



**Horsham
District
Council**

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

S106/25/0007

Durrants Village, Faygate Lane, Faygate, West Sussex,

DESCRIPTION:

Amendment to legal agreement approved under reference: DC/08/0316 to remove the obligations in relation to library access, a community bus and a medical facility.

RELEVANT PLANNING HISTORY:

DC/08/0316	Demolition of existing buildings, construction of 156 retirement units, 1 warden's unit, 50 bed care home, visitor accommodation, central facilities building, shop, medical centre, provision of open space, balancing pond, landscaping and access (Outline)	Application Refused on 13.05.2008 and permitted at appeal on 08.05.2009
DC/10/0088	Demolition of existing buildings, construction of 148 retirement dwellings (comprising 57 x 2-bed apartments and 91 x 2-bed cottages) and 8 affordable housing units (comprising 6 x 2-bed and 2 x 3-bed dwellings/units). 1 warden's unit, 50-bed care home, visitor accommodation, central facilities building, shop, doctor's surgery, provision of open space, balancing pond, landscaping and improvements to existing access (Approval of Reserved Matters)	Application Permitted on 05.08.2010
DC/11/1229	Non-material amendment to outline permission DC/08/0316 consisting of revised access design, pursuant to condition 7	Application Permitted on 15.07.2011
DC/12/0178	Erection of six retirement dwellings and a triple bay garage on land formerly known as Faygate Sawmills	Application Permitted on 09.05.2013
DC/13/2184	The erection of 2 No. apartments in addition to approved village shop and warden's accommodation	Application Permitted on 14.03.2016
DC/14/1187	Full application for the erection of an apartment block (consisting of 12 no retirement apartments) and 5 no retirement cottages with parking and associated works.	Application Permitted on 04.09.2015
DC/14/2376	Non Material amendment to previously approved application DC/10/0088 (Demolition of existing buildings, construction of 148 retirement dwellings (comprising 57 x 2-bed apartments and 91 x 2-bed cottages) and 8 affordable	Application Permitted on 12.12.2014

	housing units (comprising 6 x 2-bed and 2 x 3-bed dwellings/units). 1 warden's unit, 50-bed care home, visitor accommodation, central facilities building, shop, doctor's surgery, provision of open space, balancing pond, landscaping and improvements to existing access (Approval of Reserved Matters))	
DC/16/2214	Variation of Condition 1 to previously approved application DC/14/1187 to allow for changes to the layout of Phase 3c of the approved retirement development	Application Permitted on 07.03.2017
DISC/17/0181	Approval of details reserved by condition 3, 4, 5, 6, 7 and 9 on DC/16/2214	Application Permitted on 18.08.2017
DC/17/1131	Non material amendment to previously approved application DC/10/0088 (Demolition of existing buildings, construction of 148 retirement dwellings (comprising 57 x 2-bed apartments and 91 x 2-bed cottages) and 8 affordable housing units (comprising 6 x 2-bed and 2 x 3-bed dwellings/units). 1 warden's unit, 50-bed care home, visitor accommodation, central facilities building, shop, doctor's surgery, provision of open space, balancing pond, landscaping and improvements to existing access (Approval of Reserved Matters) Amendment to finished floor levels for Phase 3B.	Application Permitted on 21.06.2017
DISC/17/0235	Approval of Details reserved by condition 5 and 7 to approved application DC/13/2184	Application Permitted on 05.12.2017
DC/17/2405	Proposed amendments to the location of approved materials (Non-material amendment to previously approved application DC/10/0088- Approval of reserved matters for demolition of existing buildings, construction of 148 retirement dwellings)	Application Permitted on 04.12.2017
DISC/17/0422	Details reserved by condition 3 on DC/16/2214	Application Permitted on 01.12.2017
DISC/18/0246	Approval of details reserved by conditions 10, 11, 13 and 14 on DC/16/2214	Application Permitted on 12.11.2018

REPRESENTATIONS AND CONSULTATIONS RESPONSES:

Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

Colgate Parish Council: Objection

Colgate Parish Council objects to the proposed amendments to the S106 agreement. As confirmed with HDC Planning Compliance, this development would not have been approved without these legal obligations to the residents of Faygate.

Community Bus

The offering of a three month trial which provided a pre-bookable taxi, was inadequate and poorly advertised (e.g. no letters). The trial did not cover all of "Faygate" as was limited to certain streets. A regular "community bus service" would be of great benefit to Faygate and Durrants residents. If the service had been offered as per legal agreement from the beginning, we are convinced that the uptake would be much higher.

A significant number of residents are unable to safely cross the A264 to access the Metro bus service (200 and 23); this has been regularly reported to the Parish Council. The provision of the community bus from the S106 agreement could have had a very positive impact on their lives. We feel that some form of regular transport would be of great benefit to Faygate Village. If residents of Faygate Village do not see the community transport it will not be obvious that it exists. It will take a while for it to bed in and so needs to be offered even if Durrants residents do not require it at that time.

Can Horsham District Council advise what the alternative would be to the community bus service if the amendment to the legal agreement is allowed?

How much would this service have cost to manage over the years and for future use? If a community bus service will not be provided will there be any recompense for the villagers of Faygate for the loss of this amenity that can put towards a controlled/improved crossing over the A264?

