

WEST SUSSEX COUNTY COUNCIL CONSULTATION

TO:	Horsham District Council FAO: Sam Whitehouse
FROM:	WSCC Highways - Public Rights of Way
DATE:	9 June 2026
LOCATION:	Land Off Old Crawley Road, Faygate West Sussex
SUBJECT:	DC/26/0671 Outline Application for a development of up to 120 dwellings (including 45% affordable) with all matters reserved except for access.
DATE OF SITE VISIT:	n/a
RELEVANT PUBLIC RIGHTS OF WAY NUMBER(S):	Footpath 1587, Footpath 3571
RECOMMENDATION:	Advice
S106 CONTRIBUTION TOTAL:	n/a

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.

As stated in the NPPF, para 105, Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

Defra Rights of Way Circular (1/09) states The effect that a proposed development will have on Public Rights of Way is a material consideration for planning authorities when deciding whether or not to approve a planning application. The potential consequences on Public Rights of Way must be taken into account. Information supplied by an applicant should therefore explain how the potential development will impinge on Public Rights of Way.

Bearing the above in mind, my comments are as follows:

Although no Public Rights of Way (PRoW) lie within the red line site boundary, the submitted documents identify the two Footpaths (FP) within the larger blue line boundary, namely FP1587 and FP3571.

Footpath 1587

Plan SK21906-50 REV A states the developer is willing to upgrade FP1587 to a bridleway (BW) within the blue line site boundary and over HDC land. Whilst welcome there are considerations to make.

The definitive path width must be 3m or more.

There must be permission from all landowners to permit the higher rights associated with a bridleway, i.e. to allow cyclists and equestrians to pass along.

Any structures such as bridges, culverts, stiles and gates must be made suitable for cyclists and equestrians to pass over or through, in accordance with WSCC PROW standards.

Continuity for cyclists and equestrians must be assured at the end of the section being upgraded or a financial obligation placed on the developer that allows WSCC to pursue continuity through the physical and legal means necessary.

The surface must be made up to West Sussex County Council's (WSCC) bridleway specification at the developer's cost.

Footpath 3571

SK21906-50 REV A states the developer is willing to improve the surface of FP3571. Within the developer's land ownership, the surfacing must be made to WSCC-approved standards.

Outside of the developer's land ownership, this work can be included and carried out under any Section 278 agreement that the developer may be entering into for Highways works or a financial obligation placed on them that allows WSCC PROW team to carry out the work.

An approximately 34m section of FP3571 is currently off its definitive line. For improvements to be made to the used path, a formal diversion application must be made to Horsham District Council as the local planning authority, who could make such a legal diversion Order under the Town & Country Planning Act 1990 section 257. The WSCC PROW Team will be a formal consultee as part of this diversion Order application process and its prior agreement to a specification will be required before lending formal support to any diversion proposal. Development affecting the currently recorded legal line of Public Footpath 3571 must not begin until and unless the path has been formally accommodated else an offence is being committed and may invalidate any diversion Order procedure.

General notes

The granting of planning permission does not authorise obstruction or interference to 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 Horsham District Council as the local planning authority. Further advice can be provided on request.

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

The paths are 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.

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.

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.

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.

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.

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.

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.

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.

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.

Where it is necessary to undertake works within the legal width of a PROW, e.g., improve the surface, install utilities, (or for development works immediately adjacent to a PROW that cannot 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 8 weeks is needed to consider an application.

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.

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.

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Rights of Way information is not definitive.

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West Sussex County Council