

DM/25/3067 Erection of 80 new residential dwellings (Use Class C3), including affordable housing units, vehicular, pedestrian and cycle access (including new footpath links to the east and west of the site along Reeds Lane), landscaping and open space, parking, sustainable drainage and other related works. (Site levels and drainage note received 16/1/25. Transport Note, Travel Plan Statement, Landscape and Visual Appraisal, GCN Technical Note and amended plans received 17/4/25). Land West Of Kings Business Centre Reeds Lane Sayers Common West Sussex

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Introduction

There are still major issues regarding this site which have either not been addressed or been too easily dismissed by MSDC and WSCC. These issues come with the risk of liabilities and costs to both councils which, if they happened, would require public money to resolve. I therefore request that the case officer examines these and alerts the appropriate council departments so that due diligence can be done and the risk to public funds removed.

1 - Clarification required as to what if any issues are reserved matters in this application.

i) This application is a full planning application with no mention in its title that any matters concerning it are being reserved. However, several of the council's consultees in their reports advise that they are not addressing matters relating to the application at this time because they expect them to be dealt with at the reserved matters stage.

ii) This includes WSCC PROW who in their 05/05/2026 response advise "*A timber bridge proposed at the north-western edge is also acceptable although exact specification should be approved via a reserved matters application*"

iii) Similarly WSCC Highways in their response of 04/03/2026 in respect of street lighting advise "*whether street lighting would be required would be assessed in future road safety audits/at detailed design stage*". As this a full planning application then this is the detailed design stage. The applicant has provided on 04/12/2025 two "Street Lighting Layouts" documents for consideration and are therefore not considering this to be a reserved matter.

iv) Clarification is therefore required from MSDC as to what if any matters are reserved in this application. If there are any matters that the council's consultees do not wish to address at this stage should they not then request that they are made the subject of a planning condition instead?

2 - Risk of liabilities for MSDC & WSCC due to the excessive number of property units proposed on the site

a) Too high a density of houses for edge of rural village location.

i) When the applicant first applied for the site to be an Allocated Site in the MSDC Draft District Plan 2021-2039 it was for 100 houses over the whole area of the site. It was pointed out to both council and applicant that due to the flooding in the western part of the site that this would not be possible. The applicant has now taken that advice and proposed a development with houses only built on two thirds of the land instead. However instead of reducing the house numbers by a corresponding third to between 60 and 70, they have only reduced the number by 20% to 80. This has resulted in a crowded, crammed, high density layout, which while suitable perhaps for a urban suburban housing estate, is not suitable for the edge of a rural village and gives risk to safety risks.

ii) The applicant, MSDC and their Urban Designer therefore support an unnecessarily high housing density, for this edge of rural village development, which does not meet with the NPPF section 12 planning requirement of “Achieving well-designed places.”

iii) NPPF 131 states that “The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

iv) The applicant has advised on page 27 of their Design and Access statement that “The site has an overall area of 4.45Ha, however a number of constraints restrict the amount of developable land. These constraints include the retention of existing trees and the requirement for drainage solutions including swales and an attenuation basin. This results in a net developable area of 2.12Ha. Based on a scheme of 80 dwellings this would results in a gross density of 37.7dph.”

v) However, the density of 37.7dph is generally considered to be too high for an edge of a rural village site, where densities are typically lower at around 20dph. The high density of 37.7dph is more acceptable for infill developments in the middle of a village, which this is not, and so is out of character in this location.

vi) Reside’s previous infill development to the east of the site, Woodlands ref DM/22/0640 (which they applied for under the name Reside Developments Ltd), has a much lower density. On page 16 of the Design and Access Statement for DM/22/0640 they advised that “taking the total gross site area of approximately 2.28 hectares, with the proposed scheme delivering 39 dwellings, a density of 17.1 Dwellings/hectare is determined.” If a lower density was considered quite acceptable for an infill development then a higher one should be considered unacceptable by MSDC for an edge of rural village development.



Left is applicant’s original 100 house site plan from the Draft MSDC DP showing houses to be built across the whole of the site. Right is the current 80 house site plan using only two thirds of the site.

b) Risk to MSDC being forced to accept a lower quality & mix of affordable housing than their housing policies require

i) The applicant has acknowledged the number of houses it has proposed on the site takes up too much space on the site so it cannot deliver the affordable housing mix which MSDC have requested. This is on Page 3 of their 17/04/2026 Covering Letter For Amendments. In the Other Matters section point 1 Housing Mix they confirm that they cannot provide the affordable housing mix which MSDC have requested. The MSDC Principal Housing Enabling Officer in their

consultation note of 02/03/2026 had noted that *“The pre-app comments also stated that all the 2B/4P units for rent should be houses. The provision of 6 x 2B/4P flats for rent (out of the amended total of 11 units) does not meet this criterion and will need to be amended”*. The applicant has advised in their covering letter that *“ We are of the view that it would be difficult to re-arrange the site layout at this stage to accommodate the Housing Officer’s request, and it would likely result in the delivery of less units overall as there is limited space to accommodate 6 additional 2-bed houses”*

ii) Three applications are also being processed by MSDC for other developers in Sayers Common (447 housing units of which 135 will be affordable) and at least a further 2000 units, 30% affordable, expected. Also, under the emerging MSDC District Plan 2021-2039 they are now looking at further 791 units and have an allowance for a headroom figure. Therefore a reduction in housing units (10 or so) to bring this site in line with the one third reduction in land would have a minimal impact on meeting the housing demand in Sayers Common. This includes affordable housing as the greatest demand for that is in the urban settlements, Haywards Heath, East Grinstead and Burgess Hill and not in rural Sayers Common.

iii) The applicant was well aware of their affordable housing requirement obligations before submitting the application but have continually ignored it. That, and their insistence of not reducing the number of housing units to match directly the reduction of the amount of building land available, shows a focus on maximising profit over quality. By capitulating to their demands and pressure MSDC would be putting developer profits above its own and national policies of high quality design and this risks the removal of public trust and confidence in them and gives suspicion of their motives.

