

WEST SUSSEX COUNTY COUNCIL CONSULTATION

TO:	Horsham District Council FAO: Jason Hawkes
FROM:	WSCC Highways - Public Rights of Way
DATE:	12 November 2025
LOCATION:	Land Parcel at 519887 133300 Rusper Road Horsham West Sussex
SUBJECT:	DC/25/1543 Construction of Primary Road from the Left-In, Left-Out junction with the A264 (constructed pursuant to Outline Planning Permission DC/16/1677) to Bush Lane (Bridleway 1585), footpaths and cycleways, foul and surface water drainage including a SUDS basin and foul pumping station, landscaping, substations and associated infrastructure.
DATE OF SITE VISIT:	n/a
RELEVANT PUBLIC RIGHTS OF WAY NUMBER(S):	FP1586 BW1585 (Bush Lane)
RECOMMENDATION:	No Objection
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 104, 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:

Any diversion, such as that planned for Footpath (FP) 1586 will require the developer to apply for a diversion by means of a Public Path Order (PPO) (under Town & Country Planning Act 1990 S257) through the Local Planning Authority prior to development. The WSCC Public Rights of Way (PROW) team will be a formal consultee as part of this diversion Order application process. Development affecting the currently recorded legal line of any PROW 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. The PPO must be confirmed before West Sussex County Council (WSCC) PROW team can grant the temporary path closure necessary for development to commence. More information on this can be found on our website at <https://www.westsussex.gov.uk/land-waste-and-housing/public-paths-and-the-countryside/public-rights-of-way/request-a-change-to-a-public-path/path-diversions-and-extinguishments/>

Where the developer plans to allow cycling along existing footpaths, they must be aware that no cycling is permitted without the landowner granting either cycle or bridleway rights over them. The options to achieve this are as follows:

- 1) A full upgrade to a Definitive Bridleway which will secure the route in perpetuity and allow pedestrians, cyclists and equestrians full use. West Sussex County Council (WSCC) will be responsible for upkeep of the surface. Landowner responsibilities will be as along any Public Right of Way (PROW) – details can be found [here](#).
- 2) Alternatively, a formal permissive agreement granting either cycling or cycling and equestrian use may be entered into which is usually for 10 years (however can be made longer), renewable as long as the landowner is in agreement and we will undertake the maintenance of the surface to an agreed specification.
- 3) Finally, an informal permissive agreement which can be withdrawn at any time by the landowner and we will NOT be responsible for the upkeep of the surface caused by anything other than pedestrians, so any damage caused by cycling or equestrian use will be the landowner's liability. All repairs will require our permission and any maintenance company may have to apply for temporary closures to carry out such repairs.

Both the above permissive types only remain in force as long as the landowner owns the land and are not transferable to any new owner. In all cases, agreements must be entered into with the WSCC PROW team, the developer will be responsible for making up the surface of the PROW and any associated structures to an appropriate standard. Please note, no part of any PROW can be segregated for different users. The full width must be available to all users.

Where PROW are to cross roads, the safety of PROW users must be ensured. Details of crossings must be submitted and approved by the WSCC PROW team.

General Notes

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 (Horsham District Council) as the local planning authority. Further advice can be provided on request.

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.

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.

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. 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.

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.

Donna Trethewey
Planning and Communities Officer
Public Rights of Way
West Sussex County Council