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County Council

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My reference

Direct Line

Your reference

Date

06 February 2025

E-mail

F/23/96631

For the attention of the Case Officer,

Application ref: F/23/96631

Site: Land between Burnetts Lane and Fir Tree Lane - proposed road for One Horton Heath

Proposal: Construction of an internal distributor road (Foxwood Road) and associated footways, cycleways, lighting, landscaping and SuDS basins, and diversion of Public Rights of Way footpaths FOHHF 701 and 702 as part of the One Horton Heath development (proposal constitutes EIA development)

Consultation response: No objection subject to obligations and conditions.

Thank you for consulting Hampshire County Council Countryside Service. We carry out the role of the Highway Authority in respect of Public Rights of Way [PROW] and the Commons Registration Authority. We also manage Country Parks and Countryside Sites throughout Hampshire. Please accept this as our response to the above application, taking into account the material considerations relating to Public Rights of Way, Commons and impacts to Hampshire County Council Country Parks and Countryside Sites.

Information and guidance for PROW and development can be found at [Rights of way | Hampshire County Council](#). A copy of the Definitive Map of Rights of Way and Definitive Statement and Countryside Sites can be found at [The definitive map and statement | Hampshire County Council](#).

Constraints

Three PROW are directly affected by the development proposed in this planning application and by the following aspects:

- Footpath Fair Oak and Horton Heath 701

Director of Universal Services
Patrick Blogg

- To be diverted south of the definitive line.
- The proposed road is to cross the Footpath
- To have its surface widened to 3.0m
- To have permissive rights for cycling to be secured creating a shared cycle/foot way
- To have lighting installed along the route.
- Footpath Fair Oak and Horton Heath 702
 - To be diverted onto a line parallel to the proposed road
 - To have its surface widened to 3.0m
 - To have permissive rights for cycling to be secured creating a shared cycle/foot way
 - To have lighting installed along the route.
- Footpath Fair Oak and Horton Heath 703
 - To be diverted
 - The proposed road is to cross the Footpath
 - To have its surface widened to 3.0m
 - To have permissive rights for cycling to be secured creating a shared cycle/foot way
 - To have lighting installed along the route.

Commentary

The development hereby proposed in planning application F/23/96631 is for an internal distributor road known as Foxwood Road. Foxwood road will connect at each end to The Avenue, the approved link road between Burnetts Lane and Allington Lane, also on the One Horton Heath site, planning permission 21/91185.

The outline scheme for the PROW network within and around the One Horton Heath (OHH) site has been previously permitted in planning terms. Works to PROW have been secured via S106 legal agreement under the planning permission F/20/89500, known as FRP (First Residential Parcel). Therefore, the principle of diverting the existing PROW and enhancing them via surface improvements, upgrading, and in some cases, lighting, is established and agreed. The Outline Planning Application for the One Horton Heath site, from 2020, is not yet determined, O/20/89498 (OPA). It appears that application F/23/96631 is for an internal distributor road to cater for a housing scheme whose outline permission is yet to be granted.

The approved proposed changes to the three PROW (701, 702, and 703) under PP F/20/89500 and its S106 are as follows:

Planning permission F/20/89500 for the first residential parcel at OHH secures works to PROW. These works, contributions and commuted sums are secured within the associated S106 legal agreement. This is based upon drawing 131.0005.014 rev E – Proposed upgrades to the PROW network. It covers works to the following PROW:

- FP7
- FP701 (Eastern End)
- FP702 (Central)
- FP702 (Southern End)
- FP703 (Central)

- FP703 (Eastern End)
- FP703 (Western End)

- Footpath Fair Oak and Horton Heath 701 – points G-H
 - To be diverted south of the definitive line.
 - The proposed road is to cross the Footpath
 - To have its surface widened to 3.0m and to have a bound surface.
 - To be upgraded to Bridleway
 - To have lighting installed along the route.
 - Works prior to occupation of 1st dwelling of FRP.
- Footpath Fair Oak and Horton Heath 702– points F-G, E-F
 - To be diverted onto a line parallel to the proposed road
 - To have its surface widened to 3.0m and to have a bound surface.
 - To be upgraded to Bridleway
 - To have lighting installed along the route.
 - Works prior to occupation of 1st dwelling of FRP.
- Footpath Fair Oak and Horton Heath 703 – Point O to E
 - To be diverted across link road (The Avenue)
 - The proposed road is to cross the Footpath
 - To have its surface widened to 3.0m
 - To have permissive rights for cycling to be secured creating a shared cycle/foot way
 - To have lighting installed along the route.
 - Works prior to occupation of 100th dwelling of FRP.
- Footpath Fair Oak and Horton Heath 703 – Point J to E
 - To be kept on existing definitive route
 - The proposed road is to cross the Footpath
 - To have its surface widened to 3.0m
 - To have permissive rights for cycling to be secured creating a shared cycle/foot way
 - To have lighting installed along the route.
 - Works prior to occupation of 250th dwelling of FRP.
- Commuted Sums
 - Legal agreement F/20/89500 secures A PROW Commuted Sum of £408,990, index linked, for the future maintenance of PROW identified on the PROW plan [FP703, off site FP703].
- Highway Agreement
 - The Legal agreement requires the applicant to enter into a highways agreement (S278 or as part of a wider S38) with HCC to permit works to relevant PROW.

