Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
S106/16/0004
Land at Junction of Stonepit Lane and, West End Lane, Henfield, West Sussex,

DESCRIPTION:
Application for approval of details pursuant to Schedules 1 (Footpath), 2 (Open space, allotments and equipped play area), 3 (Landscaping), 4 (Estate Roads), 6 (Fire Hydrants) and 7 (Travel Plan) of the S106 Agreement of DC/13/0787

RELEVANT PLANNING HISTORY:

DC/13/0787	Development of 160 residential dwellings (comprising 10 x 5-bed, 49 x 4-bed, 24 x 3-bed, 67 x 2-bed and 10 x 1-bed) together with associated landscaping, open space and access.	Application Permitted on 01.04.2014
DC/16/1877	Removal of condition 15 under DC/13/0787 relating to pre-commencement requirement for traffic calming scheme.	Application Permitted on 20.12.2016

PLANNING ASSESSMENT
Planning Application DC/13/0787 was granted consent via appeal on 01 April 2014. This permission was for the following:

Development of 160 residential dwellings (comprising 10 x 5-bed, 49 x 4-bed, 24 x 3-bed, 67 x 2-bed and 10 x 1-bed) together with associated landscaping, open space and access.

Consent is sought to discharge Schedules 1, 2, 3, 4, 5 and 7 of the s106 agreement.

Schedule 1:

1. *The Owners and the Developer undertake to the Council and the County Council:*

    1.1. Prior to Commencement of Development the Owner shall submit the Footpath Specification to the Council and County Council for approval in writing ("the Approved Footpath Specification).
    1.2. To obtain all necessary and appropriate consents and to complete the Footpath in accordance with the Approved Footpath Specification to the written approval of the Council and the County Council prior to Occupation of the 30th Dwelling Unit.
    1.3. Not to Occupy or cause or allow Occupation of more than 30 Dwelling Units unless and until the Footpath is completed in accordance with the Approved Footpath Specification.
    1.4. To procedure and ensure the maintenance thereafter of the Footpath in accordance with the Approved Footpath Specification.
    1.5. Prior to First Occupation, to enter into a Dedication Agreement with the County Council.

To satisfy the requirements of Schedule 1 the applicant has submitted a plan entitled 'Section 106 Proposed Gravel Footpaths' (ref. 15-161-190 REV A). The plan shows the intended line of the footpath through the middle of the site providing a cut through from West End Lane to Stonepit Lane. The footpath is to be constructed from self-binding gravel with either larch or Douglas fir timber edging.

An email from the WSCC Public Rights of Way Team dated 27 March 2018 states that the footpath has been constructed and that it is expected that the footpath detail had been agreed by Officers, however no confirmation of this is given. Irrespective of this, the footpath has been constructed in line with the submitted plan and has been available for the use of residents / people living in Henfield for a number of years without complaint.

It is therefore considered that the requirements of Schedule 1 of the s106 agreement have been satisfied and may be discharged.

Schedule 2:

The Owners and the Developer undertake to the Council:

1. *Not to Commence Development or cause or allow the Commencement of Development until the Open Space Specification and the Equipped Play Area Specification have both been submitted to and approved in writing by the Council.*

2. *To provide the Open Space and Equipped Play Area in accordance with the approved Open Space Specification and the Equipped Play Area Specification to the Council's reasonable satisfaction.*

3. *Not to Occupy or cause or allow to be Occupied more than the relevant number of Dwelling Units referred to as the trigger for provision of any given area in the approved Open Space Specification and the approved Equipped Play Area Specification until the relevant area of Open Space and the Equipped Play Area has been provided to the Council's reasonable satisfaction in accordance with the approved Equipped Play Area Specification.*

4. *Upon completion of any area of Open Space and each of the Equipped Play Areas to maintain the relevant areas in accordance with the approved Open Space Specification and the approved Equipped Play Area Specification.*

5. *Upon completion of any area of Open Space and the Equipped Play Area to serve a written notice on the Council*

