

WEST SUSSEX COUNTY COUNCIL CONSULTATION

TO:	Horsham District Council FAO:
FROM:	WSCC Highways - Public Rights of Way
DATE:	11 November 2024
LOCATION:	Land To The South of Furners Lane Henfield West Sussex
SUBJECT:	DC/24/1538 Erection of 29 dwellings with associated landscaping, open space, parking and creation of new vehicular access
DATE OF SITE VISIT:	n/a
RELEVANT PUBLIC RIGHTS OF WAY NUMBER(S):	Public Footpaths 2540, 2548 & 2548_1
RECOMMENDATION:	No Objection
S106 CONTRIBUTION TOTAL:	Yes: see below

Thank you for the opportunity to comment on the above numbered planning application. This proposal has been considered by means of a desktop study, using the information and plans submitted with this application, in conjunction with other available WSCC map information. In respect to the above planning application I would provide the following comments.

It is understood that the application will directly impact upon Public Rights of Way in the vicinity of the development. The Public Right of Way team offer no objection to the proposal but requests that the Local Planning Authority considers the following points and requests that improvements are made under a section 106 agreement between the developer and the Highway Authority.

I note that vehicular access to the site is proposed to be from Furners Lane, which carries Footpath 2540. It is anticipated that vehicle movements will conflict with pedestrian access along the PROW. The developer should therefore have a Traffic Management Plan in operation for the construction of the development, details of which must be agreed with the LPA.

FP 2548_1: The application states that this will form the pedestrian link to the village centre. It is outside the red line application boundary but within the blue line (land owned by the applicant). This is an unbound surface and should be upgraded to a Countryside Services limestone path. A specification must be agreed with the PROW Team prior to construction taking place. Works should be delivered by the developer through a s278 agreement with the Highway Authority.

FP 2548: This footpath is part within and part beyond the red line boundary. It provides a link south from the development to the village allotments, bowling club and Henfield Common. It is an unbound surface that will become muddy with increased footfall, particularly in wet conditions. This public right of way should be resurfaced by the developer to a Countryside Services limestone path. A specification must be agreed with the PROW Team prior to construction taking place. Works should be delivered by the developer through a s278 agreement with the Highway Authority.

It is understood that the Applicant intends to stop-up the northern part of Footpath 2548 to motor vehicles, where it currently carries a track providing vehicular access to neighbouring properties. The specification for a new surface and width must be agreed with the PROW Team prior to construction taking place. In view of the comments (below) on the lack of cycle access to the development, this should be constructed to the PROW Team's bridleway standard as it will provide the only potential cycle access point into and out of the development. Cycle access should be provided along this route on a permissive basis by the developer and liability for maintenance of this, above and beyond that required for the public's pedestrian right should be the responsibility of the developer / land owner.

Should the Local Planning Authority (LPA) be minded to approve the application, in order to minimise disruption to the PROW network, the PROW Team requests that the LPA consider making it a requirement for the PROW improvements to be delivered by the Developer, through a s.278 agreement with the Highway Authority, at the beginning of the construction phase and that, following their improvement, the PROW are to be kept open for the remainder of the duration of the construction.

It is noted that the Design and Access Statement para 7.02 Concept / Site Strategy, *02 Provide new and improved connections*, is flawed in several respects. This states, "the proposed scheme prioritises the importance of an enhanced network of pedestrian and cycle friendly routes into and through the site", whereas there are no cycle access points to the site other than the main vehicular access.

The map accompanying this (7.02. 02) shows a dashed black east-west arrow along Furners Lane; it should be noted that there are no recorded public vehicular or cycle access rights along Furners Lane to the east of the proposed site access point, it being a private road carrying a public footpath.

If the applicant does now, or in future, propose any alteration to the public rights of way then they must first consult directly with West Sussex County Council, Public Rights of Way team (prow@westsussex.gov.uk).