Library Access

The library (books, space and wifi) would have been a good way to integrate villagers from Durrants and Faygate, but the trial was inadequate and poorly advertised (e.g. no letters). It did not cover all of "Faygate" as was limited to certain streets. Discussions with Durrants Management/Residents and PC councillors concerning access to the library have been unhelpful, so it is understandable that the trial has not been very welcome/used.

Can Horsham District Council advise what the alternative would be to the library access if the amendment to the legal agreement is allowed? It is understood that Durrants residents were concerned about the books that they had donated. I am sure this would be easy to mitigate.

If the library access will not be provided, will there be any recompense for the villagers of Faygate for the loss of this amenity? (The biggest issue in Faygate appears to be safe crossing of A264 – funding towards a controlled/improved crossing over the A264 would be of benefit to both Durrants and Faygate residents).

Medical Facility

We appreciate that a number of years ago this legal obligation proved difficult to fulfil.

Can Horsham District Council advise what the alternative would be to the medical facility if the amendment to the legal agreement is allowed?

How much would this facility have cost to manage over the years and for future use? If the medical facility will not be provided, will there be any recompense for the villagers of Faygate for the loss of this amenity? (See suggestion for finances towards A264 crossing above)

If Horsham District Planning are mindful to approve the S106 amendment, Colgate Parish Council would request that the application is called into Planning Committee.

PLANNING ASSESSMENT:

Outline Planning Application DC/08/0316 was granted consent at appeal on the 8th of May 2008 for:

Demolition of existing buildings, construction of 156 retirement units, 1 warden's unit, 50 bed care home, visitor accommodation, central facilities building, shop, medical centre, provision of open space, balancing pond, landscaping and access (Outline).

The appeal was determined on basis of a s106 Unilateral Undertaking submitted by the appellants. This application seeks to delete obligations in this Unilateral Undertaking in relation to the provision of library access (Schedule 1, Part 5), a community bus service (Schedule 1, Part 4), and a medical facility (Schedule 1, Part 5). Officers are aware that several permissions at the site have been subject to different S106 legal agreements. The relevant extracts are set out in Appendix 1 at the end of this report. Officers consider that all three of these agreements are relevant and continue to bind and run with the land. Unless explicitly stated the direct quotes referred to in the below report are taken from the S106 Unilateral Undertaking for the aforementioned outline planning permission DC/08/0316.

The applicants have submitted a number of pieces of evidence to support the removal of these obligations. This includes a three-month trial for the library service and for the Community Bus Service.

The relevant Schedules make reference to the facilities being available for the 'residents of Faygate'. None of the S106 agreements include a definition for the 'residents of Faygate' however the applicant has set out in Appendix 6 of their submission that they consider it to be:

"a person who resides at one of the below roads, (information taken from Google Maps)

- *Faygate Lane*
- *Newtimber*
- *Park Road (runs down to the A246 towards Crawley)*
- *Halls Drive (the 'new' development behind the Tower garage)*
- *Old Forge Close (off Halls Drive)*
- *Station Approach".*

Officers agree with this definition.

Town and Country Planning Act (1990):

S.106A(1) of the Act establishes that:-

- (1) a planning obligation may not be modified or discharged except-*
 - a. by agreement between the authority by whom the obligation is enforceable, the appropriate authority (see subsection 11) and the person or persons against whom the obligation is enforceable; or*
 - b. in accordance with*
 - i. this section and S106B, or*
 - ii. sections 106BA and 106BC*

S.106A(3) provides that:-

- (3) A person against whom a planning obligation is enforceable may, at any time after the expiry of the relevant period, apply to the local planning authority by whom the obligation is enforceable, the appropriate authority, for the obligation*
 - a. To have effect subject to such modifications as may be specified in the application; or*
 - b. To be discharged*

S.106A(6) provides that:-

- (6) *Where an application is made to an authority under subsection (3), the authority may determine-*
- a. that the planning obligation shall continue to have effect without modification;*
 - b. if the obligation no longer serves a useful purpose, that it shall be discharged;*
or
 - c. if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.*

Clauses to be Deleted:

The unilateral agreement for DC/08/0316, which by way of appeal granted the development of the site included obligations to provide a library, medical facility and community bus service. Considering the evidence to remove each in turn:

Surgery/Medical Centre:

In respect of the obligations for the provision of a surgery/medical centre, Schedule 1, Part 5 the Unilateral Undertaking requires the following:

5. COMMUNITY FACILITIES

5.1 *The Owner covenants for the benefit of the District Council:*

....

- (c) not to Occupy more than 100 Extra Care Units until a surgery/medical centre has been provided within the Property and is available for use by residents of the Development;*

- (d) to use reasonable endeavours to obtain the agreement of the operator of the surgery/medical centre to permit the residents of Faygate to have access to the surgery/medical centre;*

....

