



DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

S106/26/0009

Millfields Farm, Horsham Road, Rusper, West Sussex,

DESCRIPTION:

Application to discharge schedules 5 and 8 of the S106 Agreement for DC/24/0699

RELEVANT PLANNING HISTORY:

DC/24/0699	Demolition of existing structures and erection of 43no. dwellings (Use Class C3), creation of a new access and provision of public open space, alongside associated landscaping and other works.	Application Permitted on 07.05.2025
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PLANNING ASSESSMENT

Planning Application DC/24/0699 was granted consent on 07.05.2025. This permission was for the following:

Demolition of existing structures and erection of 43no. dwellings (Use Class C3), creation of a new access and provision of public open space, alongside associated landscaping and other works.

Consent is sought to discharge Schedules 5 and 8 of the s106 relating to the management company and land management.

Schedule 5:

SCHEDULE 5

MANAGEMENT COMPANY AND MANAGEMENT LAND

The Owner covenants with the District Council as follows:

1. To set up, appoint required directors and secretary and any other relevant officers, issue share capital (unless the Management Company is limited by guarantee) and establish the Management Company prior to Occupation of any Housing Unit. (PROVIDED THAT for the avoidance of doubt this Schedule shall not apply in the event where part of the Application Site is owned by a Registered Provider and the remaining part is transferred to or adopted to or by a public body).
2. To provide the Management Land in accordance with the details specifications and/or schedules contained in the Management Plan and to maintain and finance such maintenance of the Management Land in accordance with the Management Plan until such time as a transfer or lease to a Management Company or Registered Provider pursuant to paragraph 3 of this Schedule occurs.
3. Not to cause or permit the Occupation of any Housing Unit or to sell or cause or permit any Housing Unit to be sold at the Development other than by way of a transfer or lease:
 - 3.1 which includes a covenant from the transferee or lessee of the Housing Units to contribute a service charge towards the cost of maintaining and managing the relevant Management Land in accordance with the Management Plan and this Schedule; and
 - 3.2 in which the Management Company and / or Registered Provider covenants with the transferee or lessee of the Housing Units to maintain and manage, or to procure maintenance and management of the relevant Management Land in accordance with the Management Plan and this Schedule to this Agreement and to use any service charge received from the transferee or lessee of a Housing Unit for such management and maintenance for the lifetime of the Development.

Schedule 5 requires the establishment of a Management Company prior to Occupation of any Housing Unit. Clause 1 states however, (PROVIDED THAT for the avoidance of doubt this Schedule shall not apply in the event where part of the Application Site is owned by a Registered Provider and the remaining part is transferred to or adopted by a public body).

The whole of the site is owned by Aster Communities (as confirmed under Schedule 4 Clause 2.6) and the Public Open Space is proposed to be transferred to the Parish Council in accordance with the S106 Agreement.

It is therefore confirmed and agreed that no Management Company will be required or set up, given these entities between themselves will manage the management land. The requirements of the Schedule have been satisfied.

Schedule 8 (clause 2.2):

2. **Footpath 1502 All Weather Surface Works**
- 2.1 To undertake a Stage 2 and Stage 3 Safety Audit in respect of the Footpath 1502 All Weather Surface Works.
- 2.2 Not to Commence Development beyond slab level until a Footpath Works Scheme has been submitted to and approved in writing by the District Council in consultation with the County Council provided that where a Footpath Works Scheme is submitted to the District Council which is not approved a revised Footpath Works Scheme shall, within 14 days of receipt of notice in writing from the District Council that the previous Footpath Works Scheme is not approved, be submitted to the District Council for approval in consultation with the County Council
- 2.3 Once the District Council has approved a Footpath Works Scheme (the “**Approved Footpath Works Scheme**”) to obtain All Requisite Consents including without limitation entering into a Highway Agreement with the County Council.
- 2.4 After All Requisite Consents have been obtained to carry out in full the Approved Footpath Works Scheme to complete the Footpath 1502 All Weather Surface Works to the satisfaction of the County Council.
- 2.5 Not without the consent of the District Council to allow Occupation of more than 50% of the Housing Units until such Footpath 1502 All Weather Surface Works have been completed to the satisfaction of the County Council.

