

WEST SUSSEX COUNTY COUNCIL CONSULTATION

TO:	Mid Sussex District Council FAO: Joanne Fisher
FROM:	WSCC Highways - Public Rights of Way
DATE:	8 August 2025
LOCATION:	Land At Foxhole Farm, Foxhole Lane Bolney West Sussex
SUBJECT:	DM/25/1129 Outline application (appearance, landscaping, layout and scale reserved), for the erection of up to 200 residential dwellings, including affordable housing; a community building (use class F1) encompassing land for education provision, together with associated access, ancillary parking and landscaping; the creation of a vehicular access point from the A272 Cowfold Road, and pedestrian and cycle only access to The Street; and creation of a network of roads, footways, and cycleways through the site; together with the provision of countryside open space, children's play areas, community orchard, and allotments; sustainable drainage systems and landscape buffers.
DATE OF SITE VISIT:	n/a
RELEVANT PUBLIC RIGHTS OF WAY NUMBER(S):	Footpath 44Bo
RECOMMENDATION:	No Objection (With Conditions)
S106 CONTRIBUTION TOTAL:	To be decided

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:

The site falls immediately south of Public Right of Way (PRoW) Footpath (FP)44Bo and plans to provide two direct links onto it. A site of this size means it is not unreasonable to expect considerable increased use of the PRoW as a direct consequence of the proposed development. This will increase the rate of damage to the path surface so inconveniencing users and despoiling their enjoyment. So existing and future users' enjoyment is not reduced, this path must be improved and appropriate mitigation should be sought. A financial contribution towards surface improvements would be welcomed.

General notes:

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 West Sussex County Council (WSSC) PROW Team.

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.

No new structures, such as gates and stiles, are to be installed within the width of the PROW without the prior consent of the WSSC 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 WSSC 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 WSSC 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 WSSC 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 WSSC PROW Team. The applicant must supply a specification and secure the approval of the WSSC 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 WSSC PROW Team.

It appears the proposed development will not affect the PROW that runs adjacent to it; however, it is considered the development will have a detrimental impact on path users' (safety / convenience / enjoyment). For example, close board fencing is often proposed immediately adjacent to a path, which creates a potential social misuse problem; it also reduces path users' enjoyment by creating a darkened, tunnel-like environment. The applicant and planning authority are strongly encouraged to consider mitigation, which could be to change the fencing or increase the path width if appropriate.

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 7 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.

In the event planning consent is granted and this site occupied, a suitable Section 106 is to be drafted and submitted to West Sussex County Council Public Rights of Way service for approval.

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Rights of Way information is not definitive.

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