- (g) subject to paragraph 5.2 to retain the village shop, surgery/medical centre and library for the lifetime of the development.*

5.2 *In the event that the use by residents of Faygate of the village shop and/or medical centre and/or Library causes public nuisance or otherwise adversely impacts upon the amenity of residents of the Development then:*

- (a) the Owner shall use reasonable endeavours to meet with the District Council to discuss how the public nuisance or adverse impact may be mitigated and shall use reasonable endeavours to undertake any mitigation measures that may be agreed; and*

- (b) If despite the use of reasonable endeavours in accordance with sub-paragraph (a) the public nuisance or adverse impact continues then the Owner and the District Council may agree or an Expert may determine in the case of dispute that public access to the village shop and/or surgery/medical centre and/or Library (as the case may be) shall cease (in which case the provision of this paragraph 5 shall no longer apply to the village shop and/or surgery/medical centre and/or Library (as the case may be)).*

The Unilateral Undertaking does not include a definition of 'surgery/medical centre'.

The inspector's decision letter for DC/08/0316 at paragraphs 37, 38, 42 and 43 was clear that the provision of a surgery/medical centre would improve the existing settlement's

sustainability as the provision of local facilities should reduce the need to travel outside of Faygate. The provision of a surgery/medical centre was therefore key to the overall planning balance which the inspector concluded favoured the grant of planning permission.

Appendix 6, which forms part of the applicant's submitted information, details that:

- Prior to the completion of 100 properties a doctor visited for one hour a week, every Tuesday alongside the addition of a nurse.
- The nurse service ceased in May 2017 and Doctors attendance ceased in April 2019.
- When the site was near completion the medical provision did not meet the needs of the Durrants residents and the availability would not allow for every resident to have one appointment per year.
- The visiting GP could not carry out all the services available from the practice and the cost to increase the doctor's visits was substantial, resulting in residents visiting the main practice.

A copy of a signed 12 month contract with Park Surgery (based in Albion Way in Horsham) is provided with the application. The signatures are dated May 2015.

The contract with Park Surgery confirms they were engaged for 12 months by Durrants Village to provide a visiting GP service for one hour per week on a day and time to be agreed. Paragraph 1.4 of the contract states that Durrants Village will specify who will make the appointments and when, based on the Village's priorities, and that the structure of the surgery will be dictated by the Village and not the GP. Paragraph 5.1 allows for either party to terminate the contract with 3 months notice and without needing to give a reason.

The Cover Letter expands further on this clarifying that the Village manager terminated the contract with Park Surgery in 2019 due to the cost (a decision made through Village resident elections) and the limited number of residents who could use the service. The cover letter also states that *"We are not aware of any obligation for the medical facility to be used by members of the public."*, this despite paragraph 5.1(d) of the Unilateral Undertaking expressly requiring reasonable endeavours be made for residents of Faygate to be able to use the service.

It is clear that the residents of Durrants Village had access to a medical facility until April 2019, albeit very limited, with the 12 month contract signed in 2015 including provision for one hour per week. It is unclear whether subsequent contracts were agreed on the same or different terms. It is understood that as the Village grew the provision was not deemed adequate and the contract with Park Surgery was terminated by the Village due to the cost and limited number of residents who could use the service. There is no indication the contract was terminated by the Surgery, or whether the Surgery were unable to commit to one hour a week moving forward, or whether they were keen to provide a greater service. There is also no evidence that the reason for termination was due to amenity or public nuisance reasons pursuant to Paragraph 5.2 of the unilateral undertaking.

No evidence has been provided to indicate that the applicant explored other opportunities to provide a medical facility that better suited the needs of residents of both the Village and Faygate. Indeed it is unclear whether reasonable endeavours were made pursuant to Paragraph 5.1(d) to allow for residents of Faygate to use the surgery/medical centre. The 2015 contract with Park Surgery is ambiguous in this regard, only referring to the facility being available to residents registered with Park Surgery. In the context of the contract otherwise setting out the Village terms and conditions, including the need to agree with the Village who and when each appointment is made, and in the absence of evidence as to whether and how the availability of a weekly service was publicised to the residents of Faygate, it is not unreasonable to conclude that reasonable endeavours have not been demonstrated.

While Officers understand that the needs of residents may change over time, insufficient information has been provided to demonstrate the applicants have explored all the options to provide adequate medical facilities at the site or to obtain the agreement of the operator to permit the residents of Faygate to have access to the surgery/medical centre.

Accordingly it is not considered the applicant has demonstrated there is a lack of need for a medical facility, and therefore that the obligation no longer serves a useful purpose pursuant to S106(6)b. The discharge/removal of the obligation for the provision of a medical facility is therefore not permitted.

Library:

In respect of the obligations for the provision of a library, Schedule 1, Part 5 the Unilateral Undertaking requires the following:

5. COMMUNITY FACILITIES

5.1 The Owner covenants for the benefit of the District Council:

....

