



**Horsham  
District  
Council**

# **DEVELOPMENT MANAGEMENT REPORT**

**TO:** Planning Committee (South)

**BY:** Development Manager

**DATE:** 20 December 2016

**DEVELOPMENT:** Removal of condition 15 under DC/13/0787 (Development of 160 residential dwellings (comprising 10 x 5-bed, 49 x 4-bed, 24 x 3-bed, 67 x 2-bed and 10 x 1-bed) together with associated landscaping, open space and access) Relating to pre-commencement requirement for traffic calming scheme

**SITE:** Land at West End Lane Henfield West Sussex BN5 9HU

**WARD:** Henfield

**APPLICATION:** DC/16/1877

**APPLICANT:** Mr Rob Phillips

**REASON FOR INCLUSION ON THE AGENDA:** Five or more letters of representation contrary to the Officer's recommendation have been received.

**RECOMMENDATION:** To approve the removal of condition and grant planning permission subject to appropriate conditions and the completed Deed of Variation to the original legal agreement

## **1. THE PURPOSE OF THIS REPORT**

1.1 To consider the planning application.

### **BACKGROUND AND DESCRIPTION OF THE APPLICATION**

1.2 This current application seeks to remove condition 15 of planning approval DC/13/0787 (Appeal Reference APP/Z3825/A/13/2205204) which states:

*15. No development shall be commenced until a scheme for the traffic calming of West End Land adjacent to the site entrance, including full construction details and details of the timing of implementation and phasing of the works, has been submitted to and approved in writing by the Local Planning Authority*

1.3 Prior to this application, a formal request for confirmation of compliance with Condition 15 (amongst others) of Appeal decision APP/Z3825/A/13/2205204 was validated by the Council on 22/12/2015 under reference DISC/15/0443. As part of DISC/15/0433, the developer initially proposed that the traffic calming be implemented by installing raised tables along West End Lane.

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- 1.4 However, during the consultation process for DISC/15/0443, the applicant was advised by West Sussex County Council, as Local Highway Authority, that Condition 15 should be withdrawn from that proposal. Furthermore, Henfield Parish Council's consultation response to the proposed traffic calming scheme stated that there was no local support for the traffic calming as proposed. Following these responses, the applicant undertook a series of surveys and consultations to assess the need and scope for traffic calming, local demand for traffic calming and also undertook an updated vehicle speed assessment of West End Lane.
- 1.5 The applicant considers that the outcomes of these studies show that the traffic calming measures required by Condition 15 of the original approval are not required and that a suitable and safe access to the development can be achieved by an amended access design. This application therefore seeks to remove the previously imposed Condition 15.

### DESCRIPTION OF THE SITE

- 1.6 The development site is situated outside of any built-up area as defined by the Horsham District Planning Framework and lies to the west of the village of Henfield. The site is located on the northern side of West End Lane with an area of 7.3 hectares, roughly rectangular in shape. It has been noted that construction works have already commenced on site.

## **2. INTRODUCTION**

### STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

### RELEVANT GOVERNMENT POLICY

- 2.2 National Planning Policy Framework 2012 – Delivering Sustainable Development – Section 7 'Requiring Good Design' is relevant to the proposal.

#### Planning Practice Guidance 2014

- Landscape
- Travel plans, transport assessments and statements in decision-taking
- Use of Planning Conditions

### RELEVANT COUNCIL POLICY

- 2.3 The following policies of the Horsham District Planning Framework (HDPF 2015) are relevant to the determination of the application
- HDPF32 - Strategic Policy: The Quality of New Development  
HDPF33 - Development Principles  
HDPF37 - Sustainable Construction  
HDPF39 - Strategic Policy: Infrastructure Provision  
HDPF40 - Sustainable Transport

### RELEVANT NEIGHBOURHOOD PLAN

- 2.6 The relevant Neighbourhood Plan is the Henfield Neighbourhood Plan. Following a local referendum this was 'made' in May 2016 as part of the Horsham District Local Plan however following a judicial review the plan was quashed by the High Court in October 2016 and as such is no longer part of the HDPF or considered as a material consideration.

