.10 During the consultation of the application, the Parish Council commented that the submitted Design and Heritage Statement was not in accordance with the Council's Local List requirements. The Council's Conservation and Design Team have advised officers that the amount, and detail, of the information provided is in accordance with the detail and complexity of the works and the significance of the heritage asset. The information is sufficient for the local planning authority to make an informed assessment of the likely impact of the proposals on this designated heritage asset. The information submitted for

the application has demonstrated that the proposed works would be in accordance with local and national policy including Policy 47 of the Chichester Local Plan and Section 16 of the NPPF. The works would safeguard the special interest of the listed building and would preserve the significance of the heritage asset. Due to this reason, there are no concerns with the proposed works.

8.11 The proposed works would help to ensure that the public house would remain a viable use for the Listed Building. By keeping the use viable, this would help to keep the building maintained and therefore preserve and enhance both the Listed Building and the Conservation Area in the long term. Subject to conditions, the proposed works would be appropriate having regard to the building and would not cause significant harm to the special interest of the Listed Building or be detrimental the character of the area. The proposal would therefore be in accordance with Policy 47 of the Local Plan, Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Section 16 of the NPPF and the Kirdford Parish Neighbourhood Plan.

iii. Impact upon amenity of neighbouring properties

8.13 The NPPF states in paragraph 130 that planning should ensure a good quality of amenity for existing and future users (of places), and policy 33 of the Chichester Local Plan include requirements to protect the amenities of neighbouring properties.

8.14 Due to the size and siting of the proposed works, they would not impact on the amenities of the neighbouring properties in regards to overlooking and overshadowing.

8.15 It is advised that a condition requiring a Construction Method Statement be submitted prior to any development taking place at the site. This would ensure that the construction of the proposed works would not have a harmful impact on the amenities of the neighbouring properties.

8.16 During the consultation of the application concern was raised from third parties about the impact of the proposed works on the amenity of neighbouring properties in regards to noise. The Council's Environmental Protection team have been consulted and have not raised any concerns with the proposed works. It is considered that due to the existing use of the building and the size and siting of the proposed works, the development would not have a harmful impact on the amenities of the neighbouring properties in regards to noise. The use is well established at the site, and the extension and outside areas created are not so great to cause a material increase in the noise generated from the public house.

8.17 Subject to conditions the proposed works would be sufficiently distanced, orientated and designed so as not to have an unacceptable effect on the amenities of the neighbouring properties, in particular to their outlook, privacy or available light.

iv. Impact upon highway safety and parking

8.18 The existing public house does not have any formal parking and no additional parking is proposed as part of the application. The site is within the settlement boundary and is in existing use as a public house. In addition, the access road to the site connects to

pedestrian footpaths. There is space around the pub for informal parking. Due to these reasons, it is considered that the proposed works would not have a harmful impact on parking and highway safety in the area.

iii. Ecological considerations

8.19 Part of the site is within a bat movement area and the whole of the site is within 6.5km of the Ebernoe Common and The Mens Special Areas of Conservation. A Preliminary Bat Roost Assessment was submitted as part of the application. The report found no evidence of bats internally or externally. Mitigation measures for during construction works and ecological enhancements for the site were included in the report. An external lighting plan for the site was also submitted.

8.20 The Council's Environmental Strategy team were consulted on the proposed works. Subject to conditions being added that the proposed works are undertaken in accordance with the submitted details, they do not have any concerns. It is advised that a condition be added that the works are undertaken in accordance with the assessment and that additional ecological enhancements are also conditioned.

viii. Water Neutrality

8.21 Water neutrality has arisen as a significant issue affecting applications located within the Sussex North Water Resource Zone. New development can result in water consumption increasing and the application site is situated in an area of serious water stress. Much of this area's water (i.e. 'North of the Plan Area') is sourced from abstraction points within the Sussex North Water Supply Zone, which drains water from the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar Site (all designated sites under the Habitats Regulations).

8.23 Natural England sent a Position Statement to Chichester District Council and adjoining Local Planning Authorities in September 2021 expressing a very serious concern that such abstraction may be causing significant adverse impacts on the biodiversity of such areas. The Position Statement confirms that new developments must not add to these adverse impacts and new development should be water neutral. This can be achieved by having significant water efficiency measures built into development and by providing offsetting measures to reduce water consumption from existing development.