- (c) not to Occupy more than 100 Extra Care Units until a Library has been provided within the Development and is open to use by residents of the Development;*
- (c) subject to paragraph 5.2 to permit access to the Library to occupants of Faygate on reasonable terms and conditions (including without limitation payment of a reasonable subscription charge and terms of conduct) and not to Occupy more than 100 Extra Care Units until it has serves a copy of draft terms and conditions on the District Council, has taken full and proper account of any representations made by the District Council in writing within 14 days of service and has served a copy of the final terms and conditions on the District Council;*
- (d) subject to paragraph 5.2 to retain the village shop, surgery/medical centre and library for the lifetime of the development.*

5.2 In the event that the use by residents of Faygate of the village shop and/or medical centre and/or Library causes public nuisance or otherwise adversely impacts upon the amenity of residents of the Development then:

- (e) the Owner shall use reasonable endeavours to meet with the District Council to discuss how the public nuisance or adverse impact may be mitigated and shall use reasonable endeavours to undertake any mitigation measures that may be agreed; and*
- (f) If despite the use of reasonable endeavours in accordance with sub-paragraph (a) the public nuisance or adverse impact continues then the Owner and the District Council may agree or an Expert may determine in the case of dispute that public access to the village shop and/or surgery/medical centre and/or Library (as the case may be) shall cease (in which case the provision of this paragraph 5 shall no longer apply to the village shop and/or surgery/medical centre and/or Library (as the case may be)).*

The Unilateral Undertaking defines the library to have 'a minimum of 1,500 books and access to the internet'. There is no requirement as to the type of books that are available. The library was considered by the appeal inspector for DC/08/0316 to "assist in improving the existing settlement's sustainability insofar as the provision of local facilities should reduce the need to travel outside settlements".

The Cover Letter confirms a mobile library service operated by Horsham District Council previously operated in Faygate until funding was removed around the time of COVID 19. It states that the library has been provided and is stocked with books donated to Durrants Village residents. Importantly, the cover letter states that the library 'has never been open to the public', albeit with discussions having been ongoing for 'several years' with the parish council regarding access terms.

Appendix 9 of the submission provides photographs of notice board advertisements setting out a three month trial for the library service for residents of Faygate. These are dated May 2024, many years after the library is understood to have opened. The posted document confirms the library would be open on Wednesday 9am-10am and Friday 13:00-14:00. To sign up residents were required to fill in an application form, provide proof of address, an ID photo and to sign in and out for each visit. The sign also stated the cost would be £15.00 per annum. Appendix 6 confirms the library has public Wi-Fi and that only one book can be signed out per user and must be returned after 30 days. The cover letter confirms there was no use of the library during the three-month trial period.

The submitted information shows the Parish Council raised concerns about the limited length of the trial, as well as the lack of library visit times for those who work and the cost of the trial matching that required for the full year. The response from Durrants Village confirmed the costs for three months will be £5.00 and the times for the library cannot be extended beyond the reception opening hours.

Officers appreciate the applicant may consider a lack of interest in the three-month trial to suggest the obligation no longer serves a useful purpose. However, in this instance officers consider that the very limited hours of library access and the unclear payment systems, with the poster only giving the per annum cost, were unduly restrictive. The limitations on the number of books that can be withdrawn (one) also seems unduly restrictive, above and beyond that of WSCC libraries which allow the withdrawal of up to 20 books in one go. Overall, it is not considered that the terms and conditions for public access meet the required standard in the unilateral undertaking to be 'reasonable'. Indeed it could be argued that the terms and conditions were so restrictive as to be designed to fail.

Paragraph 5.1(f) of schedule 5 is clear that the terms and conditions for the library should be agreed with HDC; Officers have not been able to find such agreement.

Given that the obligation should have been in place for a considerable number of years, three months, alongside the aforementioned access limitations, is not considered to demonstrate that this obligation no longer serves a useful purpose. Durrants Village remains within the countryside and the reasons of sustainability the inspector relied upon when considering DC/08/0316 are still considered relevant. Given the above Officers consider the obligation would likely serve a useful purpose if appropriately implemented.

Community Bus Plan:

In respect of the obligations for the provision of a community bus, Schedule 1, Part 4 the Unilateral Undertaking requires the following:

4. HIGHWAYS AND TRANSPORT

....

4.5 the Owner covenants for the benefit of the County Council:

- (a) Not to Occupy the Development unit the Community Bus Plan has been approved by the County council or by an Expert in the case of dispute;**

- (b) *Within 18 month of occupation of the Development to commence operation of the community bus in accordance with the Community Bus plan;*
- (c) *Not to Occupy more than 50 Extra Care Units until the operation of the community bus has commenced in accordance with the Community Bus Plan;*
- (d) *Following commencement of operation of the community bus, to operate the community bus for the lifetime of the Development in accordance with the Community Bus Plan subsequently submitted by the Owner and approved by the County Council or by an Expert in the case of dispute following a review.*

4.6 The Owner covenants for the benefit of the County Council to promote the availability of the community bus to occupants of the Development and inhabitants of Faygate, including by the display of information as to the timing and route of the community bus service in communal areas of the Development and areas accessible by inhabitants of Faygate.

Schedule 3 of the Unilateral Undertaking (included as Appendix 2 at the end of this report) sets out the detailed Operational Framework for the community bus service, to be accessed by the residents of Durrants Village and Faygate.

'Community Bus Plan' is defined in the Unilateral Undertaking as '*a plan for operation of a community bus to serve the Development in accordance with the operational framework in Schedule 3 or any amended operation framework subsequently approved by the County Council or by an Expert in the case of a dispute*'. The wording of Schedule 3 has been included in Appendix 2 of the submission.