## PLANNING HISTORY

DC/13/0787	Development of 160 residential dwellings (comprising 10 x 5-bed, 49 x 4-bed, 24 x 3-bed, 67 x 2-bed and 10 x 1-bed) together with associated landscaping, open space and access	Refused Appeal Allowed
DC/16/0368	Non material amendment to previously approved DC/13/0787 (Development of 160 residential dwellings (comprising 10 x 5-bed, 49 x 4-bed, 24 x 3-bed, 67 x 2-bed and 10 x 1-bed) together with associated landscaping, open space and access) Alterations to approved plots 20/21 to split originally approved pair of semi-detached with the relocation of one of the garages in between the two plots; and alterations to the garage roof in plot 1.	Permitted

## 3. OUTCOME OF CONSULTATIONS

3.1 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](http://www.horsham.gov.uk)

### INTERNAL CONSULTATIONS

- 3.2 **Landscape Officer (summarised):** No Objection  
Initial comments received from the Landscape Officer 26/08/2016 stated that the proposal (which required an addition of circa 50m of hedge to be removed on the northern side of West End Lane and a long strip of existing vegetation to be trimmed back along the southern side) would further exacerbate the adverse visual and character effect of West End Lane. However, the Landscape Officer also stated that the previous proposals (with the traffic calming) would also have an adverse and urbanising effect to the character of the road. The Landscape Officer indicated that the proposed development could be made acceptable if the plans were altered to reduce the extent of hedgerow removal together with additional planting to replace/reinforce the existing hedgerow.
- 3.3 Following the submission of the revised proposals the Landscape Officer confirmed on 13/09/2016 that the planting proposals submitted by the applicant were satisfactory.

### OUTSIDE AGENCIES

- 3.4 **Southern Water** - No comments to make (Response received 1/11/2016)
- 3.5 **West Sussex County Council Strategic Planning (Local Highways Authority) (summarised):** No Objection  
The Local Highways Authority (LHA) stated that it would be possible to provide visibility of 50m in each direction at the permanent site access, commensurate with the measured 85th percentile speeds as the proposed hedge removal and relocation allows the splays to be put in place. WSCC also stated that it is essential that the hedge be replanted behind the visibility splay as simply trimming back of vegetation to accommodate visibility would not be acceptable owing to the necessity to maintain the trimmed hedge. No objection raised to the revised access details rather than implementing traffic calming measures.

3.6 **Henfield Parish Council** – The Parish Council raise no objection to the proposals.

#### PUBLIC CONSULTATIONS

3.7 Letters have been received from 20 separate addresses in relation to this application. Of these, 7 were objecting to the application, 11 make comments that were neutral in tone, or were not material to this particular application. Two letters were received in support of the application

3.8 A summary of the material objections to this application are set out below:

- Need for traffic calming measures
- Highways safety
- To keep the existing hedgerow

3.9 The letters supporting the removal of this Condition were objecting to the traffic calming measures required by Condition 15.

#### **4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS**

4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

#### **5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER**

5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

#### **6. PLANNING ASSESSMENTS**

##### **Principle of the proposal**

6.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policy. In this regard, the NPPF has the presumption in favour of sustainable development running through it as a golden thread.

6.2 Specific advice for decision taking is set out in Para.14 which requires that development which accords with the development plan should be approved without delay and where the development plan is absent, silent or relevant policies are out of date, to grant permission unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits.

6.3 The principle of the original development is defined within the appeal decision Ref APP/Z/APP/Z3825/A/13/2205204. Within that appeal decision, little specific reference was made of the need for traffic calming measures on West End Lane other than that this measure had been offered as a transport contribution by the appellant. The detail of traffic calming was not considered during the appeal but was reserved by the inspector for later consideration through the addition of a condition to the permission.

6.4 Part 7 of the NPPF relates specifically to good design within development. In particular paragraph 66 of the NPPF states applicants will be expected to work closely with those

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directly affected to evolve designs to take account of the views of the community and that proposals that can demonstrate this should be considered more favourably.

- 6.5 The applicant undertook what was described as an "informal consultation process", issuing a questionnaire to 133 properties in the vicinity of the permitted development. This process yielded 69 responses (a response rate of 52%) of which 21 respondents (30%) supported the original traffic calming measures proposed, 47 respondents (68%) did not support those measures, and 1 respondent (approx 1%) expressing ambivalence.
- 6.6 The original proposals to install traffic calming measures on West End Lane (considered as part of application DISC/15/0433) were considered by the Council's Landscape Officer to have an adverse and urbanising effect on the character of the road. The applicant has therefore sought to consider alternatives to their provision and the principle of removing Condition 15, and thereby not requiring traffic calming measures along West End Lane, is acceptable, subject to a consideration of the visual and highway safety aspects.