Clause 2.2 states that the developer is not to Commence Development beyond slab level until a Footpath Works Scheme has been submitted to and approved in writing by the District Council in consultation with the County Council.

A proposed Landscape Masterplan (ref: GUI002-PWH-XX-XX-DR-L-94-004) which proposes a flexipave surface finish for footpath 1502 between the northern boundary of the development to Horsham Road due to the tree roots was submitted, along with an associated specification, after care and maintenance details. The applicant states that Flexipave is porous, allowing water and air to reach the tree roots. It is also able to withstand extreme temperatures without cracking.

However, correspondence with the West Sussex Public Rights of way officer has confirmed that they are not content with a flexipave surface finish and they raise objection to this.

Their first objection to the submitted information (01.04.26) stated an objection on the following basis:

Having reviewed the documentation available online, it appears that the developer is proposing to resurface Public Footpath 1502, from the northern boundary of the development to Horsham Road, using a Flexipave surface finish. Given that this is a rural footpath and considering the long-term maintenance requirements of the footpath, Public Rights of Way would object to this

proposal on the grounds that the proposed surface does not meet our specification. Public Rights of Way would require the developer to resurface the footpath in accordance with West Sussex County Council's footpath surface specification

Following these comments, the West Sussex Public Rights of Way officer visited the site (17.04.26) along with the County arborist. She had the further comments to make:

Following this visit, we would still be looking for a rolled stone surface along this section. The attached specification is open to discussion, and timber edging would not necessarily be required along this path. The path is approximately 195m in length, with a short section of around 9m where tree roots are protruding above soil level, as noted in the document, this section would be designated as a no-dig zone. Our Arborist is satisfied with the rolled stone surface specification in this area and does not recommend Flexipave, as future root movement and growth are likely to cause damage to that type of surface.

The remainder of the path is predominantly a muddy path, some side vegetation would need to be cut back in places, however we have successfully had very similar paths surfaced to this specification without any issues.

As this path will need to be considered for future maintenance, Flexipave is not a solution we would be able to accept.

This feedback was passed on to the applicant/ agent on 17th April who confirmed they would be back in touch with updated technical information shortly. This arrived 8/7 and showed a diagram of a 'Geoweb' footpath.

West Sussex Public Rights of Way officer has commented on this again (17.7.26), and the objection remains. Her comments are as follows:

Having reviewed the latest construction documentation available online, it appears that the developer is proposing to resurface the route using Geoweb. Given that this is a rural footpath and taking into account the long-term maintenance requirements of the route, Public Rights of Way objects to this surfacing solution. At the developer's request, Public Rights of Way arranged for an arboricultural assessment of the site to determine whether the proposed Public Rights of Way Rural Standard Surface would be suitable. The assessment concluded that the site was suitable, and this response was provided to Horsham District Council on 17 April 2026. The assessment also confirmed that timber edging would not necessarily be required for the installation of the proposed surface treatment. As set out in my previous response dated 1 April 2026, Public Rights of Way requires the developer to resurface the footpath in accordance with West Sussex County Council's Footpath Surface Specification

It is therefore considered that this schedule cannot yet be discharged. The applicant does not appear to have considered the comments from WSCC in their amended submission and their objection remains. In line with clause 2.2 a new scheme should be submitted to the Council within 14 days of this decision, for consideration by the District Council in consultation with the County Council.

Recommendation: Split decision

To approve the obligations set out at Schedule 5(1) relating to the Management Company and Managed Land, and to refuse the obligations set out at Schedule 8(2.2) relating to the Footpath Works Scheme.

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: S106/26/0009

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

DELEGATED

Case Officer sign/initial Kate Turner Date: 30.07.2026

Authorising Officer sign/initial Adrian Smith Date: 05/08/2026