The Inspector's report considers the sustainability of Faygate with paragraphs 32-38 of the report sets out his assessment in full. In respect of Faygate, the inspector states that: *"whilst it has a pub, garage, village hall and station, trains only serve the station on Mondays to Fridays and the services that stop at Faygate are infrequent outside the peak hours. Bus services passing through the settlement are limited to two each week. While there is a good bus stop service linking Crawley and Horsham, which runs along the A264, the nearest stops are some 700m from the site."*

The Inspector is clear that he expects the development to be occupied almost exclusively by individuals with significant care needs, or couples where one or both have such needs. Given this, the Inspector considered the trip generation for the site would differ significantly from general market housing. The Inspector expected the more active residents (but not the care home) would want to travel more widely; however, the trips would be significantly lower than general market housing. The Inspector also expected the provision of the community bus service secured within the S106 unilateral undertaking would assist in reducing the trips by private car by residents and employees.

The Inspector stated that these (S106's provisions) *"would be made available for all residents of Faygate to use. Their continuous provision for the lifetime of the development would be secured by the S106 Undertaking. Accordingly, the development should assist in improving the existing settlement's sustainability insofar as the provision of local facilities should reduce the need to travel outside settlements. (para 38).*

The applicants have provided some information which suggests WSCC agreed to a Community Bus Plan in 2017. The Travel Plan submitted by the applicant, however, does not refer to any provision for members of the public. It also confirms the provision should be

reviewed on the 1st of July 2018. Officers have not been provided with any evidence that demonstrates this review was carried out.

At the same time as the library trial (May 2024), the applicants carried out a three-month trial allowing access to the community bus to residents of Faygate. The timetable was made available on a noticeboard and in the community shop, alongside the terms for the library facility. It set out the below timetable:

Monday	10.00	Durrants Village	Horsham		12.00	Horsham	Durrants Village
	11.30	Durrants Village	Horsham		14.00	Horsham	Durrants Village
Tuesday	10.00	Durrants Village	Horsham		12.00	Horsham	Durrants Village
	11.30	Durrants Village	*Crawley (runs 1 st Tuesday of the month)		14.00	*Crawley	Durrants Village
	11.30	Durrants Village	**Newbridge / Hilliers Garden Centre (alternating weeks)		14.00	**Newbridge / Hilliers Garden Centre	Durrants Village
Wednesday	10.00	Durrants Village	Horsham		14.00	Horsham	Durrants Village
	11.30	Durrants Village	Horsham		14.00	Horsham	Durrants Village
Thursday	10.00	Durrants Village	Horsham		12.00	Horsham	Durrants Village
	11.30	Durrants Village	Broadbridge Heath		14.00	Broadbridge Heath	Durrants Village
Friday	10.00	Durrants Village	Horsham		12.00	Horsham	Durrants Village
	11.30	Durrants Village	Horsham		14.00	Horsham	Durrants Village

The above timetable provides the twice daily services, as set out in the Community Bus Plan albeit with different pick up and collection times; the addition of Newbridge/Hilliers Garden Centre, and a significantly reduced service to Crawley. The applicants submitted information confirms that one person used the service on nine occasions.

The Parish Council raised concerns in their comments that the trial was inadequate and poorly advertised. The Parish Council supported the provision of a community bus service and confirmed a significant number of residents are unable to safely cross the A264 to access the Metrobus Service. The comments also raised concerns that the proposal did not cover all of Faygate.

Officers note that a regular bus service is now available from Faygate Roundabout (approximately a 0.5km walk) to Horsham; however, the return journey requires users to cross four lanes of the A264 in an area when the national 60mph speed limit is in place. The no.52 bus enters into Faygate Village and runs once a day from Rusper to Broadbridge Heath on Monday and Thursdays only (except public bank holidays) giving those using the service approximately 2 hours 40 minutes in Horsham before needing to get the return service.

Officers recognise that the Metrobus provision to Faygate has improved; however, the Parish Council are clear that access to the bus service is limited due to access constraints (crossing a very busy main road). While it appears it is likely WSCC approved a Community Bus Plan in 2017, it did not accord with Schedule 3 of the Unilateral Undertaking (see Appendix 2), nor has evidence been provided to demonstrate it was revised as expected. In their later comments WSCC raised concerns, in correspondence with the Parish Council, about the breadth of the trial for the community bus.

Schedule 3 of the unilateral undertaking sets out that no less than two services in the morning and evening peak travel periods are to be provided. It also requires that the bus service links up with the existing commercial bus services along the A264 and the Horsham mainline rail station.

Schedule 3 also details that no less than three services should be provided outside the peak times to accommodate for shopping and leisure trips, for the residents of Durrants Village and Faygate, to Horsham and other destinations. Three shopping and leisure trips are expected to be provided on Saturdays and Sundays.

Schedule 3 provides for an attractive opportunity for residents to use the service to travel to work and for shopping trips. However, the bus service operated did not include any provision for residents of Faygate, included no peak hours services as expressly required, and included no weekend services or connections to the existing transport routes, again as was expressly required by the unilateral undertaking.