### **Landscape and townscape impact**

- 6.7 One of the main concerns was the potential visual impact of the revised scheme should the removal of planning Condition 15 be approved. The Landscape Officer was consulted on the provided information. Initially the Landscape Officer requested some further details and clarification including details of additional planting to reinforce the existing hedgerow and that the extent of hedgerow to be removed could be reduced or that the hedgerow be trimmed rather than completely removed.
- 6.8 The applicant submitted revised landscaping proposals indicating the extent of additional hedge removal and proposed replacement planting behind the visibility splay. The Landscape Officer considered the revised details submitted and is satisfied that these would minimise any impacts upon the character of the area or appearance of the streetscene.
- 6.9 Therefore, whilst the current proposal requires the removal of a length of existing hedge in order to retain the required visibility splay, it is proposed that a native species hedge together with native species shrub planting be planted to replace this. The visual integrity and landscape character of the area would therefore be well maintained. As such the proposal is considered to be in accordance with Policies 32 and 33 of the HDPF.

### **Highway Safety**

- 6.10 The applicant has undertaken detailed consultation with statutory consultees and locals to identify a proposal which provides a safe and suitable access to the site for vehicles, pedestrians, cyclists whilst being appropriate in scale to the existing local road network.
- 6.11 Prior to the submission of this application, the applicant commissioned a traffic survey, which was undertaken by means of an automated traffic count along West End Lane for the period 17th-23rd June 2016 by the independent transport consultancy Odyssey Markides. This survey found that the average traffic speed on West End Lane over that period was 26.1mph (in both directions) with the 85th percentile vehicle speeds of 33.4mph in both directions. These speeds were lower than those recorded during the previous traffic survey undertaken in July 2014, which measured average vehicle speeds of 31.7mph (eastbound) and 30.7 mph (westbound) and 85th percentile vehicle speeds of 38.6mph eastbound and 38.5mph westbound.
- 6.12 These assessments and consultations demonstrated that construction of traffic calming mechanisms in West End Lane would not be the most appropriate solution in terms of

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highway safety and would not preserve local landscape character and, in addition, would be in conflict with a number of expressed views of local people. Alternative options to raised tables were suggested by respondents to the questionnaire including the implementation of either speed cushions or horizontal, rather than vertical, deflection traffic calming. These were considered as part of the Stage 1 Road Safety Audit (July 2016) however this assessment indicated that there is not sufficient carriageway width on this section of West End Lane to implement such traffic calming measures to the required standard.

- 6.13 Following discussions with the Local Highway Authority, the applicant therefore put forward revised plans for the site access taking account of the traffic survey findings and a revised access into the development was designed to provide visibility splays of 2.4m x 50m commensurate with the up-to-date measured 85% percentile vehicle speeds. The Stage 1 Road Safety Audit for the revised site access junction identified no material concerns with the proposed access arrangements.
- 6.14 The proposed revised access design has been reviewed by the Local Highway Authority, which consider this to be acceptable and therefore raise no objections. Policy 40 (Sustainable Transport) of the HDPF states that development will be supported if it (*inter alia*) "Provides safe and suitable access for all vehicles, pedestrians, cyclists, horses, riders, public transport and the delivery of goods". It is considered that the revised access represents a suitable solution to ensure that the most appropriate design to ensure highway safety can be implemented and as such the proposal is in accordance with HDPF Policy 40.

### **Summary**

- 6.15 The original approval was subject to a Unilateral Undertaking to secure the provision of required infrastructure in relation to this development. As an application to remove a condition made under Section 73 of the Town and Country Planning Act results in the grant of a new permission, should it be approved, there is a requirement to ensure that the obligations of the original legal undertaking remain applicable. In order to ensure this, the applicant and the Council have agreed a deed of variation to include reference to this current planning application in the original Unilateral Undertaking. This will ensure that all other provisions of the Unilateral Undertaken except those relating to Condition 15 of the original permission will remain in full force and effect, as required by Policy 39 of the HDPF.
- 6.16 Having regard to the assessment above the key factors to be taken into account in reaching a decision in respect of this application are:-
- The proposal has been developed following a programme of assessment and consultation with members of the public and statutory consultees and is considered appropriate given the measured vehicle speeds and would not result in any highway safety impacts.
  - The proposed means of access to the site replacing the original traffic calming proposals would limit the urbanising effect of the development on West End Lane.
- 6.17 In conclusion, it is considered that in comparison to the traffic calming works required by Condition 15, the proposed development with a revised access represents no decrease in highway safety and would reduce the level of impact to landscape character. Condition 18 which previously sought to achieve Code Level 3 for Sustainable Homes is now longer achievable due to changes in legislation and is therefore removed.

