

Planning Application Reference: DC/26/0945

Proposal: Variation of condition 1 of previously approved application reference DC/22/0773 (Variation of Condition 1 of previously approved application DC/19/1707 (Revised layout for Phase 3 of the Abingworth Meadows development (Original application ref: DC/10/1314) to provide for 75 dwellings including 26 affordable dwellings and community studio workshops). Amendment to buffer strip to reflect an additional swale with landscaping (part retrospective)

1. Although the proposed application aims at minimising potential flooding risk, I do not support the present application **UNLESS** conditions equivalent to the effect of the following suggested terms in relation to the landscape buffer strip behind the rear gardens from Plot 59 to Plot 69 ("Buffer Strip") as minimum requirements are to be imposed if the Horsham District Council ("HDC") is minded to approve the application in question:-

(A) there shall be appropriate measures to prevent unauthorised access to the Buffer Strip by members of the public, trespassers and/or unauthorised persons; and

(B) the Buffer Strip shall not be used as a public right of way ("PROW");

(C) there shall be feasible means to allow residents of the development of Abingworth Meadows ("Residents") and/or authorised persons accessing the Buffer Strip; and

(D) there shall be a reasonable contribution by the Applicant towards the management and maintenance of the Buffer Strip.

2. Otherwise, the *status quo*, namely the Buffer Strip, which is presently enclosed by circa 1.8m high fencing, ought to be preserved.

(A) Appropriate Access Control Measure of the Buffer Strip against the Public, Trespassers and/or Unauthorised Persons

3. According to the Sustainable Drainage System (SuDS) Risk Assessment dated

November 2025 prepared by RSK Land and Development Engineering Ltd on behalf of the Applicant ("Risk Assessment"), hazards are identified and comments are stated under the heading of "3. SUDS RISK ASSESSMENT" as listed below:-

- a. *"General side slopes of features are steeper than normal at 1:1.6 to 1:1";*
 - b. *"Depths of Swales limited to 1m, Basin to 1.2m";*
 - c. *"Water edge to be soft with small (circa 0.5m) flat strips at the top of slopes, particularly on the western site side";*
 - d. *"Bunding on site side of features introduces potential increased fall height but will likely serve to restrict access to the smaller falt areas on located on this side";*
 - e. *"The critical 1 in 100yr + 45% climate change event would see the Swales filled to approximately 0.7m – 0.8m";* and
 - f. *"Basin depths are projected at a maximum of circa 0.6m to 0.75m".*
4. Furthermore, under Section 4 "Risk Assessment Evaluation" at page 12 of the Risk Assessment, several hazards are assessed as presenting a risk rating of 5 (medium risk) to the members of the public and management company. The Risk Assessment recommends, amongst other things:
- a. *"Design stage – review if it is practical and reasonable to change design to reduce level of risk";* and
 - b. *"Management stage – review options to see if there are practical and reasonable options to reduce risk".*
5. The Risk Assessment further recommends a number of control and management measures, including but not limited to *"provide deterrent measures such as signage & vertical fencing to discourage entry into attenuation basin and prevent falling by young children. Risk is highly time limited (circa 10 minutes) during significant rainfall event (1 in 100 Year +45%) based on modelling"* in light of the following identified risks:-
- a. *"1. Risk of drowning in Attenuation Basin";* and
 - b. *"5. Risk of drowning in Swales".*
- (under the heading of "Risk Description" at page 13 of the Risk Assessment)

6. In the circumstances, appropriate access control measures to prevent unauthorised entry onto the Buffer Strip by members of the public, trespassers and/or unauthorised persons should be incorporated into the approved scheme to mitigate the risks identified in the Risk Assessment.
7. Given that there has been no report of any injuries or accidents of the public in the vicinity of the Buffer Strip since the erection of some circa 1.8m high fences at both ends of the Buffer Strip behind the back gardens of Plot 59 and Plot 69 in December 2025, it appears that the enclosure of the Buffer Strip by the existing fencing restricting public access has proved to be an effective measure in mitigating the identified risks.

(B) The Buffer Strip not to be used as a PROW

8. Although the Buffer Strip runs from the north to the south along the western edge of the track, which is a PROW known as THA/2487/1, the Buffer Strip is and has always remained private land.
9. To the best of my knowledge and having reviewed the available records, there is no evidence to indicate that:-
 - (a) the Buffer Strip has ever been used as a PROW;
 - (b) the Buffer Strip has been accessed by the public for at least 20 years without challenge by the landowner(s); and
 - (c) any landowner(s) has granted permission (permissive access) for the Buffer Strip to be used as a PROW.
10. In any event, the Buffer Strip should not be used as a public right of way.

(C) To Allow Residents and/or Authorised Persons Accessing the Buffer Strip

11. The Buffer Strip is shown on the approved plans to fall within the boundary of the development of Abingworth Meadows under Planning References DC/10/1314 and DC/12/0841 ("Development").
12. Unlike members of the public, trespassers and/or unauthorised persons as

stated in paragraphs 3 to 7 hereinabove, the Residents of all 3 phases of the Development appear entitled to access the Buffer Strip, which is a part and parcel of the Development's public open space subject to the provisions of the relevant section 106 Agreement.

13. Accordingly, any access arrangements should preserve the Residents' existing rights under the relevant planning obligations.