Officers note that the Schedule required the plan to be approved by West Sussex County Council and a review should be carried out annually. There is no evidence that any annual review has taken place.

Officers accept the obligation allows for changes to be made to the plan and the County Council's comment suggests there is a lack of demand for the provisions under Schedule 3. While this may be the case, Officers do not consider that the Travel Plan was implemented in accordance with the clear requirements of Schedule 3. There is clear demand from the Parish Council that provisions are put in place to access existing bus services. In addition, the latter comments from the County Council raise concerns about the sufficiency of the trial. Notwithstanding any agreement with the County Council over the content of the Travel Plan, no evidence has been provided to demonstrate the obligation to allow residents of Faygate to access the service was complied with in the first instance. Again, it would not be unreasonable for observers to conclude that the service as provided for was designed to fail.

For the aforementioned reasons Officers do not consider the obligation to have been complied with fully, preventing the full benefits of the obligation from ever being provided.

Overall, Officers do not consider that suitably robust evidence has been provided to demonstrate the trial was undertaken in accordance with the requirements of the unilateral undertaking and therefore in a manner that would reflect the needs (travel to work, access to main bus route, weekend travel and staff travel) of those in Durrants Village and of the residents of Faygate. Accordingly, it is not possible to conclude that this obligation to provide

a Community Bus Service no longer serves a useful purpose given the service has never been properly implanted in accordance with the terms of the unilateral undertaking.

Other Matters:

The Parish Council have raised concerns about the area 'residents of Faygate' are defined as. The applicant appears to have considered and included the built up areas in closest proximity to Faygate. Were the proposal considered supportable on all other grounds the applicant's definition would have been tested more robustly, however as it stands officers consider the definition used by the applicants to be appropriate to the dwellings that are within reasonable walking and cycling distance of the obligated services.

The Parish Council has also raised concerns over the advertisement of the trial for the library and community bus. While Officers appreciate more could have been done through social media it is expected that those who live in smaller villages such as Faygate are likely to visit the village shop, Parish Noticeboard or hear about the proposal by word of mouth.

Conclusions:

The Library trial was limited in its access hours which appear exclusionary in design, severely limiting any access for those who work a typical 9-5 job. In conjunction with the limited time of the trial (three months) Officers do not consider sufficient evidence has been provided to demonstrate the proper implementation of the service such that it could be reasonably concluded that the obligation no longer serves a useful purpose.

Turning to the provision of the surgery/medical centre the evidence provided does not suggest any true provision for the residents of Faygate has been provided. The submitted information does not include evidence to demonstrate that sign up and appointments were advertised and made available to the public. The surgery/medical centre provision ceased some time ago at the apparent request of the Village, and for reasons that are vague and without corroboration from the Park Surgery, therefore the applicant's decision to terminate the facility does not alone prove the obligation does not serve a useful purpose.

Officers recognise that the Metrobus provision to Faygate has improved; however, the Parish Council are clear that access to the bus service is limited due to access constraints (crossing a very busy main road). Whilst it appears it is likely WSCC approved a Community Bus Plan in 2017, it did not accord with the requirements of Schedule 3 of the Unilateral Undertaking (Appendix 2), nor has evidence been provided to demonstrate it was revised as expected. In their later comments WSCC raised concerns, in correspondence with the Parish Council, about the breadth of the trial for the community bus. Officers do not consider that suitably robust evidence has been provided to demonstrate the trial was undertaken in a manner that would reflect the needs (travel to work, access to main bus route, weekend travel and staff travel) the community bus was expected to fulfil in Schedule 3.

Officers have considered whether financial contributions in lieu of the bus service could be sought to improve the crossing of the A264. The Highways Authority have advised that there have been a number of separate requests for crossing improvements which have been investigated by WSCC, however given technical issues and significant costs associated with the various options, the Highways Authority have advised that there are no works currently planned and therefore no scheme against which a contribution could be secured against. The Highways Authority have advised that there is the potential for a study of the A264 as part of the Local Transport Plan, which could include improved crossing facilities if the proposals include the signalisation of the roundabout. However this study is not presently planned and as such a timescale for the conclusions of this study could not be relied upon.

Therefore, Officers advise that whilst a contribution in lieu has been explored, absent of any identified scheme and costings, it is not possible to identify an appropriate contribution sum

or understand if or when any upgrades to the A264 crossing would be delivered. A contribution in lieu cannot therefore be supported as an alternative to the bus service required by the s106 agreement.

Given the above Officers consider that it has not been demonstrated that the relevant obligations, if properly implemented, would not continue to serve a useful purpose in mitigating the impact of the approved development.

Recommendation: Application Refused

Reason(s) for Refusal:

1. Insufficient evidence has been submitted to demonstrate that the obligations at Schedule 1, Part 5 of the Unilateral Undertaking signed in respect of planning permisison DC/08/0316 to provide a surgery/medical centre within the development no longer serves a useful purpose as required under s.106A(6)b of the Town and Country Planning Act.
2. On the basis of the information submitted it is not considered that access to the Library Service for residents of Faygate was provided on reasonable terms or that the Community Bus Service was provided for in accordance with the express requirements of Schedule 1 Parts 4 and 5, and Schedule 3, of the s106 Unilateral Undertaking signed in respect of planning permisison DC/08/0316. In the absence of the Library Service and Community Bus Service having been properly provided, it cannot be agreed that the obligations seeking their provision no longer serve a usefult purpose as required under s.106A(6)b of the Town and Country Planning Act.