This therefore results in a development which is a poorly designed site where developer profit and house numbers have been given priority over design quality and public safety.

c) Risk to MSDC and WSCC of liabilities and costs associated with the Pedestrian/Cycle link with the Woodlands Estate and shared surface roadways.

i) The design of the pedestrian/cycle link with the Woodlands Estate is an avoidable public health and safety risk. It means that both MSDC and WSCC are open to the liability of legal action and costs in the event of a conflict between pedestrians/cyclists and the vehicles using it.

ii) The applicant’s original design layout (shown on pages 19 & 20 of their Design & Access Statement), submitted to the pre-application meeting with MSDC held in September 2025, showed this pedestrian/cycle link as a separate pathway with no vehicle access. Therefore there would be a 0% risk of the possibility of conflict between cyclists/pedestrians and vehicles on it. Thus it met NPPF policies 117a *“give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas”* and 117c *create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles”*



Left - Detail from the Original site layout from page 19 of the Design and Access Statement showing a separated pedestrian cycle path linking this site and the Woodlands Development next door. Right - detail from the current Site Layout showing that the link is now not separate but goes through a residents car park and so there is now conflict between pedestrians/cyclists and vehicles

iii) The latest site layouts have removed this 0% risk option and instead route the link through a residents car park with access through a gap in a high edge bringing cyclists and pedestrians into unnecessary conflict with vehicles, thus bringing risk into the design. Cyclists riding through the gap or children running through it are at risk of contact with vehicles manoeuvring into or around the car park without either party having time to see each other, stop or take evasive action.

iv) This change in the design is because MSDC requested changes to parking and gardens to meet planning policy requirements. However there is not enough land on the site to accommodate what those planning policies require for the excessive number of 80 units so something else had to be sacrificed to allow space for them. That sacrifice was public safety with the Woodlands link to now have the risk of conflict between pedestrians/cyclists and vehicles causing injury or death, when previously there would have been 0% risk of that.

v) There is a similar situation with regards to the shared roadways through the site which have the risk of conflict between pedestrians/cyclists and vehicles. This is due to lack of land to build pavements on due to the excessive ratio of 80 units to available developable land demanded by the applicant. A risk to public safety, excessive house numbers and higher profits is deemed to be preferable to a smaller realistic number of houses, higher quality design and 0% risk to public safety.

vi) Both MSDC & WSCC have been made aware of these issues on several occasions but have chosen not to address them. They have not modelled or tested the link and have taken the position that as only a few cars would be involved then the risk would be low and therefore acceptable, and are therefore comfortable with the possibility of injury to or death of people. However were such a thing to occur then MSDC and WSCC would be open to litigation and legal action as they would both have given permission for, and allowed an unnecessary risk to occur, when they were aware that there was an alternative 0% risk option available, and had done so because they put house numbers above public safety.

vii) This situation is avoidable if all parties stop trying to force so many housing units onto the site but instead reduced the number in line with the 33% reduction of buildable land. People's lives and safety are more important than housing numbers or developer profits and both MSDC and WSCC need to take action to reduce the number of units on the site so that the 0% risk option can be reinstated removing their liabilities and the risk to public safety and money .

3 - Risk to MSDC and WSCC of incurring costs and liabilities due to increased flood risk.

i) There is a lack of due diligence by WSCC LLFA with regards to the potential increase in flood risk. Information provided by the applicant contains omissions and inaccuracies which, when identified and raised by others, have not been properly looked into by WSCC LLFA. Their consultation responses have shown a lack of firsthand knowledge of the site and an over reliance on desktop assessment based on applicant supplied information only.

ii) My previous submissions of 05/01/2026, 03/02/2026 and 13/02/2026 all included evidence of flooding on this site over the past 4 years. I requested that my evidence be passed onto WSCC LLFA to make them aware of it. However there has been no comment from them that they have looked into or taken it into account. WSCC LLFA make no mention of any site visit, or that they have consulted with WSCC Highways or WSCC PROW who hold records of flooding caused to the highway and footpath at this point. The application responses provided by WSCC LLFA are desktop only conducted and based on the applicant's information only. This results in the conclusions being at high risk of being unsafe and leading to increased flooding inside and outside of the site.

iii) The flooding information provided by the applicant gives an inaccurate impression of the volume of flooding caused by the watercourse alongside the western boundary of the site, which the applicant intends to drain their site into.

iv) The applicant aims to show that the watercourse has very little water running in it and adequate capacity for them to drain their site into. The only visit to the watercourse which they mention is one in October 2025 of which they give only a few details of in their Applicant Response to LLFA comments document of 16/01/2026 on page 2. This was a dry month and correspondingly their photographs below show a low level of water in the watercourse.