14. Furthermore, persons passing through the Buffer Strip may overlook, intentionally or unintentionally, the houses and rear gardens of the Plot 59 to Plot 69 due to higher ground level of the Buffer Strip up to 1m+ causing unnecessary overlooking, disturbance and loss of privacy.

15. The HDC is invited to strike a balance between the following:-

- (a) the rights of the Residents to access the Buffer Strip; and
- (b) prevention of unauthorised access to the Buffer Strip by members of the public, trespassers and/or unauthorised persons so as to mitigate the potential risks assessed and protect the legitimate rights of the residents from Plot 59 to Plot 69 for their privacy and quiet enjoyment of their properties.

16. In this regard, the HDC may wish to consider enclosing the Buffer Strip by erecting circa 1.8m high fencing with an open gate at one of the ends of the Buffer Strip equipped with a coded combination padlock:-

- (a) the combination code of the padlock, changed periodically, to be provided to all the Residents of the Development so that they can access the Buffer Strip at will;
- (b) the authorised persons and representatives of the management company can access the Buffer Strip for routine maintenance; and
- (c) members of the public, trespassers and/or unauthorised persons are prevented from entering the Buffer Strip.

(D) Contribution towards the Management and Maintenance of the Buffer Strip

17. It appears that the need for the present application has arisen because the

existing drainage arrangements and site levels within Phase 3 of the Development appear to have proved insufficient to address the flooding issues identified in the vicinity of the Buffer Strip.

18. Had those matters been fully identified and properly addressed during the original planning, design and engineering stages of the Development, it is most likely that the extent of the remedial works now proposed might have been avoided or substantially reduced.
19. The present application therefore seeks, in substance, to introduce remedial measures to address issues that have arisen following the implementation of the approved Development, rather than to provide new planning benefits independent of those issues.
20. The proposed SuDS infrastructure will require ongoing inspection, vegetation management, debris removal and other routine maintenance throughout its operational life in order to ensure its continued effectiveness and public safety.
21. In these circumstances, it would be reasonable and equitable for the Applicant to make an appropriate contribution towards the long-term management and maintenance of the Buffer Strip, rather than requiring the Residents to bear the long-term maintenance costs of remedial measures that have become necessary following the implementation of the Development.
22. Before moving on to the next section, I would like to emphasize the above suggested terms are not intended to frustrate or prevent the mitigation of the identified risks. Rather, they are intended to ensure that, if planning permission is granted, the present application is implemented in a manner that appropriately safeguards public safety, residential amenity, the proper functioning of the SuDS infrastructure and the long-term management of the Buffer Strip.

(E) Reasons to Impose the Above 4 Suggested Terms as Conditions for Approval of the Application

23. **Suggested Term (A) – Access Control:** Having regard to the risks identified

in the Applicant's own Risk Assessment, this specific condition requiring the implementation and permanent retention of appropriate access control measures to prevent unauthorised access to the Buffer Strip by members of the public, trespassers and other unauthorised persons:-

- (a) would be necessary in the interests of public safety; and
- (b) would ensure that the approved SuDS infrastructure functions safely through its operational lifetime.

24.Suggested Term (B) – No PROW: This particular condition would clarify that nothing in the planning permission authorises or requires the Buffer Strip to be opened or managed as a PROW. It would also help safeguard the intended function of the SuDS infrastructure, protect residential amenity and avoid future unnecessary uncertainty regarding the use and long-term management of the Buffer Strip.

25.Suggested Term (C) – Resident Access: This crucial condition would ensure that Residents and authorised persons continue to enjoy appropriate access to the Buffer Strip for legitimate purposes, including (where appropriate) recreational, inspection, maintenance and emergency access. It would also strike a reasonable balance between public safety, the effective management of the SuDS infrastructure and the Residents' legitimate interests under the approved Development and the relevant planning obligations.

26.Suggested Term (D) – Maintenance Contribution: Given the inevitable ongoing maintenance requirements arising from the proposed application, HDC is respectfully requested to secure, by planning condition, planning obligation or other lawful mechanism, an appropriate contribution from the Applicant towards the long-term management and maintenance of the Buffer Strip. This would help ensure that the financial burden arising from the proposed remedial works does not fall disproportionately upon existing Residents.

(F) Preserving the *Status Quo*

27.In the event that HDC is not minded to impose all or any of conditions substantially in the terms suggested above in relation to the Buffer Strip as minimum requirements to the present application, the *status quo* ought to

be preserved.

28. This is because the *status quo* is preferred to strike a balance as set out below:-

- (a) the enclosure of the Buffer Strip by the existing circa 1.8m high fencing at both ends of the Buffer Strip behind the back gardens of Plot 59 and Plot 69 restricting the public's entry to the Buffer Strip has proved to be effective measures to mitigate the potential risks assessed;
- (b) there has been no report of any injuries or accidents of the public in the vicinity of the Buffer Strip since the erection of those fences in December 2025;
- (c) the lockable gate at the south end of the Buffer Strip behind the back garden of Plot 59 is able to provide access to the Buffer Strip for authorised persons and representatives of the management company for routine maintenance; and
- (d) the rights of the residents from Plot 59 to Plot 69 for their privacy and quiet enjoyment of their properties are well protected.

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12th July 2026