    5.1. *Confirming that the area (or areas) in question is complete;*
    5.2. *Inviting the Council to inspect the area of Open Space and Equipped Play Area; and*
    5.3. *Offering to transfer the area of Open Space and Equipped Play Area together to the Council or its Nominee for the sum of one pound (£1); and*
    5.4. *Confirming that the Owners and the Developer intend, should the offer in 5.3 above be refused, to procure the future management and maintenance of the Open Space and the Equipped Play Area by a Management Company.*

6. *Within a reasonable time after receipt of such a notice given under paragraph 5 above, the Council will inspect the Open Space or the Equipped Play Area and in the event that the Open Space and/or the Equipped Play Area have been constructed, provided and equipped to its reasonable satisfaction in accordance with the respective specifications the Council will within 2 months of said inspections notify the Owners and the Developer in writing that this is the case and whether or not the Council or its Nominee accepts the offer to take a transfer of the Open Space and Equipped Play Area.*

7. *In the event that the Council or its Nominee accepts in writing the offer to transfer the area of Open Space and Equipped Play Areas then the Owner and the Developer shall use all reasonable endeavours to complete any such transfers on the terms to be agreed with the Council or its Nominee as soon as reasonably practicable thereafter and upon completion of*

any transfer the Owners and the Developer will pay to the Council the requisite Open Space Maintenance Sum and the Equipped Play Area Maintenance Sum for the area in question within one month of the Council or its Nominee's acceptance.

8. *In the event that the Council or its Nominee does not accept an offer to transfer the area of Open Space and the Equipped Play Area within 2 months after the aforementioned inspection by the Owners and Developer shall thereafter procure that the Open Space and Equipped Play Area are managed and maintained by the Management Company.*

9. *To use all reasonable endeavours to ensure that the Management Company to which the Open Space and Equipped Play Area after transferred to or managed by are obligated to maintain them to the standard set out in the approved Open Space Specification and the approved Equipped Play Area Specification.*

10. *Not to Commence Development or cause or allow the Commencement of Development until the Allotment Specification has been submitted and approved by writing by the Council.*

11. *To provide the Allotments in accordance with the approved Allotment Specification to the Council's reasonable satisfaction.*

12. *Not to Occupy or cause or allow to be Occupied more than the relevant number of Dwelling Units referred to as the trigger for provision of any given area in the Allotments Specification until the Allotments have been provided to the Council's reasonable satisfaction in accordance with the Allotment Specification.*

13. *Upon completion of the Allotments to maintain the relevant areas in accordance with the Allotments Specification.*

14. *Upon completion of the Allotments to serve a written notice on the Council*

    14.1. Confirming that the area (or areas) in question is complete.
    14.2. Inviting the Council to inspect the allotments.
    14.3. Offering to transfer the Allotments together to the Council or its Nominee for the sum of one pound (£1); and
    14.4. Confirming that the Owners and Developer intend, should the offer in 14.3 above be refused, to procure the future management and maintenance of the Allotments by a Management Company.

15. *Within a reasonable time after receipt of such a notice the Council will inspect the Allotments and in the event that the Allotments have been constructed, provided and equipped to its reasonable satisfaction in accordance with the approved Allotments Specifications the Council will within 2 months of said inspection notify the Owners and the Developer in writing that this is the case and whether or not the Council or its Nominee accepts the offer to take a transfer of the Allotments.*

16. *In the event that the Council or it Nominee accepts in writing the offer to transfer the area of Allotments then the Owner shall use all reasonable endeavours to complete any such transfer on the terms to be agreed with the Council or its nominee as soon as reasonably practicable thereafter and upon completion of any transfer the Owners and the Developer will pay to the Council the requisite Allotments Sum for the area in question within one month of the Council or its Nominee's acceptance.*

17. *In the event that the Council or its Nominee does not accept an offer to transfer the Allotments within 2 months after the aforementioned inspection then the Owners and Developer shall thereafter procure that the Allotments are managed and maintained by the Management Company.*

18. *To use all reasonable endeavours to ensure that the Management Company to which the Allotments are transferred to or managed by are obligated to maintain them to the standard set out in the Allotments Specification.*

To satisfy the requirements of this Schedule the applicant has submitted the following plans:

- Section 106 Open Space Layout (ref. 5824-SA-PL-01)
- Allotments Setting out plan and detail (ref. 5824-SA-PL-02)
- West End Lane – LEAP (ref. 11291LE REV H)
- West End Lane – Trim Trail (ref. 11291TR REV J)