8.24 A Water Neutrality Statement was submitted as part of the application as the proposed extension would allow for an extra 20 patrons to the public house. Water saving measures are proposed within the building to achieve water neutrality. These measures include: restricting existing water flow taps, installing low flushing volume toilet cisterns to existing toilets, installing solenoid shut off valves to isolate water supplies to all existing toilets unless they are occupied and making the existing urinals waterless. In addition to these measures, a rainwater harvesting system is proposed to be fitted to meet the demands of toilet flushing within the building.

8.25 The proposed water saving measures would all be onsite, therefore it is advised that these measures be secured by condition. It is also advised that the condition requires that no part of the new development shall be first occupied until the on-site water neutrality mitigation measures have been fully implemented and are operational. In addition, it is advised that the condition also requires that a verification report for all the onsite water

neutrality mitigation measures be submitted to and approved in writing Council. This would ensure that the proposed works are water neutral and that the measures are retained in perpetuity.

- 8.26 Natural England have been consulted on the application and it was confirmed on 12 July 2023 that they have no objection to the application subject to appropriate mitigation (as set out in the submitted Water Neutrality Statement) and it being secured by condition.
- 8.27 Kirdford Parish Council object to the application due to water neutrality. In response to Natural England's confirmation of no objection on 12 July, they stated that they maintain that the water mitigation plans are not sufficiently precautionary. The Parish Council also stated that 'in the absence of (1) a robust precautionary water neutrality strategy that delivers water neutrality against all possible usage scenarios and (2) without a credible enforcement mechanism which will step in to ensure that the problems are remedied swiftly. We consider that water neutrality is an area which is difficult to remedy post-permission, consequently we feel habitat protection needs to be vigorously pursued at the application stage.'
- 8.28 Officers have considered this matter very carefully, and Natural England were reconsulted on the application and asked to comment on Kirdford Parish Council's comments. On 21 September 2023, they commented 'our previous response sets out our advice to your authority regarding this proposal with an explanation provided in the Additional Advice section.'
- 8.29 To expand on this point of objection from Kirdford Parish Council; the Water Neutrality Statement states provides two separate proposed water use calculations, one for 'reasonable use' and another for the 'maximum use' scenario. The reasonable scenario is based upon an average capacity of 40 persons and the maximum scenario is based upon a 76 person capacity. As stated by Natural England in their comments of 12 July 2023, while the 'maximum use' scenario does not quite demonstrate water neutrality, it is stated clearly in the Water Neutrality Statement that the maximum capacity does not constitute a typical day and is only expected during peak holiday season. Natural England then confirmed that they are satisfied that the proposal would be water neutral, provided that the Council is satisfied that the occupancy rate used is reflective of the business and that maximum occupancy will not occur for the vast majority of the year. Natural England also stated that the water use calculated in the reasonable use scenario results in a water surplus of 132m³ per annum.
- 8.30 It is considered important to recognise that the application site is located within a rural area where, unlike in busy a town or city, the amount of passing trade will likely be less frequent. Taking into account the size of its immediate catchment of customers and the rural location of the site it is considered reasonable to conclude that the public house would not be operating at full capacity all day every day throughout the year, with periods of use expected to be in line, or indeed below, the 'reasonable use' scenario; for example during the day on non-weekend day in winter. The approach taken by the applicant is considered pragmatic and proportionate, and it noted that if only ever operating as under the 'reasonable use' scenario, a significant water surplus would be achieved. Weight is also given to Natural England's conclusion which is supportive of the strategy, including when specifically consulted on the 'reasonable use/maximum use' approach.'

8.31 The Council agrees with Natural England's comments that subject to securing the water neutrality mitigation measures by condition, the proposed works would be water neutral. The development would therefore not have an adverse effect on the integrity of the European Protected site and would be in accordance with the Habitat Regulations.

vii. Land Contamination

8.32 The site is shown on the Council's GIS system as being within an area of contaminated land. An Environmental Desk Study and Preliminary Risk Assessment was submitted as part of the application. The assessment has concluded that there are no identified sources of potential land contamination at or close to this location. It recommends that a watching brief is undertaken while construction works are taking place. The Council's Environmental Protection team were consulted on the proposed works. They agree that a watching brief should be undertaken. It is therefore considered that a condition requiring that if any contamination is found during the construction works, the Council be immediately notified be included.