Photograph 1: Existing watercourse



Photograph 2: Side view of existing watercourse

Applicants photographs taken in October 2025 of the western watercourse.

v) However in the wet months of November, December or January their photographs would have looked much different with the watercourse flooded and overflowing.



Photographs taken 27/01/2026 showing that the watercourse had reached its full capacity along the whole of its route along the site's western boundary

vi) Both their documents and WSCC LLFA consultations take the position that all site floodwater is due to the rainfall that falls on site and it is this water which in turn floods the watercourse. This is incorrect as the site is also flooded with water from the watercourse when it independantly floods and overflows into the site.



Photographs taken 27/01/2026 showing the watercourse overflowing eastwards, through the hedge, and into the site flooding it.

vii) The watercourse is spring fed from water at Coombe Hill and further water drains into it from land south of Reeds Lane including sites DPSC3, DPSC4 and DPSC5 in the Draft MSDC District Plan. Neither the applicant nor WSCC LLFA have properly investigated or assessed the amount of water that flows through the watercourse. Because of this they can not make any accurate assessment of or how much capacity it has to take the requested surface water discharge from the site at all times of the year and in all condntions including heavy rain.

viii) The applicant on page 8 of their Applicant Response to LLFA Comments of 16/01/2026 with regards to the watercourse advises that *"The model hydrology accurately represents flows in the models given there was no flow / level data available for the catchment to calibrate flows in the model. Watercourses are modelled to be dry at the beginning of the simulation, with inflows solely from rainfall"* They admit that they have no actual data to go to work on, and rely on the watercourse to be dry at the beginning of the simulation when it never is because of being spring fed. Their modelling should have started with a permanent water level in the watercourse and included the spring fed water to be accurate.

ix) WSCC LLFA have not questioned this or looked into this issue when it was raised by others which shows too much reliance on unverified information provided by the applicant and their poor first hand knowledge of the site.

x) With the site geology being heavy clay with no infiltration possible, and the high groundwater table identified by the applicant, rainwater sits on the top of the site's ground surface and so it is waterlogged and saturated for four or five months of the year. The proposed attutention ponds can not be very deep as they need to keep them clear of the site's

groundwater level. The proposed diverting of all of the site's surface water to the western part of the site will increase flooding there and this interferes with its role as a flood plain for the natural flooding from the watercourse into the site.

xi) This change to the site's floodplain has several consequences and liabilities and increased costs for both WSCC and MSDC due to lack of action and poor decisions.

xii) It would move floodwater from the site onto the third party land on its western boundary. That field is already affected by flooding from the watercourse but this is eased by this site acting as a floodplain and taking some of the floodwater. By removing the site's role for this purpose it would then increase the flooding on the third party land leaving both WSCC and MSDC open to the liabilities of legal action for costs being taken against them by the third party landowner.



Photographs taken 27/01/2026 showing the watercourse had also breached its western bank so that it was also flooding the field on the other side of the fence of the site's western boundary.

xiii) The site's proposed Play Area, Plaza, Amenity Lawn, Underground Pumping Station, Attenuation Basin, PROW and new footpaths are all to be placed in the western part of the site where the increased flooding will occur. The land that they sit on would be either flooded or saturated and waterlogged for at least 5 months of the year and the residents of the new site would be unable to safely use these facilities. It also raises issues of pollution and public health with regards to the pumping station and foul water drainage system. This would leave both MSDC and WSCC open to the risk of public complaints and the liability of legal action and costs for approving plans which allowed this to happen.

xiv) The applicant is to surface the PROW 1AL and footpaths through this area with tarmac which WSCC PROW have advised they are happy with. However this would result in raised barriers across the site which would affect the surface and flood water flows. There is also no mention that the replacement footbridge over the watercourse would have to be significantly raised and have a higher clearance so that the walkway was clear of the flooding. WSCC PROW have not liaised with WSCC LLFA to see what affect these new barriers would have on drainage and flooding. An example of council departments not working together and sharing information and expertise resulting in liabilities and costs.



Part of the applicant's site layout showing the amenities which residents would have limited use due to flooding and the proposed tarmac footpaths



Photographs taken 27/01/2026 from the western boundary of the site looking west towards the next field. These are of the footbridge which takes footpath 1AL over the watercourse. That bridge was completely submerged and too dangerous to cross and use. The ground floodwater level by the stile at this point was nearly 40cm.



Photographs of what the footbridge looks like when not submerged. From left to right the photographs were taken on 28/1/2024, 05/01/2025 and 19/12/2025.



