Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DISC/25/0172
Angel Sandpit, Washington Road, Storrington, West Sussex,

DESCRIPTION:
Approval of details reserved by condition 16 to approved application DC/23/2144

RELEVANT PLANNING HISTORY:

DC/23/2144	Variation of condition 1 of previously approved application reference DC/21/0057 (A phased development for the erection of 6no detached houses with associated landscaping, drainage and access improvements to Heather Way at Angell Sandpit, Storrington) to allow the submission of water neutrality information, revised plans in respect of plots 1-3 and revised construction access details. Variation of conditions 3, 5, 6, 10, 12, 13, 16, 17, 18 and 19.	Application Permitted on 14.08.2024

PLANNING ASSESSMENT
Planning Application DC/23/2144 was granted consent on 14/08/2024. This permission was for the following:

Variation of condition 1 of previously approved application reference DC/21/0057 (A phased development for the erection of 6no detached houses with associated landscaping, drainage and access improvements to Heather Way at Angell Sandpit, Storrington) to allow the submission of water neutrality information, revised plans in respect of plots 1-3 and revised construction access details. Variation of conditions 3, 5, 6, 10, 12, 13, 16, 17, 18 and 19.

Consent is sought to discharge the details reserved by condition 16.

Condition 16:
Pre-Occupation Condition: Prior to the first occupation of any dwelling hereby permitted, full details of all hard and soft landscaping works shall have been submitted to and approved, in writing, by the Local Planning Authority. The details shall include plans and measures addressing the following:
- Details of all existing trees and planting to be retained - planting mix to reflect the site specific acid soil mix
- Details of all proposed trees and planting, including schedules specifying species, planting size, densities and plant numbers and tree pit details, with a minimum suggested girth size of 20 - 25cm
- Appropriate Heathland planting within the designated buffer zone
- Details of all hard surfacing materials and finishes
- Details of all boundary treatments and fencing, including means to permanently enclose the Buffer Zone and prevent access / inclusion of this area into residential curtilages, and details of any retaining walls

The approved communal landscaping elements shall be fully implemented in accordance with the approved details within the first planting season following the first occupation of any dwelling hereby permitted. Landscape elements within residential curtilages shall be implemented in accordance with the approved details within the first planting season following the first occupation of the delivered dwelling on the relevant plot. Unless otherwise agreed as part of the approved landscaping, no trees or hedges on the site shall be wilfully damaged or uprooted, felled/removed, topped or lopped without the previous written consent of the Local Planning Authority until 5 years after completion of the development. Any proposed planting, which within a period of 5 years, dies, is removed, or becomes

seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure a satisfactory development that is sympathetic to the landscape and townscape character and built form of the surroundings, and in the interests of visual amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015).

The requirements of the condition have **not** been satisfied, for reasons set out below.

In determining the current details submitted to discharge the landscape condition (Cond 16 of DC/23/2144) across the small development site of 6 new dwellings, it is important to note the origins of the Buffer Zone, which lies to the northern edge of the site, and adjoins Sullington Warren, which is a Site of Special Scientific Interest, noted for its heathland habitat.

Essential to the acceptability of the development proposals under DC/21/0057 was the incorporation of a 20m buffer zone to the SSSI. This 'wildlife buffer area' is noted in the Ecological Impact Statement (Lizard Landscape Design and Ecology, May 2020) to provide a number of functions and to be subject to a number of restrictions:

- *A 20-metre buffer zone (as agreed with the LPA) is proposed between the development edge and the SSSI. The buffer zone would be retained as seminatural rough grassland with scattered trees and scrub. There will be no public access from the site directly into the SSSI. The buffer zone is deemed sufficient to protect the adjacent SSSI from negative impacts, including upon wildlife therein.*
- *A 20-metre buffer zone is proposed between the development edge and the SSSI. The buffer zone is deemed sufficient to protect the habitats within the adjacent SSSI from negative impacts when the properties are occupied.*
- *The buffer zone shall be delineated and protected through the installation of fencing along its southern boundary (boundary with the proposed dwellings). The dwellings shall be subject to restrictions or covenants to ensure no disturbance, development or planting takes place in this zone. The buffer zone shall be managed on an ongoing basis to ensure it remains suitable for reptiles. This shall be secured through maintenance charges imposed upon the proposed dwellings. Any individual non-protected amphibians such as common toads shall be translocated to the reptile receptor area of the 20-metre buffer zone as part of the reptile translocation works.*
- *The buffer zone to the northern section of the site will protect the adjacent woodland from disturbance during both the operational and construction phases (in relation to Hazel Dormouse habitat).*
- *A buffer zone proposed to the north of the should be enhanced within the final scheme to provide replacement reptile habitat*