If the Local Planning Authority is minded to grant planning consent the applicant should be advised of the following informative notes:

A. The granting of planning permission does not authorise obstruction of, interference to or moving of any Public Right of Way (PROW); this can only be done with the prior consent of West Sussex County Council (WSCC), as highway authority, and possibly also a legal Order process by the relevant local planning authority. Further advice can be provided on request.

B. Safe and convenient public access is to be available at all times across the full width of the PROW, which may be wider than the available and used route – advice on the legal width can be provided by the WSCC PROW Team.

C. The path is not to be obstructed by vehicles, plant, scaffolding or the temporary storage of materials and / or chemicals during any works. These will constitute an offence of obstruction under the Highways Act 1980.

D. No new structures, such as gates and stiles, are to be installed within the width of the PROW without the prior consent of the WSCC PROW Team. These will constitute an offence of obstruction under the Highways Act 1980.

E. Any down pipes or soakaways associated with the development should discharge into an existing or new drainage system and away from the surface of the PROW. No

drainage system is to be installed through the surface of the path without the prior consent of the WSCC PROW Team.

F. Where the ground levels adjacent to the PROW are to be raised above existing ground levels, this could increase the potential to flood the path. A suitable drainage system must be installed adjacent to the path to a specification agreed with the WSCC PROW Team prior to development commencing.

G. Any alteration to or replacement of the existing boundary with the PROW, or the erection of new fence lines, must be done in consultation with the WSCC PROW Team to ensure the legal width of the path is not reduced and there is no unlawful encroachment.

H. Access along a PROW by contractors' vehicles, deliveries or plant is only lawful if the applicant can prove it has a vehicular right; without this an offence under the Road Traffic Act 1988 section 34(1) is being committed.

I. The applicant is advised that a public access right has precedence over a private access right. Where a PROW runs along a route also used for private access purposes, usually for private vehicle access, this shared use has the potential for accident or injury – the applicant must consider how access is managed so the public is not endangered or inconvenienced.

J. Some properties have private rights over them for the benefit of a particular individual or property; for example, a landowner may have the right to drive over a neighbour's track to gain access to property. This right of access is granted to individuals and / or properties only and does not extend to the public. The WSCC PROW Team does not hold records of private rights of access; the applicant is encouraged to check that no private access rights will be detrimentally affected by this proposal.

K. It is an offence to damage the surface of a PROW without the prior consent of the WSCC PROW Team. The applicant must supply a specification and secure the approval of the WSCC PROW Team before works affecting the PROW begin, even if the surface is to be improved. Where a PROW surface is damaged and there was no prior consent, the applicant will be liable and required to make good the surface to a standard satisfactory to the WSCC PROW Team.

L. Where it is necessary to undertake works within the legal width of a PROW, e.g. install utilities, (or for development works immediately adjacent to a PROW that can not reasonably be managed through different Health and Safety practice) the applicant must be advised to apply to WSCC PROW Team for a temporary path closure. The applicant must be advised there is no guarantee an application will be approved; that a minimum of 6 weeks is needed to consider an application.

M. Where it will be necessary to permanently divert or extinguish a path 'to enable development to take place' by means of a Public Path Order (PPO) (most often under Town & Country Planning Act 1990 s257), to be applied for by the developer through the Local Planning Authority prior to development, WSCC PROW Team is not able to grant a temporary path closure as a precursor to a PPO. In such circumstance, WSCC PROW Team will only consider an application for a temporary path closure once the Local Planning Authority has made and confirmed a PPO.

N. Consented development is often subject to various environmental requirements, which can impact on the availability of PROW. For example, Great Crested Newt fencing has often been known to be laid across a PROW, which is either subject to installation of unauthorised stiles or gates, or unlawfully diverted around the site edge. The applicant must be advised that any environmental licence, such as from Natural England, does not negate the need to provide the legal line of a PROW without additional structures.

O. If the development proposes shared use of a PROW with vehicles (and / or introduces a vehicle crossing point of a PROW), which may increase the risk of accident or injury to a PROW user, then the applicant is encouraged to introduce signage to advise vehicle drivers of the hazard and to act responsibly.

Nigel Bird
Access Ranger
Public Rights of Way
West Sussex County Council