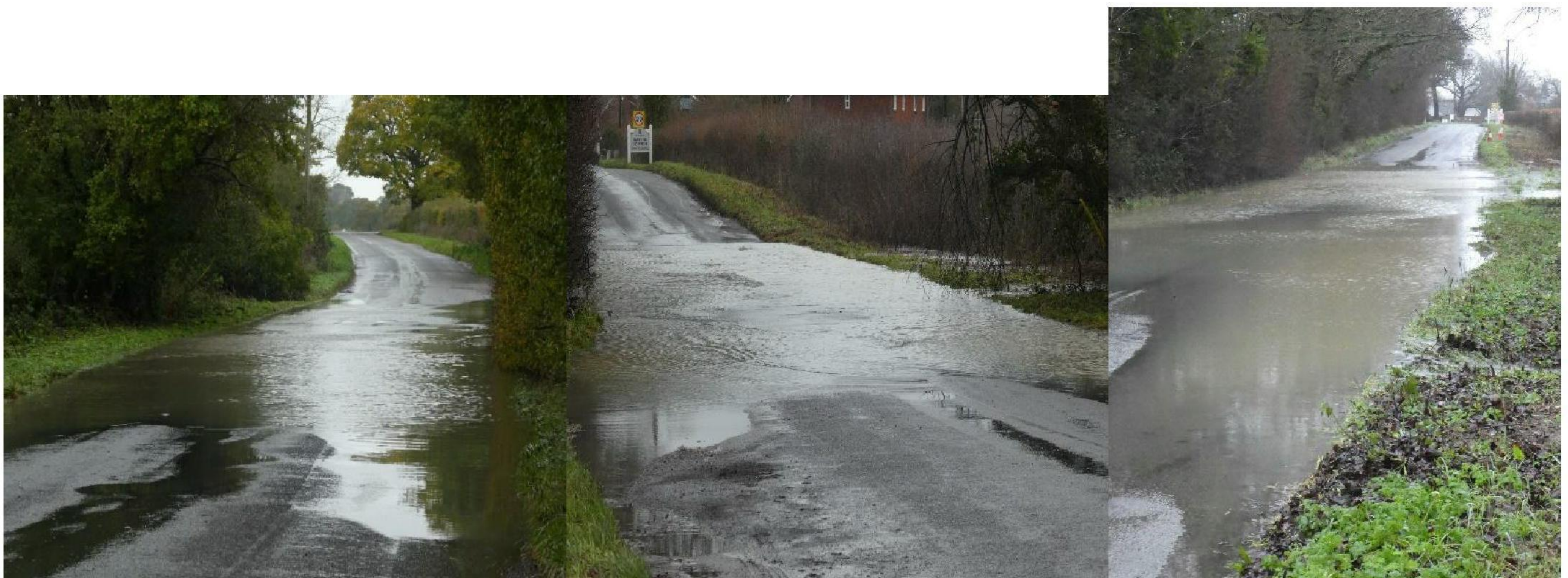
Photographs of the flooding from the watercourse spreading eastwards across the actual site. They show the existing east to west footpath 1AL and where the proposed Play Area, Plaza, Amenity Lawn, Underground Pumping Station, Attenuation Basin and new footpaths will be.

xv) Costs to WSCC for the maintenance of the PROW system and dealing with flood issues and insurance matters would therefore increase due to these liabilities. This would mean an increase in the spending of public money. Reducing the number of housing units on the site would free up more land to deal with this identified higher risk of flooding and would be a positive solution. By not taking these issues seriously enough both MSDC and WSCC would be acting irresponsibly as public bodies and incurring unnecessary liabilities and costs.

4 - Risk to MSDC and WSCC of incurring costs and liabilities due to increased flood risk to Reeds Lane Highway

i) The Reeds Lane highway regularly floods at the south west corner of the site. There are numerous records of this flooding recorded in WSCC Highways own Site History Report for Reeds Lane. However, neither WSCC Highways, WSCC LLFA, MSDC or the applicant make any reference to this flooding or examine the impact of the site on it. That is a complete lack of due diligence which opens up both WSCC and MSDC to incurring costs and liabilities as a result.

ii) This flooding covers the whole of the roadway and its verges, all land which is owned by WSCC Highways. It is caused by WSCC's under road culvert not being large enough to carry all of the water from the watercourse in periods of heavy rain. The water therefore overflows and floods the roadway and verges.



Flooding across Reeds Lane by the south west corner of the site. Left 16/11/2022, centre 01/01/2023 & right 05/01/2025

iii) It is passable with care for vehicles with high wheel clearance but low wheel clearance vehicles and those who do not take care can get stuck in it. The floodwater also extends to the road verges and the entrance to footpath PROW 3A1 which becomes impassable to pedestrians.



Photographs taken 05/01/2025. Left Reeds Lane flooded at the point that the new footpath from the site will exit onto it. Right, the flooded entrance to the southern side PROW 3A1 with flood water pouring down through it onto Reeds Lane as the verge ditches can not contain it

iv) The overflow flooding from the road also goes into this site because it sits lower than the roadway. As this flooding comes from Highways land and 3rd party land, it is outside of the site owners control to reduce it. Their own flood and drainage plans therefore have to accommodate it.



Photos 02/11/2023 showing surface floodwater flowing off Reeds Lane into the south west section of this site.

v) The instances of the highway flooding of Reeds Lane blocking the roadway are reported each time to West Sussex Highways, and all these reports are listed in the WSCC Highways Site History Report for Reeds Lane.

vi) To deal with this situation the West Sussex Highways Maintenance team regularly dig out the verge ditches. They have also dug channels from the roadway, through the road's northern verge, to reach the watercourse running there, in order to try and bypass the culvert and ease the volume of water going through it. This, though, has only had limited success as the WSCC Maintenance team have admitted in their email below

From: West Sussex Highways <West_Sussex_Highways@OnDemand.Confirm.Co.uk>

Sent: 28 November 2024 16:11

Subject: | Update | Notes From Officer - Enquiry 3285894

Dear Customer

Your enquiry has been updated by our Highways Team.