8.33 A new oil tank is to be installed at the site. The Council's Environmental Protection team have commented that if an existing tank is to be removed, care must be taken to ensure there is no pollution of the ground during the removal process. They have also recommended that the new tank is double skinned and located on hardstanding in order to reduce the chance of land contamination if there was to be a leak or spillage of oil in the future. It is considered that this advice should be added as an informative.

viii. Trees

8.34 The root protection area of a Yew tree to the rear of the site is partly within the area where the rear paving is proposed. An Arboricultural Survey and Impact Assessment was submitted as part of the application. Mitigation measures are included within the assessment to protect the tree during construction works. These include a no-dig construction methodology, tree protection barriers and ground protection measures. It is considered that a condition requiring the proposed works to be undertaken in accordance with the Arboricultural Survey and Impact Assessment be included. This would ensure that the construction of the proposed works would not cause harm to the tree.

Conclusion

8.35 Due to the siting, size and design of the proposed works and subject to the advised conditions, the development would be acceptable in terms of its design and impact upon the heritage assets, the surrounding area, amenity of neighbouring properties and biodiversity. In addition, as confirmed by Natural England, subject to the advised condition, the proposed works would be water neutral and in accordance with the Habitat Regulations. The proposal therefore complies with development plan policies including Sections 2, 3, 4, 12, 15 and 16 of the National Planning Policy Framework, the Chichester Local Plan Key Policies; with particular reference to Policies 47, 48 and 49, Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Kirdford Parish Neighbourhood Plan and the Habitat Regulations. The application is therefore recommended for approval.

Human Rights

8.36 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been taken into account and it is concluded that the recommendation to permit is justified and proportionate.

RECOMMENDATION

PERMIT subject to the following conditions and informatives:-

1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

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

2) The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Decided Plans"

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

3) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- (i) the parking of vehicles of site operatives and visitors;
- (ii) loading and unloading of plant and materials;
- (iii) storage of plant and materials used in constructing the development;
- (iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (v) wheel washing facilities;
- (vi) measures to control the emission of dust and dirt during construction;
- (vii) turning on site of vehicles;
- (viii) the location of any site huts/cabins/offices.

Reason: To ensure safe and neighbourly construction.

4) Notwithstanding any details submitted no development/works shall take place, above slab level, until a full schedule of all materials and finishes to be used for the external walls and roof for the extension hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule of materials and finishes, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a development of visual quality.

5) Notwithstanding the approved plans, no windows or doors shall be inserted until details of the windows and doors have been submitted to and approved in writing by the local planning authority. The details shall include:-

- a) Plans to identify the windows and doors in question and their locations within the property, cross referenced to an elevation drawing or floor plan for the avoidance of doubt;
- b) 1:20 elevation and plan;
- c) 1:10 section with full size glazing bar detail;
- d) the position within the opening (depth of reveal) and method of fixing the glazing (putty or beading); and
- e) a schedule of the materials proposed, method of opening, and finishes.

Thereafter the works shall be carried out in full accordance with the approved details and the development shall be maintained as approved in perpetuity.

Reason: To ensure appropriate design and appearance in the interests of protecting the visual amenity/character of the development and surrounding area, and to preserve the special character and appearance of the host listed building.

6) No part of the development hereby permitted shall be implemented until the on-site water neutrality mitigation measures for the development have been fully implemented and are operational and a verification report for all the on-site water neutrality mitigation measures has been submitted to and approved in writing by the Local Planning Authority. The ongoing water neutrality measures shall be adhered to in perpetuity.

Reason: To ensure that the necessary mitigation measures to ensure an alternative water supply is in place prior to the use of the development. In the interests of biodiversity.

7) Prior to substantial completion or occupation of the works hereby permitted, whichever is the earlier, the following ecological enhancements shall be provided:

- a) A bat box integrated into the building facing south/south-westerly positioned 3-5m above ground.
- b) A bird box on a building onsite or a tree within the garden.
- c) A hedgehog nesting box installed within the site to provide future nesting areas for hedgehogs.