Commuted sum values were also secured within the F/20/89500 S106 legal agreement. These are subject to review of the unit cost values in accordance with the relevant revised HCC Countryside Service Project's costings sheet based upon the date of sealing the agreement for the commuted sums. Any permission granted for planning application F/23/96631 should follow the agree model and values of commute sums for the proposed works on PROW.

For the development hereby proposed in planning application F/23/96631, the material considerations HCC Countryside Service identify and note are:

1. All PROW affected by this proposed development have works secured in the S106 legal agreement for planning permission PPF/20/89500 set to stated deadlines.
2. All PROW affected by this proposed development are secured in the S106 legal agreement for planning permission PPF/20/89500 to be upgraded to bridleways. This is not referred to in the application hereby permitted.
3. All PROW affected by this proposed development are secured in the S106 legal agreement for planning permission PPF/20/89500 for the applicant/land owner to enter into a S278 Highway Agreement with the Highway Authority (HCC). With the absence of a S38, as Foxwood road is not being put forward for adoption, S278 agreement is required prior to any works being carried out on the surface of any of the three PROW. The agreement shall:
 - a. Be secured prior to any works affecting surfaces of the PROW
 - b. Include details of any temporary closures and/or diversions.
 - c. Include submission and pre-commencement approval of the details listed in point 4 below.
 - d. Suitable consideration of public safety and the objective to maximise continued safe, public access to the PROW routes.
 - e. Include details of the bond/deposit to be made to HCC.
 - f. Establish the maintenance plan for the routes and commuted sums due to HCC.
4. Although the proposed road is to not be put forward for public adoption, The Footpaths (701, 702 and 703) remain PROW (public highway). Therefore, details and design will need to be submitted and approved to the Highway Authority to the Authority's satisfaction. This includes, but not limited to:
 - a. Bridleway surface construction
 - b. Lighting details (if proposed)
 - c. Crossing points where roads cross footpaths
 - d. Gradients and levels
 - e. Surface drainage details
5. The upgrade of the Footpaths to Bridleway will require applications to the Definitive Map team within Hampshire County Council's Countryside Service. [Rights of way | Environment | Hampshire County Council](#) for further details.
6. Diversions of the PROW can be permitted via an order by the LPA under S257 of the TCPA 1990, resulting in notification of the definitive map team of HCC Countryside Service so the definitive map can be updated. The upgrades are not able to be ordered under S257 (TCPA, 1990).
7. It should be noted that the route of a PROW must be continuous, both ends of a PROW must join with another public highway (PROW or public road) and must run unobstructed along its entire length. This would include any temporary diversions (existing definitive line being closed). The exception is temporary closures or extinguishments – where that PROW is either temporarily closed or is no longer present. Plans are required to show the extent of works propose along each of the PROW (701, 702 and 703) as to retain their continuous accessible route for their entire length.
8. The application's submitted documents on the LPA's website are difficult to navigate and interpret.

9. The drawings are unclear what is a PROW, a Footpath, and what is a proposed footway – whether a permissive route for pedestrians or intended to be adopted as part of a public road.
10. The existing definitive lines of PROW, and the proposed definitive lines for diverted PROW should be clearly shown on relevant plans and drawings. These drawings should demonstrate the continuity of the PROW through each phase of the works.
11. Overall Site Sheet 3 – drawing no. 5018551-0133 rev P02 labels a footway as a 2.0m wide footpath. It is hereby stated this is not an existing Footpath and is not due to be dedicated as a public Footpath. The drawing lacks a comprehensive key identifying all objects shown.
12. It is unclear what the cyclist pedestrian visibility splay sheets are showing.
13. It is the preference of Hampshire County Council Countryside Service that the form of the crossings of the proposed road over Footpaths 701 and 703 should prioritise PROW users over those using the private/permissive road. This is in accordance with the NPPF (2024) and LTP4, thereby prioritising cycling and walking. However, it is understood that HCC's overview view on the priority of these crossing may be different for the Countryside Service's and the Service does not seek to challenge that.

