

WEST SUSSEX COUNTY COUNCIL CONSULTATION

TO:	Mid Sussex District Council FAO:Stephen Ashdown
FROM:	WSCC Highways - Public Rights of Way
DATE:	10 January 2024
LOCATION:	Land East Of Ansty Way Cuckfield Bypass Cuckfield West Sussex
SUBJECT:	DM/23/2866 Outline planning application (All matters reserved except for access) for the redevelopment of land to the east of Ansty to create a new Garden Community, comprising of the erection of up to 1,450 homes (including 30% affordable housing), up to 90 residential care units (C2 class), a primary school, a SEND school, health hub, sports facilities including all weather hockey pitches and tennis centre, allotments, retail, community and employment uses together with ancillary and associated development including new and enhanced pedestrian/cycle routes, open spaces, and landscaping
DATE OF SITE VISIT:	n/a
RELEVANT PUBLIC RIGHTS OF WAY NUMBER(S):	FP8bCU, FP9CU, FP65CR, FP103CR, FP62CR, FP69CR, FP71CR, FP72CR, BW73CR Lesser so FP60CR to the west, FP49CU to the east, BW68CR to the east, FP8aCU to the north
RECOMMENDATION:	Objection
S106 CONTRIBUTION TOTAL:	

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 100, *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:

There are inconsistencies across the various documents regarding the identification of the Public Right of Way (PRoW) network affected by this site.

The Planning Statement and Travel Plan state an intention to upgrade all PRoW to bridleways which would allow for pedestrian, cycle and equestrian use. Continuity is an issue in many cases. Where PRoW within the site extend or lead only to PRoW footpaths outside of the site's boundaries or onto busy roads, how would cyclists and equestrians continue their journeys safely, if at all? It isn't realistic to upgrade all PRoWs and I am objecting on this basis.

The upgrade of Footpath (FP) 62CR may be acceptable if cyclists and equestrians can continue their journeys safely at both ends. I note Mackrell's Cottage has private access rights over this PRoW too. This shared use has the potential for accident or injury, particularly given any increase in usage and the introduction of cyclists and equestrians – the applicant must consider how access is managed so the public is not endangered or inconvenienced. Shared use gives rise to specific surface requirements too. Any upgraded surface would therefore need to be robust enough to cater for vehicular access yet suitable for equestrian use. We would suggest a chip and spray surface but would need to approve any suggested specification.

Whilst upgrades may not be possible however, improvements to all PRoW surfaces will be required to mitigate against increased usage. These will need to be approved by the PRoW team and delivered by the developer.

There are some plank bridges across some of the footpaths including FP8bCU which you plan to divert and run over a proposed bridge. Plank bridges are not suitable for bridleway use and would require to be replaced with suitable structures that can be used by cyclists and equestrians as would the bridge you plan for PRoW 8bCU. Any such structures would need to meet our specification and approval.

Where the proposed spine road crosses FP62CR twice, raised tables would be welcomed to ensure PRoW users are given safe crossing.

I note the Travel Plan states improvements will be made to the bridleway extending north-east towards Tylers Green and discussions are ongoing with WSCC with regards to specifications of the improvements that can be made in recognition of underlying constraints along the route. As the land lies outside the developer's control, we would require proof of landowner approval before any such improvements could be discussed. Any improvements to the bridleway would also need approval by the PRoW team unless it's planned for Highways to adopt the route under Section 38 of the Highways Act (HA) 1980, at which time, Highways would need to approve any improvements. Any such works would need to be carried out under a Section 278 agreement (HA 1980).

General Notes:

Planning permission is a right to carry out development, not to interfere with, move or block a Public Right of Way. It should not be assumed that if planning permission is given, this will automatically allow a diversion or extinguishment to be made. It's important that paths are kept open and unobstructed until the statutory procedures which authorise the closure or diversion of a path (if planning permission is granted) have been completed.

To enable this development, the developer must apply for a diversion of PRoW FP8bCU 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 PROW Team will be a formal consultee as part of this diversion Order application process. Development affecting the currently recorded legal line of FP8bCU 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 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/>

Unless a temporary closure has been granted, safe and convenient public access is to be available at all times 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. Nor is the path is 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.

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.

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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