Enquiry Number: 3285894 (WSCC-666118419)

Street: REEDS LANE, ALBOURNE (E: 526193.49 , N: 117996.07)

Subject: Drainage

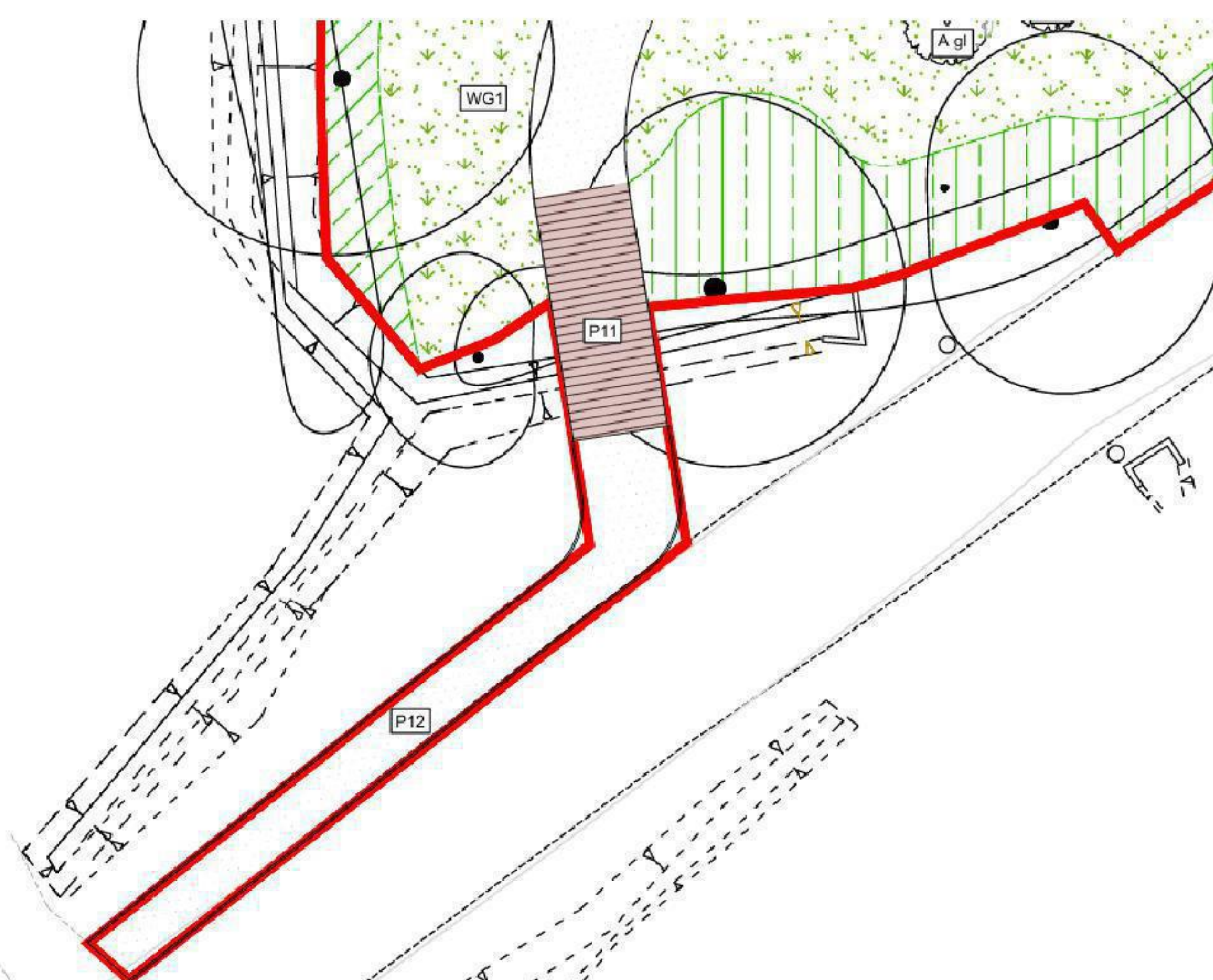
Highways Team Update:

Thank you for your enquiry, The ongoing surface water problem looks to be caused by insufficient capacity in the surface water sewer/District Council watercourse/Rife/River that the council's surface water discharges into. Most surface water outlets into surrounding water courses, and where these exceed capacity during and after these events, there is nowhere for the water to go, the symptom of which is evident as highway flooding. No amount of gully emptying or jetting will resolve these issues, and it is likely to be a case of waiting for the water levels to recede. I will raise a job to put out signs to warn people of flooding and also ice boards due to the cold weather we are about to get. If the area becomes completely flooded and unusable please contact us on the emergency number so we can have a team attend.

Kind regards

WSCC

vii) The flooding issues and risk to the site previously mentioned in point 3 also have the risk of water backing up in the watercourse and causing further flooding to Reeds Lane. There is also an additional risk of increased flooding to it caused by the applicant's plan to build a new pedestrian/cycle link to Reeds Lane at the south west corner of the site.



An extract from the applicant's General Arrangement's Plan Sheet 1 showing the new proposed pedestrian/cycle link the SW site corner.

viii) The applicant's plan shows a tarmac pavement is to be built over the northern verge between the roadway and the watercourse. This is the same verge that WSCC maintenance team have dug their channels through to divert flood water to the watercourse. It also shows the point where cyclists would ride across the bridge and straight onto the road as being directly where the flooding occurs. Pedestians coming from the site and using the link to access PROW 3A1 would also be stepping into floodwater on both sides of the road.



