

From: Planning@horsham.gov.uk <Planning@horsham.gov.uk>
Sent: 09 July 2026 17:33:18 UTC+01:00
To: "Planning" <planning@horsham.gov.uk>
Subject: Comments for Planning Application DC/26/0638
Categories: Comments Received

Comments summary

Dear Sir/Madam,

Planning Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 09/07/2026 5:33 PM.

Application Summary

Address:	New Orchard New Hall Lane Small Dole Henfield West Sussex BN5 9YH
Proposal:	Permission in Principle for demolition of existing polytunnel and removal of hardstanding, and the erection of up to 9no. dwellings.
Case Officer:	Hannah Darley

[Click for further information](#)

Customer Details

Address: 4 The Beeches Shoreham Road, Small Dole Henfield

Comments Details

Commenter Type:	Neighbour
Stance:	Customer objects to the Planning Application
Reasons for comment:	- Highway Access and Parking - Other
Comments:	The Beeches Owners Association, 1-5 The Beeches, Shoreham Road, Small Dole, West Sussex, BN5 9YG 09.07.2026 By online portal Planning Department Horsham District Council

Albery House, Springfield Road,
Horsham, West Sussex, RH12 2GB

Dear Sir or Madam

Re: Final supplementary technical objection to planning application DC/26/0638 - New Orchard, New Hall Lane, Small Dole - Permission in Principle for demolition of existing polytunnel and removal of hard standing, and the erection of up to 9no. dwellings. Further significant legalities have come to light.

The Beeches Owners Association, as the proprietors of all 5 dwellings at The Beeches, Shoreham Road, submit this final supplementary objection. This objection sets out critical legal, technical, and deliverability failures that fundamentally undermine the suitability of the site and the validity of the applicant's submission.

1. The Application Misleads the Council on Deliverability

The applicant (Desmond & Stephanie Weeden) and their agent (Maven Plan) have presented a layout that depends entirely on a third party private road-our road-to demonstrate "suitability". This is factually incorrect, legally unsound, and materially misleading.

2. The Applicant Has No Legal Right to Use, Widen, Modify, or Pass Construction Traffic Over The Beeches Driveway

The Beeches private road should have been transferred to the bungalow owners in August 2022. The applicant therefore does not own the road, does not control the road, and does not possess any legal right to alter, widen, or intensify its use. The scheme is not deliverable.

3. The Applicant Already Has a Separate, Lawful Access Route

New Orchard benefits from a long established right of way via New Hall Lane. There is no planning justification for attempting to force access through a private cul de sac that the applicant does not own and cannot lawfully use.

Deliverability Failure - No Legal Right of Access

The redline boundary includes private infrastructure over which the applicant has no easement, no right of passage, and no lawful entitlement of any kind.

The Beeches private access road running from Shoreham Road, which is not a public highway and is not maintained at public expense. The Access Road is held within HM Land Registry title numbers WSX124590 and WSX326669, and rights of way over it are expressly granted only to the five properties at The Beeches,

for the benefit of land falling within those two titles.

The Access Road, as defined in the deed, only exists to serve land within "the Estate" - expressly defined as "all the land now or formerly comprised within title numbers WSX124590 and WSX326669." If the 9 new houses are being built on a separate parcel to the north, outside those two titles, then:

- There is no express grant permitting that the additional land to the north to use this driveway at all. The right of way was created for the benefit of "the Property" (each of the 5 Beeches plots) and reserved for Hayloft's benefit over "the Estate" as then defined - not for whatever adjoining land Hayloft might acquire or already owns to the north.
- This is a fact pattern squarely covered by the principle in *Harris v Flower & Sons* (1905): where a right of way benefits Plot A, it cannot lawfully be used to access Plot B as well, merely because the same person owns both and Plot B adjoins Plot A. The general rule is that a right of way cannot be used to serve land beyond the original dominant tenement - even where the routes overlap or the additional land is served "on the way to" the original plot.
- The 5 owners are the ones with the benefit of this right of way and pay for its upkeep via the rent charge/managing agent arrangement since 2019.

WSCC Highways has already confirmed the private status of the road

Lack of Right of Access: As explicitly noted by West Sussex County Council Highways on 4 June 2026, 'The Beeches' is a privately maintained cul-de-sac. Aerial imagery confirms that a defined boundary strip and hedge physical barrier exist at the western terminus of The Beeches, separating it from Highdown Nursery. The applicant does not possess the proprietary rights or easements required to breach this boundary or utilise the private road for construction or residential traffic.

The application site, New Orchard (title number WSX306709), does not form part of, and has never formed part of, either of those titles. Its registered title contains no easement, right of way, or other right of any kind over the Access Road. We are aware of no agreement granting any such right, and would object strongly to any attempt to create one without our consent, given the direct impact this would have on our properties and the private road we fund and maintain.