The s73 for this site, DC/23/2144, was granted consent subject to a number of conditions, including Condition 16 relating to the hard and soft landscape details. In particular, Condition 16 requires the submission of details to secure the Buffer Zone as follows:

- ***Details of all boundary treatments and fencing, including means to permanently enclose the Buffer Zone and prevent access / inclusion of this area into residential curtilages, and details of any retaining walls***

Approved details in relation to Condition 17 (Biodiversity Enhancement Strategy for Protected and Priority species) state that:
"The buffer zone shall remain as a semi-natural habitat and shall not be incorporated into garden areas at any point during the occupation of the buildings. The buffer zone shall be delineated from garden areas by a post and rail fence which shall remain in-situ throughout the lifetime of the development. Access into the buffer zone shall be for annual maintenance purposes only and shall at no time be used for recreational purposes."

Condition 19 (LMMP) secures the buffer zone as follows:
"The buffer zone will be demarcated by a post and rail fence that intersects all garden areas within proposed residential properties in which the buffer zone falls (Plots 2, 3 and 4)."

Condition 20 (CEMP: Biodiversity) refers to the development as:
"…the construction of six detached residential properties with associated access paths and gardens and a 20m buffer area to the northern boundary."

It is therefore clear that the buffer zone was to be fenced and protected during construction works, but was to be maintained exclusively as compensatory habitat for wildlife and to be managed appropriately in perpetuity, and not used for recreational purposes, nor incorporated into residential gardens.

In assessing the proposed details which have been submitted to discharge the landscape condition, officers have sought clarification and further details, much of which has been provided and addressed, as set out within the consultation responses from the Council's landscape officers.

In relation to the buffer zone, however, the revised plans show access gates form each of the three plots which adjoin the buffer zone (Plots 2, 3 and 4). The rear boundaries between the residential gardens of thee plots and the buffer zone is specified as being a 1.1m high timber post and rail fence, backed by hedgerow. The side plot boundaries within the buffer zone are to be demarcated by 1m high chestnut pale fencing, which is to run along the boundary between the buffer zone and the SSSI / Sullington Warren beyond the site's boundary. The submitted boundary plan also shows field gates within the side boundary demarcations within the buffer zone.

This concern over the fencing of the buffer zone, and the subsequent access from each residential plot has been raised with the planning agent across multiple communications, with the following responses noted:

7th July 2025: *..the intention has always been to retain this as non-residential land, but with each plot owner responsible for maintenance access. It is not appropriate or necessary to create an open and fully communal area as this has not been previously secured. Again, the approved plans for the S73 show fencing and boundaries clearly, and there is no mechanism via condition or S106 that requires it to be treated otherwise. The approved S73 plan can be seen below and as circled in red in the illustration, the footnote 8 corresponds with the approved S73 plan and states that the fencing would comprise 'POST AND RAIL FENCING WITH NEW HEDGE AND TREES TO MAINTAIN PRIVACY BETWEEN PLOTS'. We would therefore maintain the view that there is no mechanism in place to retain the buffer zone as an open area and the inclusion of post and rail fencing would be acceptable*

14th July: *In terms of the buffer zone, we appreciate that this area needs to be included outside of the* ***usable*** *garden space for the private dwellings, but for title plan purposes, it is not possible to not include this area within the residential curtilages. Unfortunately the S73 application caused confusion in terms of ownership boundaries and the approved plans show the buffer zone as divided and in the legal ownership of the respective plots. These plots have now all been sold and it is therefore not possible to withdraw this title boundary, particularly as the plots have been sold as self build units.*

In this regard, land ownership boundary markers are ***absolutely necessary*** *to prevent disputes with neighbours, ensure clear ownership and responsibilities, and facilitate property transactions in the future. Covenants have/will be put in placed to ensure that the buffer zones are not to be used as usable garden space, in accordance with the original planning consent.*

Furthermore, it will be set out, in the covenants, that maintenance of the area is to be carefully undertaken by a specialist contractor with access to the buffer zone required only to carry out the annual cut and the biannual bramble management program, with an ongoing requirement. This will be orchestrated between the owners of Plots 2, 3 and 4.