Photographs taken at the SW corner of the site looking out on to Reeds Lane. They show the flooded watercourse emerging from the northern entrance of the water culvert which carries it south to north under Reeds Lane. They also show the ditches WSCC Highways have dug through the verge on the south side of the road to drain the water straight into the southern watercourse from the roadway to bypass the culvert.

ix) This pavement would therefore create a barrier to the flood water flowing off the road causing the road flooding to be deeper. It would also push the flooding further east down Reeds Lane to where it overflows directly into the applicant's site.

x) A ramp would be needed for the new bridge to leave the site as that sits lower than the road. It is unclear if there is then enough space for its 3.5m width and the 2m wide pavement to be accommodated on the roadside without compromising the integrity of the WSCC policy requirement of a 3m buffer for watercourses and 5m buffer for culverts. There is also the question as to whether WSCC need to build a larger culvert under the road to meet their own liabilities to reduce flooding.

xi) WSCC are therefore at high risk of incurring increasing liabilities and costs. The verges and the roadway are all owned by WSCC. They are also the riparian owners of the culvert and watercourses that run under along side the road. They will become the owners of the new pavement and footbridge which will be on their land. The flooding causes damage to the road surface including potholes and damage to the edges of the roadway. The repairs and maintenance for all of these have to be paid for by WSCC using public money. If there is damage to cars or injuries to people because WSCC did not address an issue of public safety then they would be at risk of incurring liabilities and legal action costs as a result of this.

xii) It is therefore astonishing that WSCC Highways and WSCC LLFA have failed to examine this issue of risk of increased flooding of Reeds Lane. They have not consulted each other about it and WSCC Highways has not liaised with their own maintenance team or examined their own records. MSDC have not questioned this absence of examination of the issue. This is irresponsible on the part of both local government authorities and shows a lack of due diligence on their part. The result is a risk of both councils incurring increased costs which would have to be met by using public money for which they would be held accountable. Both WSCC and MSDC must therefore address this issue of the flooding and public safety of Reeds Lane before making any decision on this planning application.

5 - Risk to MSDC of regularity issues from the artificially low base biodiversity value of the site being used by the applicant for their 10% Net Gain Calculations

i) As I mentioned in my previous submissions of 05/01/2025 and 13/02/2026, Places Services in Essex desktop ecological consultation response is falsely dismissive of the degradation of the site which took place prior to this application. MSDC Planning were aware that this had taken place in 2024 as is shown in the email of 7th August 2024, from Ann Biggs Assistant Director for Planning and Sustainable Economy which I included in that submission. In it she advised: *"In relation to the biodiversity of the field, I can confirm that degradation of the onsite habitat can be taken into consideration under the statutory framework. In brief, this means that the biodiversity pre-development value of the onsite habitat should be calculated as the biodiversity value on the date immediately before the degradation. This of course would only be relevant should an application be submitted for development on the field."*

ii) The applicant has never provided details of the dates the degradation took place, what it actually consisted of, or details of the ecology of the site before it took place. Without this it is not possible to have an accurate biodiversity base figure.

MSDC have never asked the applicant to provide this evidence or details. Place Services have not visited the site and their assessment is desktop only and based solely on documents and evidence provided by the applicant.

iii) All the applicant's ecological surveys took place after the degradation had taken place. The applicant's own photographs also confirm this was the case. Those doing the surveys were unfamiliar with the land and had not seen the biodiversity of the land prior to degradation.

iv) The applicant has not detailed the degradation caused by the cutting down to surface level all of the grass in the field prior to the surveys taking place. This stopped flora from flowering and producing seeds and so reduced the number and extent of species. This affected all of the applicant's surveys including bat, reptile and mammal ones. The cutting of the grass removed cover causing both reptiles and mammals to be at a higher risk of depredation and to move away from the site. It reduced the number of invertebrates and seeds which act as a food supply for mammals and affected the number of bats by reducing their food. The numbers of species recorded in the applicant's surveys were therefore artificially low.



Left, these oak trees in the field were cut down at the beginning of July 2024



Photos taken 16/07/2024 showing the trees having been removed in the southern and eastern parts of the site



Some examples of the many different flora and fauna normally found on the site at different times of the year

v) There is no mention by the applicant or Place Services of what impact the several hundreds of tonnes of spoil heaps, placed in the north eastern part of the site, or the site compound had on the site's biodiversity. Place Services does not address the reduction of flora of the site and the ecological impact on it caused by the degradation. The ecologically rich bluebell wood along the northern boundary of the site, and which also spreads into it, is given no mention at all by Place Services or the applicant so their ecological impact on it by the site on it has not been shown.



Photographs of the spoil heaps started in June 2024 and the compound built soon afterwards

vi) None of these factors were considered by the applicant's surveys or Place Services. The applicant's BNG1 Plan of November 2025 is therefore shown to be too inaccurate to be used as a base for what the pre degradation ecological state of the site was. The applicant's ecological statements do not address what was there before and the degradation's effects so their surveys lack robustness as a result of this, as does the Place Services consultation response based on them.

vii) Due to all of the above, Ann Biggs's statement that *"In brief, this means that the biodiversity pre-development value of the onsite habitat should be calculated as the biodiversity value on the date immediately before the degradation"* has not been complied with by MSDC. The Place Services consultation response is therefore unsafe and the BNG calculation cannot be considered accurate. Place Service lack of a firsthand knowledge of the site has helped this to happen.

viii) MSDC is at risk of incurring liability for this. They need to show due diligence has been done by requesting accurate evidence of the degradation and its dating from the applicant, including its effect on the site. They should look into this matter in far more detail so that the Biodiversity Net Gain figure can actually be confirmed as an accurate and robust one.

