

7 July 2025

Ann Biggs
Assistant Director
Planning and Sustainable Economy
Mid Sussex District Council
Oaklands
Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

Dear Ms. Biggs

Re: Application under Regulation 77 of the Conservation of Habitats and Species Regulations 2017 further to application ref: DM/24/3076 in relation to 87 - 89 London Road, East Grinstead, West Sussex, RH19 1EQ

I refer to the above application. We have been instructed by Mr. E Ciftal to prepare an application under Regulation 77 of the Conservation of Habitats and Species Regulations in respect of the prior approval granted under ref: DM/24/3076.

The application granted prior approval for the change of use of the upper floors above a Use Class E retail unit to five residential flats. This application provides information to ensure that there would not be an impact from the development on protected species and their habitats. The proposed mitigation of the potential impacts of the development will ensure that the effects of any increase in visitors to Ashdown Forest are addressed.

This covering letter is supported by the following documents:

- Location and block plan 100 submitted to the Council 18.12.2024
- Existing floor plans 200 submitted 18.12.2024
- Existing and proposed elevations 300 submitted 27.2.2025
- Proposed floor plans 700 Rev C submitted 12.06.2025

Statutory Legislation

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77.—(1) An application to the local planning authority for approval, as mentioned in regulation 75, must—

(a) give details of the development which is intended to be carried out; and

(b) be accompanied by—

(i) a copy of any relevant notification by the appropriate nature conservation body under regulation 76; and

(ii) any fee required to be paid.

(2) For the purposes of its consideration of the application the local planning authority must assume that the development is likely to have a relevant effect.

(3) The authority must send a copy of the application to the appropriate nature conservation body and must take account of any representations made by it.

(4) If in its representations the appropriate nature conservation body states its opinion that the development is not likely to have a relevant effect, the local planning authority must send a copy of the representations to the applicant.

(5) The sending of the copy of the representations to the applicant under paragraph (4) has the same effect as a notification by the appropriate nature conservation body of its opinion under regulation 76(4).

(6) In any other case in which the application has been sent to the appropriate nature conservation body, the local planning authority must, taking account of any representations made by the appropriate nature conservation body, make an appropriate assessment of the implications of the development for the European site or European offshore marine site in view of that site's conservation objectives.

(7) In the light of the conclusions of the assessment the local planning authority may approve the development only after having ascertained that it will not adversely affect the integrity of the site.

The Planning Practice Guidance considers the following:

“What must an appropriate assessment contain?”

The scope and content of an appropriate assessment will depend on the nature, location, duration and scale of the proposed plan or project and the interest features of the relevant site. ‘Appropriate’ is not a technical term. It indicates that an assessment needs to be proportionate and sufficient to support the task of the competent authority in determining whether the plan or project will adversely affect the integrity of the site.

An appropriate assessment must contain complete, precise and definitive findings and conclusions to ensure that there is no reasonable scientific doubt as to the effects of the proposed plan or project. The competent authority will require the applicant to provide such information as may reasonably be required to undertake the assessment.

An appropriate assessment must consider the indirect effects on the designated features and conservation objectives, including the following principles:

an appropriate assessment must catalogue the entirety of habitat types and species for which a site is protected.

an appropriate assessment must identify and examine the implications of the proposed plan or project for the designated features present on that site, including for the typical species of designated habitats as well as the implications for habitat types and species present outside the boundaries of that site and functionally linked; insofar as those implications are liable to affect the conservation objectives of the site.

where the competent authority rejects the findings in a scientific expert opinion recommending additional information, the appropriate assessment must include an explicit and detailed statement of reasons which is capable of dispelling all reasonable scientific doubt on the effects of the proposal on the site.

a competent authority is permitted to grant a plan or project consent which leaves the applicant free to determine subsequently certain parameters relating to the construction phase, only if that authority is certain that the consent includes conditions that are strict enough to guarantee that those parameters will not adversely affect the integrity of the site.

In the light of this the competent authority must determine whether the proposal will not adversely affect the integrity of the site(s). The integrity of a site is the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was designated.

Paragraph: 003 Reference ID: 65-003-20190722

Revision date: 22 07 2019"

Analysis

The development site is situated within 7km of Ashdown Forest and will lead to an increase in population around the Ashdown Forest SPA. It is likely that any new population arising from new development in the area will use Ashdown Forest as a recreational resource. It is likely therefore that without appropriate and proportionate avoidance and mitigation measures, new development could impact on the populations of Nightjar and Dartford Warbler within the Ashdown Forest SPA and would be contrary to the requirements of the Habitats Regulations.

Due to this, potential impacts of the development will need to be mitigated to ensure the effects of any increase in visitors to Ashdown Forest are addressed. There is no space on site for a bespoke SANG. Therefore this will involve voluntary payments towards both:

- Suitable Alternative Natural Greenspace (SANG) - Contributions for the ongoing management and maintenance of a strategic SANG site.
- Strategic Access Management and Monitoring (SAMM) - A financial contribution towards SAMM will be used for ongoing visitor management projects and monitoring on Ashdown Forest in accordance with the SAMM Strategy.

We understand that Mid Sussex District Council is introducing a new strategic SANG at Hill Place Farm and that SANG mitigation for proposed residential development in planning applications is to be at this strategic SANG provided sufficient capacity is available and financial contributions will be for the Hill Place Farm SANG. We understand that SANG capacity prioritisation is allocated in the order that applications are validated, which includes planning applications and in the case of prior approvals, it will be the validation date for the Regulation 77 application under the Habitats Regulations that applies and not the initial application for prior approval. The validation date for this Regulation 77 application is therefore the relevant date.

Financial contributions to SANG mitigation are based on the costs for managing a SANG in perpetuity. The tariff for any new SANGs is on a per unit basis. The fee payable for SANG mitigation is **£5,253 per unit** which comprises SANG management fee of £3,701, SANG monitoring fee of £233 and Bluebell Railway Access fee of £1,319. The mitigation required is secured in a legal document known as a Section 106 planning obligation. The SAMM tariff has currently been set at **£1,170 per dwelling**.

The applicant has indicated that he is prepared to pay the above SANG and SAMM contributions, in order to mitigate impacts of the development on the Ashdown Forest SPA, together with your legal costs in preparing the Section 106 agreement. To this end, please can you instruct your Legal Department to prepare and send to us the relevant Section 106 agreement.

Subject to completion of a Section 106 agreement and payment of SANG and SAMM contributions, it can be concluded that the proposal is not likely to result in adverse effects on the Ashdown Forest and on this basis would not result in an adverse effect under Regulations 75, 76 and 77 of the Conservation of Habitats and Species Regulations 2017.

I hope that this is acceptable and that the application can be processed without delay. However, if you have any comments or queries, please do not hesitate to contact us.

Yours sincerely

Gillian Fensome

Planner

Email: gillian.fensome@whiteandsons.co.uk