**7. RECOMMENDATIONS**

7.1 To approve the removal of condition 15 and grant planning permission subject to appropriate conditions and the completed Deed of Variation to the original legal agreement

7.2 A number of the conditions of planning approval DC/13/0787 have been complied with since its issue. Therefore, the exact wording of some of the conditions will need to be amended to reflect details which have already been submitted to and approved by Horsham District Council. It should also be noted that Condition No. 15 of planning approval DC/13/0787 is now removed.

1. Approved Plans Condition

*Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990.*

Commencement Condition:

2. The development hereby permitted shall be begun before 2<sup>nd</sup> June 2017.

*Reason: To be consistent with the original permission and to comply with Section 91 of the Town and Country Planning Act and to reflect the specific circumstances relating to this proposal.*

Design Related Condition:

3. All materials used for external walls and roofs of the approved buildings shall conform with the schedule of materials, finishes and colours approved on 1<sup>st</sup> June 2016 under application DISC/15/0433. The approved Schedule of Materials shall be fully implemented and the development shall thereafter be permanently retained in accordance with the approved details.

*Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality in accordance with Policy 33 of the Horsham District Planning Framework (2015).*

4. The screen walls and fences shall be fully implemented in accordance with the details approved on 2<sup>nd</sup> September 2016 under application DISC/15/0433. No dwellings/buildings shall be occupied until such screen walls and/or fences associated with them have been erected. Thereafter the screen walls and/or fences shall be provided only in accordance with the approved details and thereafter so retained.

*Reason: In the interests of amenity and in accordance with Policy 33 of the Horsham District Planning Framework (2015).*

5. The external streetlighting/floodlighting shall be fully implemented, and shall thereafter be permanently retained, only in accordance with the details approved on 2<sup>nd</sup> September 2016 under application DISC/15/0433.

*Reason: In the interests of amenity and in accordance with Policy 33 of the Horsham District Planning Framework (2015).*

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6. The finished floor levels of the development shall be fully implemented, and shall thereafter be permanently retained, in accordance with the details approved on 2<sup>nd</sup> September 2016 under application DISC/15/0433.

*Reason: To control the development in detail in the interests of amenity and in accordance with Policy 33 of the Horsham District Planning Framework (2015).*

7. The facilities for the storage of refuse/recycling bins shall be fully implemented, and shall thereafter be permanently retained, in accordance with the details approved on 24<sup>th</sup> February 2016 under application DISC/15/0433.

*Reason: To ensure the adequate provision of recycling facilities in accordance with Policy 33 of the Horsham District Planning Framework (2015).*

8. Notwithstanding the provisions of Article 3 of the Town and Country Planning (Permitted Development) (Amendment) (England) Order 2015 (or any order amending or revoking and re-enacting that Order with or without modification) no external alteration, extensions or other development shall be carried out to the Mews dwellings hereby permitted or placed within the curtilages of the Mews dwellings.

*Reason: To protect the amenities of adjoining residential properties and in accordance with Policy 33 of the Horsham District Planning Framework (2015).*

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order amending or revoking and re-enacting that Order with or without modification), no fences, gate or walls shall be erected within the curtilage of any dwelling house except in accordance with the details approved by the Council under this permission or subsequently following the grant of a separate planning permission in that regard.

*Reason: In order to safeguard the character and visual amenities of the locality and/or highway safety and in accordance with Policy 33 of the Horsham District Planning Framework (2015).*

Tree Related Conditions:

10. During the construction period the burning of any materials from site clearance or from any other source shall not take place within 10m of the furthest extent of the canopy of any tree, group of trees, or hedgerow, targeted for retention on the site or on land adjoining.

*Reason: To ensure the successful and satisfactory retention of important trees and hedgerows on and adjacent to the site in accordance with Policy 33 of the Horsham District Planning Framework (2015).*

11. The development shall be fully implemented in accordance with the Arboricultural Method Statement details approved on 8<sup>th</sup> April 2016 under application DISC/15/0433.