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: S106/25/0007

(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **not approved:**

Plan Type	Description	Drawing Number	Received Date
Supporting Statement	APPENDIX 1 - COMMUNITY BUS PLAN EMAILS 2017		14.03.2025
Supporting Statement	APPENDIX 2 - COMMUNITY BUS PLAN V3 SEPT 2017		14.03.2025
Supporting Statement	APPENDIX 3 - TAXI ROUTES		14.03.2025
Supporting Statement	APPENDIX 4 - METROBUS CORRESPONDENCE NOV 2024		14.03.2025

Supporting Statement	PARK SURGERY CONTRACT		14.03.2025
Supporting Statement	APPENDIX 6 - TRAIL ACCESS OBLIGATIONS TERMS OF USE		14.03.2025
Supporting Statement	APPENDIX 7 - TAXI SIGN UP		14.03.2025
Supporting Statement	APPENDIX 8 - CORRESPONDENCE WITH FAYGATE PC		14.03.2025
Supporting Statement	APPENDIX 9 - LIBRARY & BUS SERVICE TRIAL ADVERTISEMENT		14.03.2025
Supporting Statement	PROPOSED DEED OF VARIATION		14.03.2025
Supporting Statement	Durrants Village Timetable and Operating Policies.		03.07.2025

Case Officer sign/initial Alice Johnson Date: 07.08.2026

Authorising Officer
sign/initial Adrian Smith Date: 07/08/2026

Appendix 1

DC/08/0316	DC/12/0178	DC/14/1187
4. HIGHWAYS AND TRANSPORT 4.5 the Owner covenants for the benefit of the County Council: (e) Not to Occupy the Development unit the Community Bus Plan has been approved by the County council or by an Expert in the case of dispute; (f) Within 18 month of occupation of the Development to commence operation of the community bus in accordance with the Community Bus plan; (g) Not to Occupy more than 50 Extra Care Units until the operation of the community bus has commenced in accordance with the Community Bus Plan; (h) Following commencement of operation of the community bus, to operate the community buse for the lifetime of the Development in accordance with the Community Bus Plan subsequently submitted by the Owner and pprovaed by the County Council or by an Expert in the case of dispute following a review. 4.6 The Owner covenants for the benefit of the County Council to promote the availability	4. HIGHWAYS AND TRANSPORT 4.3 The Owner covenants for the benefit of the County Council: 4.3.1 not to Occupy the Development until the Community Bus Plan has been approved by the County Council or by and Expert in the case of dispute pursuant to Schedule 1 paragraph 4.5(a) of the Original Undertaking; 4.3.2 within 18 months of Occupation of the Development or the Original Development (whichever takes place first) to commence operation of the community bus in accordance with the Community bus Plan; 4.3.3 not to Occupy more than 50 Extra Care Units (to be calculated by aggregating all of such units constructed whether forming part of the development or the Original Development) until the operation of the community bus has commenced in accordance with the Community Bus Plan: and 4.3.4 following commencement of operation of the community bus, to operate the community bus for the lifetime of the Development and Original Development in accordance with the Community Bus Plan or any amended Community Bus Plan subsequently submitted by the Owner and	4. COMMUNITY FACILITIES 4.1 The Owner undertakes and covenants for the benefit of the District Council; 4.1.2 not to Occupy more than 100 Extra Care Units (to be calculated by aggregating all of such units constructed whether forming part of the, Development , the First Development, or the Original Development) until a surgery/medical centre has been provided within the Original Development and is open for use by residents of the Development. 4.1.3 not to Occupy more than 100 Extra Case Units (to be calculated by aggregating all of such units constructed whether forming part of the Development, the first Development, or the Original Development) until a Library has been provided within the Original Development and is open for use by residents of the Development, the First Development, and the Original Development on the terms and conditions set out in the Original Undertaking.