The Beeches is an exclusive gated development of just five detached bungalows, designed explicitly as a low-density, quiet residential cul-de-sac. The entrance to The Beeches from the A2037 is restricted by a physical residential gate layout. Forcing up to 9 additional dwellings through a gated, shared-surface cul-de-sac heavily compromises pedestrian safety, particularly given

the high density of bungalows adjacent to the access layout. The location cannot safely accommodate the vehicle tracking requirements outlined by the LHA without violating third-party land.

The road's actual engineered specification:

- It was designed and approved (by WSCC Highways consultation responses 24/03/2006 & 28/04/2006) as a 4.5-metre-wide private drive, built as a cul-de-sac - a dead end, not a through-road with no service vehicle turning head.
- The initial submission had no turning head at all, and WSCC flagged that as a highway objection until one was added.
- The final approved specification settled on: 6-metre kerb radii at the Shoreham Road junction (so two cars can pass), 2.4m × 90m visibility splays, and a refuse/fire appliance turning head at the closed end of the drive.
- A cul-de-sac - is the technical classification WSCC used when assessing and approving the road. A cul-de-sac, by definition and by design, terminates; it was engineered with a turning head at its end precisely because nothing was intended to continue beyond it. A 4.5m private drive built to serve one small dead-end pocket of housing, with a fixed turning circle at its terminus, isn't a road that was ever engineered to become a through-route carrying construction traffic and daily trips for a further 9 dwellings beyond it.
- WSCC's sign-off ("all highway issues have been resolved") was tied specifically to the approved plans for this exact scheme for 5 dwellings, circa 24 movements/day. It wasn't a general clearance of the road's capacity for anything larger.

WSCC's No Objection is not an approval, it's a warning

Because this is a PiP application, WSCC is legally barred from objecting on detailed design or asking for planning conditions right now. However, Katie Kurek (the WSCC officer) has set out major technical hurdles that the applicant cannot overcome without trespassing on private land.

WSCC explicitly states that:

- Swept path tracking for refuse and fire vehicles must be demonstrated at TDC stage
- The Beeches shared surface is only acceptable because movements are currently low
- Any works or access require the proprietor's permission

The Civil Law Shield: WSCC's Explicit Caveat

"The Beeches is privately maintained and thus any access on to this or works affecting this would require permission from the proprietor of the private road." They have explicitly noted that even if Horsham District Council grants this PiP, the developer has zero legal right to physically connect to, drive over, or dig up

The Beeches without the explicit, written permission of whoever owns the road. The developer - still technically owns the road but broke their contract to transfer it to the Owners after the sale of the last bungalow (which the developer owned). As the Local Highway Authority has already noted the private status of the road and any unauthorised construction traffic or widening will instantly be met with an application for a County Court injunction for civil trespass.

The applicant does not have that permission. Therefore, the proposal is not capable of passing Technical Details Consent.

Extract from Beeches Owners Contract of Sale: 12.2 and 12.72.2.1

The last property (no 5 The Beeches) was sold in August 2022.

The Beeches Owners Association has been managing the Beeches development, financial control, maintaining grounds and services since 2019.

New Orchard already has lawful access

New Orchard's registered title already benefits from its own right of way, granted by a Conveyance dated 10 August 1946, over an entrance roadway connecting to New Hall Lane, and thence over New Hall Lane itself to the public highway. This is an entirely distinct and long-established means of legal access, unconnected to the Access Road serving The Beeches.

In these circumstances, we do not accept that there is any planning or practical necessity for this development to make any use, for construction or residential purposes, of the private road serving The Beeches. Any suggestion to the contrary should be rejected, and the Council should be satisfied that lawful, deliverable access exists via New Hall Lane before any permission (including at Technical Details Consent stage) is granted.

Final Supplementary Conclusion

We note that, as a Permission in Principle application, matters of detailed access are ordinarily reserved to a subsequent Technical Details Consent application. However, the Council should not grant permission in principle, nor treat the site as suitable for up to 9 dwellings, without confidence that a lawful and suitable means of access exists. We ask that the Council require the applicant to confirm, at this stage or as a condition of any grant, that access will be taken solely via New Hall Lane, and that no access, construction traffic, or servicing will be routed via the private road serving The Beeches.

Regards
The Beeches Owners Association

Kind regards

Telephone:

Email: planning@horsham.gov.uk



Horsham District Council, Alberty House, Springfield Road, Horsham, West Sussex RH12 2GB
Telephone: 01403 215100 (calls may be recorded) www.horsham.gov.uk Chief Executive: Jane Eaton