*Reason: To ensure the successful and satisfactory retention of important trees and hedgerows on and adjacent to the site in accordance with Policy 33 of the Horsham District Planning Framework (2015).*

Landscape Related Condition:

12. No development shall be commenced until full details of hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details shall be submitted concurrently as a complete scheme and shall include the



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replacement hedgerow planting adjacent to the site access along West End Lane (as set out in approved plan 5822/ ASPD002 Rev B), unless otherwise agreed with the Local Planning Authority, and shall comprise:

- A detailed plan and specification for topsoil stripping, storage and re-use on the site in accordance with recognised codes of best practice
- Planting and seeding plans and schedules specifying species, planting size, densities and plant numbers,
- Tree pit and staking/underground guying details
- A written specification (National Building Specification compliant) for hard landscape and soft landscape works (including ground preparation, cultivation and other operations associated with plant and grass establishment)
- Existing and proposed levels, contours and cross / long sections for all earthworks, including for Sustainable Urban Drainage System features
- Hard surfacing materials: layout, colour, size, texture, coursing and levels
- Walls, fencing and railings: location, type, heights and materials
- Minor artefacts and structures – location, size and colour and type of street furniture, play equipment, signage, refuse units.

The landscaping scheme shall be implemented in full accordance with the approved details. Planting shall be carried out according to a timetable to be agreed in writing with the Local Planning Authority. Any plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

*Reason: To ensure a satisfactory development and in the interests of amenity and nature conservation in accordance with Policy 33 of the Horsham District Planning Framework (2015).*

13. The underground trenching requirements for services, including the positions of soakaways, service ducts, foul, grey and storm water systems and all other underground service facilities, and required ground excavations shall be fully implemented, and shall thereafter be permanently retained, in accordance with the details approved on 21<sup>st</sup> July 2016 under application DISC/15/0433.

*Reason: To protect roots of important trees and hedgerows on the site in accordance with Policy 33 of the Horsham District Planning Framework (2015).*

14. The detailed long term Landscape Management and Maintenance Plan for all landscape areas shall be fully implemented in accordance with the details approved on 25<sup>th</sup> April 2016 under application DISC/15/0433. The areas of planting shall thereafter be retained and maintained in accordance with the approved Landscape Management and Maintenance Plan.

*Reason: To ensure a satisfactory development and in the interests of amenity and nature conservation in accordance with Policy 33 of the Horsham District Planning Framework (2015).*

Highways and Construction Related Conditions:

15. Condition removed (numbering retained for ease of reference)
16. Throughout the construction period, the development shall proceed only in accordance with the construction environmental management plan (CEMP) details approved on 23<sup>rd</sup> August 2016 under application DISC/15/0443.

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*Reason: To ensure a satisfactory development and in the interests of amenity, road safety and nature conservation in accordance with Policy 33 of the Horsham District Planning Framework (2015).*

17. Throughout the construction period, the wheel cleaning facility shall be installed in accordance with the details approved on 6<sup>th</sup> July 2016 under application DISC/15/0433. The facility shall be retained in working order and operated throughout the period of work to ensure that vehicles do not leave the site carrying earth and mud on their wheels in a quantity which causes a nuisance, hazard or visual intrusion when deposited on the road system in the locality.

*Reason: In the interests of road safety and in accordance with Policy 40 of the Horsham District Planning Framework (2015).*

18. Condition removed (numbering retained for ease of reference).

### Surface/Foul Water Drainage Condition:

19. The means of foul and surface water drainage disposal shall be fully implemented, and shall thereafter be permanently retained, in accordance with the details approved 2<sup>nd</sup> September 2016 under application DISC/15/0433.

*Reason: To ensure that the development is properly drained.*

### Archaeology Condition

20. The programme of archaeological works shall be fully implemented in accordance with the details approved on 20<sup>th</sup> July 2016 under applicant DISC/15/0433.

*Reason: The site is of archaeological significance and it is important that it is recorded by excavation before it is destroyed by development in accordance with Policy 34 of the Horsham District Planning Framework (2015)*

### Environmental Conditions:

21. Any visibly contaminated or odorous material encountered on the site during the development work must be investigated. The Local Planning Authority must be informed immediately of the nature and degree of contamination present.

*Reason: To ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).*

22. No deliveries to and from the site in connection with the construction of the development shall take place outside of the following times:  
Between 07:30 hours and 17:30 hours on Mondays to Fridays;  
Between 08.00 hours and 13:00 hours on Saturdays;  
and none shall take place on Sundays and Public Holidays.

*Reason: In the interests of amenity and in accordance with Policy 33 of the Horsham District Planning Framework (2015).*

23. Prior to the occupation of the dwellings hereby permitted details of a LEAP (play space), including the specification of play equipment, shall be submitted to and approved in writing by the Local Planning Authority. No more than 120 dwellings shall be occupied until the approved details have been implemented in full and opened for public use.

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*Reason: To secure an adequate standard of environment for the development and to comply with Policies 33 and 43 of the Horsham District Planning Framework (2015).*

Background Papers: DC/16/1877, DC/13/0787 & DISC/16/0443