6- Risk to MSDC of regularity issues re potential breaches of the Wildlife and Countryside Act (1981)

i) The degradation of the biodiversity of the site has continued especially with regards to the bluebells on the site. On the north of the site is an old traditional Sussex Bluebell wood which spread out into the northern edge of this site. There is hardly any mention of the bluebells by either the applicant or Place Services Essex nor of their protection under the Wildlife and Countryside Act (1981)

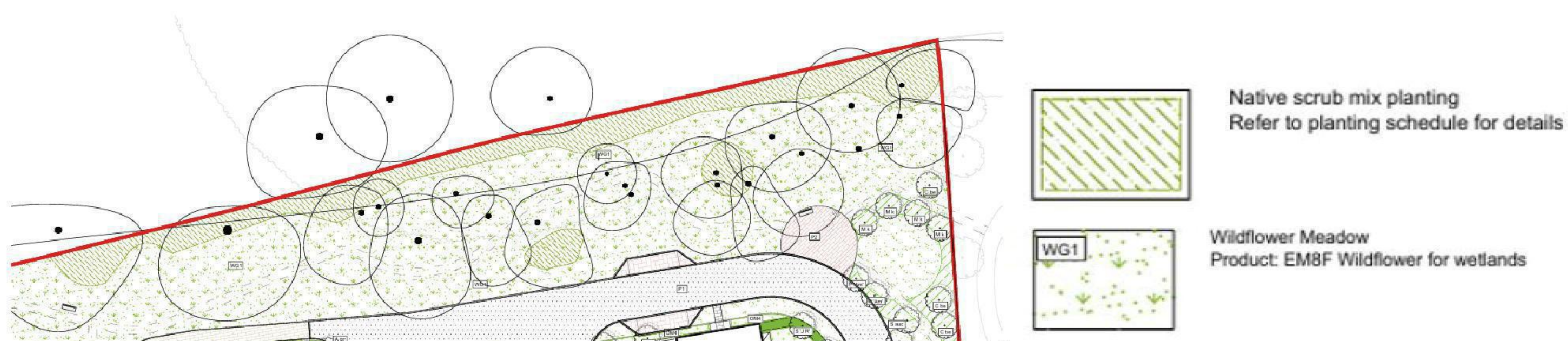


Photographs taken 12/04/2026 of the bluebells spreading out from the northern woodland into this site.

ii) The bluebell is protected under the Wildlife and Countryside Act (1981). Digging up the plant or bulb is prohibited. The species is also listed on Schedule 8 of the Act. It's against the law to intentionally pick, uproot or destroy bluebells.

iii) Bluebell colonies take a long time to establish at around five to seven years from seed to flower. They take years to recover after footfall damage. If a bluebell's leaves are crushed, they die back from lack of food because they can no longer photosynthesise. They are also at risk from invasion and cross colonisation with the Spanish species of bluebells which is a more vigorous plant and could outcompete the UK's native flower.

iv) The applicant gives no mention of how they will manage the bluebells on their site or protect them from the above risks. Their General Arrangement Plan Sheet two advises that the area where there the bluebells are currently growing in is to have a Native Scrub Mix Planting. It refers to the planting schedule for details but there is no mention in that schedule of such planting so it is not known what exactly they are planning to plant in this area. They advise that the planting next to that is to be a wildflower meadow using wildflowers for wetland seeds which they are using all over the site. Although most of the rest of the site is prone to flooding and waterlogged ground, the area by the woodland is mainly dry so that planting is not suitable. These issues bring into question the applicant ability to manage the protected bluebells on their site.



Extracts from the applicants General Management Plan Sheet Two showing their proposed planting for the area of bluebells at the northern edge of the site.

v) The applicant is proposing to have some paths in this area but gives no details of these. With the sudden introduction of houses in the field there will be more people accessing this area so there is a real risk of the bluebells being trampled or picked. The introduction of domestic gardens into the field also raises the risk of Spanish Bluebells being planted in gardens. No details are given of how the bluebells will be protected during the construction phase. There is therefore a high risk of offences being committed under the Wildlife and Countryside Act (1981).

vi) The applicant's lack of interest in protecting the bluebells and complying with the Wildlife and Countryside Act (1981) has become clearer with the damage they have now done to the bluebells in the last month. This occurred when they replaced their northern fence which runs between the site and the woodland. When doing so they took no care to minimise unnecessary damage to the plants but stripped their leaves, trampled them and dug up the ground where they grow.



Photographs taken 17/05/2026 of the site showing the location of the bluebells and the damage done to them by stripping their leaves, trampling them and digging up the ground.

vii) No care was taken to keep any damage to the positions of the actual fence posts but the whole area was just randomly cleared without thought causing unnecessary harm to the bluebell plants. Such intentional damage is considered an offence under the Wildlife and Countryside Act (1981)

viii) MSDC are fully aware that the applicant undertakes degradation of the flora and fauna on their site but their passive approach of disinterest in it would appear to have given the applicant the impression that they can continue to do so without any consequences to them or comeback from the council. This then leaves MSDC open to also become liable for any resulting regulatory action and costs under the Wildlife and Countryside Act (1981)

vii) MSDC therefore need to look into and address this issue with regards to the bluebells and take action to stop further acts of vandalism and to address their own liabilities.