Within their original comments dated 22/05/2018 the Council's Landscape Architect flagged that a more playful, imaginative LEAP should be provided with the introduction of natural play features and planting. They also requested that the proposed utility vehicle be replaced by 'Willy's Jeep' to achieve the 5 types of play required. These comments were reflected in the final plan referenced above, with the addition of timber balance beams, stepping posts and balancing sleepers as well as a seesaw and 'Willy's Jeep'. The Council's Park & Countryside Officer also requested further information with regard to the proposed Trim Trail and the Allotments. It is unclear whether this request has been satisfied with the submission of new plans / information however it is acknowledged that the site, including the LEAP, Trim Trail and Allotments has been built out for a number of years without complaint.

The most recent comments from the Council's Landscape Architect identify discrepancies between the proposals and what has been provided including play equipment, however these are considered satisfactory given the passage of time and from the site visit the play area is well used providing for arrange of equipment. Further, the trim trail and allotments are in place and again from the site visit no obvious deficiencies were identified. It is therefore considered that the requirements of Schedule 2 of the s106 agreement have been satisfied and may be discharged.

Schedule 3:

The Owners and the Developer undertake to the Council:

1. *To provide the Landscaping Management Plan to the Council prior to the Commencement of Development.*

2. *Not to Commence Development until the Landscaping Management Plan has been approved in writing by the Council.*

3. *To provide the Landscape in accordance with the approved Landscaping Management Plan to the Council's reasonable satisfaction prior to the First Occupation of the Dwelling Units.*

4. *Upon completion of the Landscaping to maintain it thereafter in accordance with the Landscaping Management Plan.*

To satisfy the requirements of Schedule 3 the applicant has submitted a Landscape Management Plan (Aspect Landscape Planning, December 2015) which is accompanied by a plan delineating areas of responsibility for the northern part of the site (ref. 5822/LMP). In their most recent comments, the Council's Landscape Architect raised no issue around the management prescriptions given however they did flag a number of trees on the site that had either not been planted or were diseased/dying. In line with the submitted Landscape Management Plan these should be removed and replaced with the same or similar species, which the Landscape Architect has recommended prior to the discharge of this Schedule.

However, it should be noted that the landscape condition attached to the permission (C12) only requires plants to be replaced within a period of 5 years. Given the length of time that has passed and the fact that the site was built out between 2018 and 2020, this replanting period has long since passed. It is therefore not considered necessary for the works recommended by the Council's Landscape Architect to be carried out. From the site visit the site otherwise appears suitably planted

with those plants in place appearing alive and providing good greenery despite the very hot and dry summer.

It is therefore considered that the requirements of Schedule 3 of the s106 agreement have been satisfied and may be discharged.

Schedule 4:

The Owners and the Developer undertake to the County Council:

1. *Prior to the Commencement Date to submit to the County Council for approval a plan showing the intended status of the estate roads and associated footways, footpaths and cycleways (for the avoidance of doubt those roads, footways, footpaths and cycleways that will be offered for adopted under S38 of the Highways Act 1980 and those to remain private ("the Private Estate Roads"). Any plan should also include details of surfacing, materials and construction of the estate roads.*

2. *Prior to the First Occupation of a Dwelling Unit to submit to the County Council;*

    2.1. *The name and contact details of the management company that will be responsible for the management and maintenance of the Private Estate Roads; and*
    2.2. *A schedule for approval of the street furniture that the management company will be responsible for maintaining and a regime of maintenance.*

3. *It is agreed with the County Council that the Private Estate Roads shall be:*

    3.1. *Constructed to a standard that is suitable for its intended use;*
    3.2. *Maintained by the Owners and the Development or the management company at their own expense in good and substantial repair and condition, and*
    3.3. *Shall not be dedicated by the Owners and the Developer or the management company as a public highway or become a private street) as defined in the new Roads and Street Works Act 1991).*

4. *Upon completion of the construction of the Private Estate Roads the Owners and the Developer will provide a report to be prepared and signed by a Chartered Engineer at their own expense to confirm that the construction of the Private Estate Roads have been designed and built to a suitable standard for their intended use.*

