Horsham District Council

Horsham District Local Plan Examination

Joint Statement on MM241 (SMD2)

HA16 Small Dole (SMD2)

October 2026

Document Reference:

HDC/SMD2

Joint Written Statement to the Inspector
MM241: Deliverability of Site and Access Rights Issues
SMD2 (Highdown Nursery / New Orchard, Small Dole)

Introduction

1. The Inspector has requested a written statement regarding concerns raised by Dawn Butcher on behalf of the Beeches Owners Association concerning the ability to access the Highdown Nursery / New Orchard site (subject of planning application DC/26/0638) from the private road known as The Beeches.

2. The Council understands that the issue raised relates to private legal rights over land and whether the owners of the development site benefit from a legal right of access across The Beeches to serve future residential development. The site is allocated in the Local Plan and introduced as Main Modification MM241 as HA16 (SMD2): Land at Highdown Nursery, Small Dole, 0.7 hectares (10 homes).

3. The Council has sought comments from both the site promoter/applicant and Mrs Butcher. This statement summarises the respective positions and explains the Council's view on the relevance of the matter to the Local Plan examination.

Position of the Beeches Owners Association

4. Mrs Butcher, on behalf of the Beeches Owners Association, considers that:

    a) The access road known as The Beeches was established to serve the five existing dwellings within the estate.
    b) Rights of access are said to benefit only those properties specifically identified within the historic transfer deeds.
    c) No rights are believed to exist allowing access from The Beeches to serve the Highdown Nursery / New Orchard land; and
    d) Until the legal question is determined, the delivery of the site cannot be ascertained and therefore including it in the local plan would be unsound.

5. The Beeches Owners Association therefore considers that the proposed access arrangements are not legally available to the development.

Position of the Site Promoter

6. The site promoter has advised that they have private access rights (the Beeches) to the proposed development site, and it is capable of being delivered and that matters relating to private access rights are separate from the planning merits of the site. The promoter's position is that any necessary private rights or legal agreements has been secured and the issue of access can be addressed through the normal development management processes.

7. The promoter also notes that the Council's Planning Committee resolved to grant Permission in Principle for application DC/26/0638 on 4 August 2026, with the decision subsequently issued. The indicative scheme submitted with that application proposed access via The Beeches.

Council Position

8. The Council considers that the issue raised by Mrs Butcher concerns private property rights and land ownership matters rather than the suitability of the site for allocation in planning policy terms.

9. It is well established that the grant of planning permission does not override private legal rights, restrictive covenants, easements or rights of way. Any developer must secure the necessary legal rights separately from the planning process before implementing development.

10. The Council considers the issue to be a private legal dispute. The Council's position remains SMD2 is deliverable for the purposes of the Local Plan examination.

Conclusion

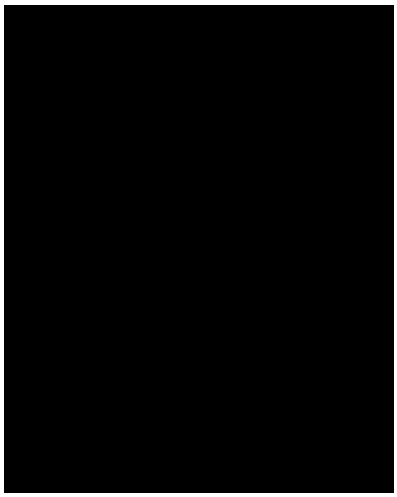
13. The parties disagree as to whether the development site currently benefits from the necessary private access rights over The Beeches.

14. The Beeches Owners Association maintains that no such rights exist and that use of the road to serve the development would amount to trespass and would be subject to legal action.

15. The site promoter considers the site capable of delivery and will provide evidence to confirm private access rights issues over the 'Beeches' as matters to be addressed outside the planning system.

16. The Council's position is that the matter concerns private land rights rather than the planning merits of the allocation. Such matters would need to be resolved by the relevant parties before development could be implemented, but do not, in themselves, demonstrate that SMD2 is unsound or incapable of allocation within the emerging Local Plan.

Signed:



Lyndon Chapman:
Beeches Owners Association

Martin Miles:
Pentagon Homes Southern/
Hayloft Developments Ltd

Catherine Howe:
Horsham District Council

20 October 2026