7 - The Question of the legal status of the ownership of the driveways of the houses

i) The applicant, at the request of the MSDC Urban Planner, has provided a Landscape Management Zone plan to clearly identifying public and private ownership of land across the site. Areas of public ownership are coloured in green. This calls into question who actually owns the driveways of the houses.

ii) The land marked as in public ownership appears to include the driveways for all of the houses and their parking spaces, even when they are besides or between two houses. This raises questions. Who will legally own the driveways and have the liability for maintaining them? Will the householders have to lease their driveways to legally have sole use of them and pay a fee for doing so to the public ownership? Who would therefore be responsible for their upkeep?



Landscape Management Zone Plan showing household driveways as being in public ownership

iii) This matter gives raises the risk of MSDC becoming involved in liabilities and legal action over the issue of land ownership on the site. The question of what land homeowners will actually own and what they will need to lease needs to be clarified by MSDC before any planning permission is granted to avoid this misleading future homeowners.

8 – The Risk of possible legal action for defamation against MSDC by Elivia Homes Ltd.

i) A statement made by the applicant (Reside Holdings Ltd) in their design and access statement, which they purport to come from the MSDC Design Review Panel, is at risk of leading to legal action against MSDC by Elivia Homes Ltd for defamation.

ii) MSDC have not loaded onto the planning portal any document confirming the pre application advice which their Design Panel gave to the applicant. This includes what the applicant's application form refers to as a pre application "Response received from Stuart Malcolm on 13/10/25 setting out the Council views with regard to the principle of the development

and other technical matters including design and affordable housing provision”. However the applicant has provided details of the pre planning advice they received on pages 18-23 of their Design and Access Statement, together with copies of the site plan they submitted at that time.

iii) On Page 21 of Design and Access Statement, Section 3.01 Layout Development, the applicant advises that “ *The scheme was taken to MSDC Design Review Panel in October 2025, and a few comments were received at that point.*”

iv) The applicant then advises that “*The key points raised at the Design Review Panel are summarised below.*” The 3rd point in this list is: “*Adjacent Elivia scheme not of high quality and not to be replicated. Contemporary response may be better and work better with sustainable construction methods*”

v) This statement gives rise to several concerns and issues. Firstly the reference to the “Elivia Scheme” is misleading. The housing estate, Woodlands, which it refers to was actually conceived and designed by Reside Developments Ltd, another company in the same group of companies as Reside Holdings Ltd who are the applicants of this planning application. It is Reside Developments Ltd who drew up and submitted the designs to MSDC under planning application DM/22/0640 and obtained permission for it. Elivia Homes Ltd are the company who were subsequent contracted to build the estate to the designs approved in that planning permission and then sell the houses.

vi) Therefore it is Reside Developments Ltd who are responsible for the plan, layout and design of the Woodlands estate and any claims of lack of quality of the design and layout should state their name, as they devised and produced the scheme, and not Elivia Homes Ltd. This should have been made clear in their statement.

vii) The second point is the question why would MSDC now state that the Woodlands scheme is not of high quality when it was MSDC who granted it planning permission? In their committee and delegated reports for DM/22/0640 they give no mention of it not being of high quality and MSDC offered no objection to it at that time. If it were of such a poor quality that it should not be replicated then would MSDC not have refused it at that point? MSDC has not provided any new evidence that supports such a change in their opinion.

viii) The statement itself disparages the quality of the Woodlands estate without giving any evidence to support it and only names Elivia giving the impression that it is responsible for the lack of high quality. It also does not give Elivia Homes Ltd the opportunity to respond to this impression so the statement is at great risk as being seen as defamation. As Elivia Homes Ltd are in the process of selling their homes, any such comments about the quality of their estate could affect them financially. Similarly anyone who has already bought homes could take action for being misled about the quality of the development.

ix) As the statement concerning quality was given as made by MSDC this would result in them also having the risk of liability for defamation. MSDC therefore need to clarify if Reside Holdings Ltd have misquoted them and that they did not make such a comment. If such a comment had been made but has been misrepresented then they need to fully clarify what has happen. If they do not then there is the risk that action could be taken against them and costs incurred which would have to be met with public money. Due diligence is required in this matter by them.

9 - Conclusion

i) The applicant’s application therefore creates issues of public safety and liabilities for both MSDC and WSCC. Its layout and design is for more housing units than the amount of building land can support without compromising the quality of the design to the point that it raises issues of public safety. It therefore does not meet the standards required by the NPPF, MSDC District Plan or MSDC Design Guide. It leaves both MSDC and WSCC open to breaches of legislation, including the Wildlife and Countryside Act (1981). It unnecessarily increases MSDC & WSCC costs in dealing with the consequences of the poor design, including legal action, costs which will have to come out of public funds.

ii) MSDC need to undertake a full investigation of all the issues I have raised above otherwise they cannot state that they have undertaken due diligence in this matter or acted responsibly as a public authority. I therefore request that the case officer ensures that they fully take on board the issues raised and makes sure that they are dealt with to ensure due diligence is done.

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17/05/2026