5. *The Owners and the Developer covenant with the County Council:*

    5.1. *That the Private Estate Roads shall remain open and unobstructed at all times and available for use by both the residents of the Development and members of the public in the latter case without charge; and*
    5.2. *To erect and maintain signs in positions agreed with the County Council advising the public that they are permitted to use the Private Estate Roads on foot and by bicycle but that it is not a public highway so as to prevent the dedication of the Private Estate Roads and to prevent any presumption of dedication (whether arising under Section 31 of the Highways Act 1980 or otherwise).*

To satisfy the requirements of Schedule 4 the applicant has submitted a S106 Construction Make Up Plan (ref. 15-161/191 REV C) which includes details of materials, surfacing and construction as required by Clause 1. Comments received from WSCC Highways on 10th April 2018 highlight that it has not been confirmed whether the highways will be adopted or whether they will be retained under private maintenance. It was assumed that they were to be kept private but it was flagged that other aspects of schedule 4 still needed to be addressed.

However, the same plan was submitted under S106/18/0002 which relates to the same site and very similar S106 requirements. WSCC raised no objections under this application and it is therefore considered to constitute sufficient information to enable the discharge of Schedule 4.

The requirements of the schedule have therefore been satisfied.

Schedule 6:

The Owners and the Developer undertake to the County Council:

1. *Prior to Commencement of Development to submit to the County Council for its approval (such approval not to be unreasonably withheld or delayed) a proposal for:*

    1.1. The location and installation of three fire hydrants in accordance with the County Council Guidance Note and prior to First Occupation of the Development the Owners and the Developer will at their own expense install the fire hydrants in the approved location and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of fire fighting; and

    1.2. Suitable access for fire brigade vehicles and equipment to the reasonable satisfaction of the County Council.

To enable the discharge of Schedule 6 the applicant has submitted a plan (ref. SWS.S41.000948.MS002499 REV B) showing the location of 5 total fire hydrants across the site (2 x northern parcel and 3 x southern parcel). The County Fire Officer was consulted on the plan but provided no comment. WSCC Highways did not raise any concerns around the suitability of access for fire brigade vehicles and equipment.

Given the dwellings were all constructed to the Building Regulations fire safety requirements, and given the time that has passed, the information provided is considered satisfactory to discharge Schedule 6.

Schedule 7:

The Owners and the Developer undertake to the County Council:

1. *Prior to the Commencement of Development to provide a travel plan to the County Council for its approval in writing.*

2. *Not to cause or allow any Occupation of Development until the travel plan has been approved in writing by the County Council.*

3. *To implement the approved travel plan on the Occupation of the first relevant Dwelling Unit.*

To satisfy the requirements of Schedule 7 the applicant has submitted a Residential Travel Plan (ref. 15-161-91 C). This has been reviewed by WSCC Highways who advised in an email dated 20th June 2017 that they had no objection to the approval of details for Schedule 7.

The requirements of this schedule have therefore been satisfied.

Recommendation: Application Permitted

NOTE TO APPLICANT

POSITIVE AND PROACTIVE STATEMENT

Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

Plans list for: S106/16/0004
(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Plans	S106 Proposed Gravel Footpaths	15-161-190 REV A	30.05.2017
Plans	S106 Open Space Layout	5824-SA-PL-01	26.02.2016
Plans	Allotments Setting out plan and detail	5824-SA-PL-02	26.02.2016
Plans	West End Lane - LEAP	11291LE REV H	10.10.2019
Plans	West End Lane - Trim Trail	11291TR REV J	17.12.2019
Supporting Docs	Landscape Management Plan	5822/001	30.05.2017
Plans	Landscape Management Plan	5822/LMP	31.07.2018
Plans	S106 Construction Make Up	15-161/191 REV C	20.02.2018
Plans	Fire Hydrants	SWS.S41.000948. MS002499 REV B	30.05.2017
Supporting Docs	Residential Travel Plan	15-161-91 REV C	30.05.2017

DELEGATED

Case Officer sign/initial Sophie Moore Date: 15/10/2026

Authorising Officer sign/initial Adrian Smith Date: 16/10/2026