of the community bus to occupants of the Development and inhabitants of Faygate, including by the display of information as to the timing and route of the community bus service in communal areas of the Development and areas accessible by inhabitants of Faygate. 5. COMMUNITY FACILITIES <i>(h) not to Occupy more than 100 Extra Care Units until a surgery/medical centre has been provided within the Property and is available for use by residents of the Development;</i> <i>(i) to use reasonable endeavours to obtain the agreement of the operator of the surgery/medical centre to permit the residents of Faygate to have access to the surgery/medical centre;</i> <i>(j) not to Occupy more than 100 Extra Care Units until a Library has been provided within the Development and is open to use by residents of the Development;</i> <i>(k) subject to paragraph 5.2 to permit access to the Library to occupants of Faygate on reasonable terms and</i>	approved by the County Council or by an Expert in the case of dispute following a review. 4.4 The Owner covenants for the benefit of the County Council to promote the availability of the community bus to occupants of the Development the Original Development and the inhabitants of Faygate including by the display of information as to the timing and route of the community bus service in communal areas of the Development and the Original Development and areas accessible by inhabitants of Faygate. 5. COMMUNITY FACILITIES 5.1 The Owner undertakes and covenants for the benefit of the District Council: 5.1.2 not to Occupy more than 100 Extra Care Units (to be calculated by aggregating all of such units constructed whether forming part of the Development or the Original Development) until a surgery/medical centre has been provided within the Original Development and is available for use by residents of the Development; 5.1.3 to use reasonable endeavours to obtain the agreement of the operator of the surgery/medical centre to permit the residents of Faygate to have access to the surgery/medical centre;	
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<i>conditions (including without limitation payment of a reasonable subscription charge and terms of conduct) and not to Occupy more than 100 Extra Care Units until it has serves a copy of draft terms and conditions on the District Council, has taken full and proper account of any representations made by the District Council in writing within 14 days of service and has served a copy of the final terms and conditions on the District Council;</i> <i>(l) subject to paragraph 5.2 to retain the village shop, surgery/medical centre and library for the lifetime of the development.</i> <i>5.2 In the event that the use by residents of Faygate of the village shop and/or medical centre and/or Library causes public nuisance or otherwise adversely impacts upon the amenity of residents of the Development then:</i> <i>(g) the Owner shall use reasonable endeavours to meet with the District Council to discuss how the public nuisance or adverse impact may be mitigated and shall use reasonable endeavours to undertake any mitigation measures that may be agreed; and</i> <i>(h) If despite the use of reasonable endeavours in accordance with sub-</i>	5.1.4 not to Occupy more than 100 Extra Care Units (to be calculated by aggregating all of such units constructed whether forming part of the Development or the Original Development) until a Library has been provided within the Original Development and is open for use by residents of the Development and the Original Development on the terms and conditions set out in the original Undertaking; 5.1.5 subject to paragraph 5.2 to retain the village shop surgery/medical centre and Library for the lifetime of the Development and the Original Development. 5.2 In the event that the use by residents of Faygate of the village shop and/or medical centre and/or Library causes public nuisance or otherwise adversely impact upon the amenity of residents of the Development then: 5.2.1 the Owner shall use reasonable endeavours to meet with the District Council to discuss how the public nuisance or adverse impact may be mitigated and shall use reasonable endeavours to undertake any mitigation measure that may be agreed; and 5.5.5 if despite the use of reasonable endeavours in accordance with sub-paragraph 5.2.1 the public nuisance or adverse impact continues the Owner and the District Council may agree or an Expert may determine in the case of dispute that public	
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<i>paragraph (a) the public nuisance or adverse impact continues then the Owner and the District Council may agree or an Expert may determine in the case of dispute that public access to the village shop and/or surgery/medical centre and/or Library (as the case may be) shall cease (in which case the provision of this paragraph 5 shall no longer apply to the village shop and/or surgery/medical centre and/or Library (as the case may be)).</i>	access to the village shop and/or surgery/medical centre and/or Library (as the case may be) shall cease (in which case the provision of this paragraph 5 shall no longer apply to the village shop and/or surgery/medical centre and/or Library (as the case may be))	
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SCHEDULE 3

COMMUNITY BUS PLAN - OPERATIONAL FRAMEWORK

1. The Community Bus will be available to all future residents and employees of the proposed CCRC and the wider community of Faygate. The level of service will be determined following a post occupation survey to establish the needs of future residents and employees.
2. Initially the service will broadly operate between a core period of 0600-2000 hours during weekdays and at weekends. This core period will be subject to an annual review and may be changed to suit circumstances in consultation with the appointed Travel Plan Coordinator (TPCO) and the County Council.
3. The level of service will be tailored to suit the shift working of future employees and future CCRC residents. Hence, initial operating times will be finalised and agreed with the County Council prior to the first implementation of the Community Bus service.
4. During the core period 0600-2000, the Community Bus will provide a service consisting of an outward and return trip of:
 - (a) Not less than two services during the morning and evening peak travel periods; these being 0700-0900 and 1600-1800 during a weekday. The service will provide a connection with existing commercial bus services that stop along A264 and Horsham mainline rail station;
 - (b) Not less than three services outwith the peak weekday travel periods identified in "a" above, to accommodate shopping and leisure trips of CCRC residents and the wider community of Faygate, to Horsham and other local destinations;
 - (c) Not less than three shopping and leisure trips to Horsham and key local destinations on Saturdays and Sundays, to accommodate the demands of future CCRC residents and the wider Faygate community.
5. The Community Bus may also be operated at other periods during the week and at weekends outwith the core period, subject to the demands and requirements of future residents and employees. Under these circumstances, the bus service would be run as a "dial a ride" operation, subject to demand and availability.
6. The operation of the Community Bus will be subject to an annual review in conjunction with the TPCO and the County Council. As such, the operation may need to be varied to suit demand.

7. Timetables with route plans and destinations will be published to all CCRC employees and residents via local notice boards and the CCRC Website.
8. The vehicle specification will initially accommodate a minimum of 16 people and will be fully accessible by the mobility impaired and cater for wheel chair access. The carrying capacity of the Community Bus and the nature of the vehicle will be reviewed annually by the TPCO in consultation with the County Council.