Thereafter the ecological enhancements shall be maintained in perpetuity.

Reason: To ensure that the protection of ecology and/or biodiversity is fully taken into account during the construction process in order to ensure the development will not be detrimental to the maintenance of the species.

8) The development hereby permitted shall not be constructed other than in accordance with the materials specified within the application form and plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that a harmonious visual relationship is achieved between the new and the existing developments.

9) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. development shall not be first occupied until

i) An investigation and risk assessment has been undertaken in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority, and

ii) where remediation is necessary a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. Any remediation shall be fully implemented in accordance with the approved scheme before the development is brought into use, and

iii) a verification report for the remediation shall be submitted in writing to the Local Planning Authority before the development is first brought into use.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of contaminated land in accordance with local and national planning policy

10) The development hereby permitted shall be carried out in strict accordance with the mitigation measures and enhancements detailed in the Preliminary Bat Roost Assessment produced by Imprint Ecology.

Reason: To ensure that the protection of ecology and/or biodiversity is fully taken into account during the construction process in order to ensure the development will not be detrimental to the maintenance of the species.

11) Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March and 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work).

Reason: To ensure that the protection of ecology and/or biodiversity is fully taken into account during the construction process in order to ensure the development will not be detrimental to the maintenance of the species.

12) During construction should any brush pile, compost and debris piles be removed, they must first be checked for hedgehogs. These piles must only be removed outside of the hibernation period mid-October to mid-March inclusive and undergo soft demolition only.

Reason: In the interests of protecting biodiversity.

13) The development hereby permitted shall be carried out in strict accordance with the mitigation recommendations detailed in the approved Arboricultural Survey and Impact Assessment produced by 2C Design Consultants Ltd.

Reason: To safeguard the health and well-being of the tree(s).

14) The development hereby permitted shall be carried out in strict accordance with the lighting specification.

Reason: In the interests of protecting biodiversity and the visual amenity of the area.

Decided Plans

The application has been assessed and the decision is made on the basis of the following plans and documents submitted:

Details	Reference	Version	Date Received	Status
PLAN – EXISTING AND PROPOSED INTERNAL TIMBER PARTITION WALL	2CD02028TP W	A	22.12.2022	Approved
PLAN - LOCATION PLAN	2CD02028- LOPL			Approved
PLAN - PROPOSED PERGOLA DETAILS	2CD02028- PGDT			Approved
PLAN - PROPOSED ELEVATIONS	2CD02028- PREL	REV C	19.01.2023	Approved
PLAN - PROPOSED LAYOUT	2CD02028- PRLY	REV C	20.10.2023	Approved

INFORMATIVES

1) The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2) The developer's attention is drawn to the provisions of the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats etc) Regulations 1994, and to other wildlife legislation (for example Protection of Badgers Act 1992, Wild Mammals Protection Act 1996). These make it an offence to kill or injure any wild bird intentionally, damage or destroy the nest of any wild bird intentionally (when the nest is being built or is in use), disturb, damage or destroy and place which certain wild animals use for shelter (including badgers and all bats and certain moths, otters, water voles and dormice), kill or injure certain reptiles and amphibians (including adders, grass snakes, common lizards, slow-worms, Great Crested newts, Natterjack toads, smooth snakes and sand lizards), and kill, injure or disturb a bat or damage their shelter or breeding site. Leaflets on these and other protected species are available free of charge from Natural England.

The onus is therefore on you to ascertain whether any such species are present on site, before works commence. If such species are found or you suspected, you must contact Natural England (at: Natural England, Sussex and Surrey Team, Phoenix House, 32-33 North Street, Lewes, East Sussex, BN7 2PH, 01273 476595, sussex.surrey@english-nature.org.uk) for advice. For nesting birds, you should delay works until after the nesting season (1 March to 31 August).

3) When removing the old tank and any pipework, extreme care must be taken to ensure pollution to the ground or surface waters does not occur. It is recommended that the new tank is double skinned and located on hardstanding in order to reduce the chance of land contamination if there was to be a leak or spillage of oil in the future. The tank should be installed by an accredited installer and should be regularly maintained.

For further information on this application please contact Vicki Baker on 01243 534734

To view the application use the following link -

<https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RGV2RCERKAW00>