It is absolutely necessary for gates from the gardens of Plots 2, 3 and 4 to be accommodated in order to allow access to the buffer zones for the specialist contractor to access the buffer zones. I would also suggest that gates on the dividing boundaries could be included to allow the contractor to access each of the buffer 'zones' with ease. However, a gate from each of the plots gardens, to the buffer zones is necessary in case one of the plots is not accessible when the contractor visits, for example, if Plot 2 owners are on holiday etc.

As a compromise, could you please confirm if it would be acceptable to accommodate chestnut paling fencing on the dividing lines with gates in between? This type of fencing would allow reptiles to move freely between the buffer zones, retain the rural character of the area but would provide the necessary demarcation of the boundaries. The gates could comprise of field gates or similar (example link: LINK) and would allow reptiles to continue to move between the zones, and also allow a specialist contractor to access the entirety of the buffer zone at once if needed.

23rd July: *The proposed use of property markers within the buffer zone is not an acceptable solution. Concerns have been raised regarding future property sales and the potential for trespassing. Markers of this nature do not provide a sufficiently robust or enforceable delineation of boundaries.*

While we appreciate that the buffer zone does not fall within the residential gardens of the plots, the land is held in separate ownerships. Without a clearly defined physical boundary, such as fencing, the risk of confusion and future disputes is high.

Case law supports the principle that landowners have a prima facie right to erect a boundary fence on their property. If any restrictions on such fencing were intended, these should have been explicitly stated in the original planning conditions. In the absence of such restrictions, the current proposal falls short of what is required to safeguard the long-term integrity and function of the buffer zone.

To help move matters forward, we have prepared the attached revised sketch, which we believe offers a balanced and practical solution. This proposes the use of ***chestnut paling fencing*** *along the boundaries of the buffer zones, with* ***field gates*** *included to facilitate ongoing access and maintenance. These gates would remain open for ease of movement and would not obstruct wildlife, ensuring ecological permeability.*

We also do not consider it acceptable to restrict access via a single gate to just one property. We respectfully request that the Local Planning Authority reconsiders this approach and allows field gates for Plots 2, 3, and 4, as illustrated in the attached sketch.

While we acknowledge that the buffer zone is not part of the formal residential gardens, it remains within the residential ***curtilage*** *of each plot. Relying on one homeowner to provide access for maintenance presents practical and legal risks, particularly if that individual is unavailable or away. This could inadvertently result in trespass and strain neighbourly relations, especially as there are no communal ownership arrangements in place for these areas.*

Providing each property with its own gate ensures that all owners retain appropriate and secure access for maintenance purposes, without dependency on others. These gates would remain locked unless needed for access.

2nd September: *We appreciate that the Landscape Officer has their thoughts in terms of the buffer zone however as set out on numerous occasions, the proposed use of property markers within the buffer zone is not an acceptable solution from a title plan / legal point of view. As set out previously, concerns have been raised by the Buyers solicitors regarding future property sales and the potential for trespassing. Markers of this nature do not provide a sufficiently robust or enforceable delineation of boundaries and some of the Landscape Officers comments in terms of all boundary treatments are concerning in this regard and risk of security. We therefore need your thoughts on this please, based on a balanced view and given the position we are in.*

We have set out numerous times that the buffer zone does not fall within the residential gardens of the plots but the land is held in separate ownerships for title plan purposes. This cannot be amended as all plots have now been purchased and was not secured under a legal agreement as part of the original consent. Without a clearly defined physical boundary, such as fencing, the risk of confusion and future disputes is high. We appreciate that this is not something that the Landscape Officer needs to consider therefore we would appreciate your thoughts on this.

As of 21st August, there are a number of elements which remain outstanding in relation to the landscape details:

1) *While heathland planting has increased overall, it is noted that 200 heathland plants have been removed from the buffer zone. Given the ecological function of the buffer zone and that planting within private curtilage cannot be secured, it is requested that this planting is reinstated.*
2) *Please amend 'hedgerow' within the legend to reflect, 'hedgerow with 1m high post and galvanised wire fence' for clarity, as per the planting specification.*
3) *No justification for the omission of feature steps and pathway has been provided and access now appears to have been removed. Sound rationale is expected to be provided as to why these features have been omitted from the central 'community woodland*
4) *Porous alternatives to bituminous macadam surfacing and concrete block paving provided, with thanks. However, please add pavement material to the legend.*
5) *Trees shown for removal (in the Tree Retention and Protection Plan) have been removed from the landscape plan. No replacement trees have been proposed, so this remains outstanding*
6) *However, major concern still remains with the SSSI buffer zone having been incorporated into private curtilage. For clarity, the key relevant requirement of Condition 16 is repeated here: Details of all boundary treatments and fencing, including means to permanently enclose the Buffer Zone and prevent access / inclusion of this area into residential curtilages, and details of any retaining walls. As such, the discharge of Condition 16 cannot be recommended until this information can be secured.*
   Correspondence dated 23rd July in regard to boundaries is noted. Because the landowners' rights to erect a boundary fence on their property is acknowledged, it is important to clarify that the Buffer Zone should not be part of property ownership. Establishing a precedent for boundary fencing within this zone risks enabling future installation of more impermeable barriers, which would undermine the ecological function and intent of the Buffer Zone.

   In addition, if field gates were to remain open to facilitate movement, this negates their purpose as a boundary feature in first place and justifies their full-length removal from the proposals.

   The correspondence suggests that maintenance gates would remain locked unless needed for access. It would be unreasonable for the council to control and enforce that private field gates, within private land, remain open or closed as a workaround for the fact that the buffer zone must not be accessible to residents. We continue to recommend one gate for maintenance purposes at the end of the driveway in between Plots 3 and 4 for a third party contractor.

Officers acknowledge that land within the buffer zone is to be conferred into the private ownership of plots 2, 3 and 4, and do not raise objections to this in itself. Furthermore, officers have suggested that place markers, such as stakes or poles) could be used to define the extents of each plot, placed at the intersections of plots 2, 3 and 4 along the southern side of the buffer zone and again at the northern edge of the buffer zone.

Therefore, the intention of this buffer zone has, in officer's view, been clear and consistent across all planning applications and conditions applications, in relation to this site. It was to *protect the habitats within the adjacent SSSI from negative impacts when the properties are occupied, to be delineated and protected through the installation of fencing along its southern boundary,* and *shall not be incorporated into garden areas at any point during the occupation of the buildings.*

Therefore, given the ongoing dispute over the fencing within the buffer zone, and the outstanding details set out above, it is officer's view that this condition **cannot** be discharged at the current time, notwithstanding the discussions between parties to seek an acceptable resolution of all matters. Officers do acknowledge that a number of matters in relation to the planting and boundary demarcations not within the buffer zone are considered to be acceptable, but that there is no mechanism by which a split decision on this condition can be issued.

Recommendation: Application Refused:

NOTE TO APPLICANT
The applicant is advised to review the delegated officer report for this application available on the Council's website under the above reference number to establish the actions required to satisfy condition 16.

Primarily, concern remains at the use of fencing to demarcate private residential curtilages within the buffer zone, along with access gates from each property, thus undermining the fundamental ecological purpose of this buffer zone. Further concerns remain around a number of details within the landscape specification.

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: DISC/25/0172

(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
Layout plan	Detailed Landscape Proposals	CSA/7557/100 A	07.08.2025
Layout plan	Utilities Overlay	CSA/7557/101	07.08.2025
Layout plan	Site Plan (showing retaining walls)	21-14 2.01 C	02.07.2025
Layout plan	Boundary Plan	NONE	07.08.2025

DELEGATED

Case Officer sign/initial Nicola Pettifer Date: 09.09.2025

Authorising Officer sign/initial J Hawkes Date: 10.09.2025