Conclusion

We do not object to the principle of the proposed development. We defer to the Local Planning Authority to explain the determination of application F/23/96631 for an internal distributor road without the overarching outline application for the OHH scheme (O/20/89498) having not yet been determined.

We request the submission of a PROW plan that shows existing definitive routes and proposed diversion routes clearly, that can act as the primary communication tool to demonstrate to the Highways Authority the precise proposed definitive routes and the extent of the proposed diversions. This could be via a pre commencement condition or submitted prior to any permission being granted.

The legally secured obligations for Footpaths Fair Oak and Horton Heath 701, 702, and 703 under PP F/20/89500 need to be demonstrated in this proposed development. This includes the upgrade of the PROW to Bridleways and commuted sums.

Any permission granted needs to be subject to entering into a S278 highways agreement to allow for works on a PROW, and applications to upgrade the Footpaths to Bridleways. Diversion of the PROW can be ordered by the LPA using S257 (TCPA) to formally divert the PROW, either for permanent and temporary diversions.

Further plans and details are required to clearly show the existing definitive routes and the proposed routes for Footpaths 701, 702, and 703. Further details, commuted sums, bond/deposit, timescales, etc can be secured either via pre-determination submission, a S106 legal agreement for any permission granted, or within the required S278 highways agreement.

Obligations

1. Prior to commence of any works affecting the PROW network, enter into a Highways agreement with HCC, most likely a S278, to permit works by others on the PROW network.
2. Any planning permission granted need to be subject to orders made either under S257 of the TCPA, or under the Highways Act to formally allow for permanent and temporary closures and diversions, as required.
3. The applicant/landowner is required to enter into an upgrade application with Hampshire County Council for the upgrade of Footpaths Fair Oak and Horton Heath 701, 702, and 703 from Footpaths to Bridleways.
4. As per the legal agreement secured for PP F/20/89500, commuted sums and bonds/deposits are required to be secured under a S106 legal agreement or S278 highway agreement.

Conditions

1. Submission to and approval by the Highway Authority prior to commencement of works affecting PROW of a plan clearly showing the extents of diversions (permanent and temporary) for Footpaths Fair Oak and Horton Heath 701, 702, and 703. This shall clearly show the existing definitive routes and the proposed routes.
2. Submission to and approval by the Highway Authority prior to commencement of works affecting PROW of details of the PROW works.
3. Submission to and approval by the Highway Authority prior to commencement of works affecting PROW of a CTMP that includes consideration of PROW, to include, but not limited to:
 - a. Risk assessment for the public PROW users
 - b. Maximising clear, unobstructed public access to and along the PROW
 - c. Consideration of vehicle and plant use and their impacts on PROW users.
 - d. Mud splash from adjacent vehicles onto the PROW
 - e. Amenity impact of construction traffic on PROW users
 - f. The safe and detailed design of temporary PROW crossing points to the approval of HCC. Construction vehicles should give way to PROW users
 - g. Signage and behaviour of drivers
 - h. Duration of works, temporary closures, restoration of PROW and reopening.

Informatives

We request that the applicant is made aware of the following requirements through informatives, where appropriate:

1. Where Public Rights of Way are present close to or on application sites, applications must show these Rights of Way on relevant submitted plans and detail how they will be accommodated within the proposals. Government guidance requires that applications should not be validated unless such a plan has been submitted.
2. Nothing connected with the development, or its future use, shall have an adverse effect on Public Rights of Way, which must always remain available for safe public use at all times.
3. Should the developer identify the need to temporarily close or adjust a PROW, they should follow the guidance on the Hampshire County Council website. Further information on the duties as land owner and/or developer, can be found at [Landowners guide to public rights of way | Hampshire County Council \(hants.gov.uk\)](https://hants.gov.uk/landowners-guide-to-public-rights-of-way).
4. No vehicles (including builders' and contractors'), machinery, equipment, materials, spoil, scaffolding, or anything else associated with the works, use, or occupation of the development, shall be left on or near to a Public Right of Way as to cause obstruction, hindrance, or a hazard to the legitimate users. The public retain the right to use the public right of way at all times.
5. Granting of planning permission does not grant the applicant access rights to the site via the PROW network and separate consent is required.
6. All vehicles that would be legitimately accessing the site via a Public Right of Way should give way to public users, including (where appropriate) horse-riders, carriages, and cyclists, at all times. In cases with legitimate vehicular access a Construction Traffic Management Plan (CTMP) or similar should be submitted to, and approved by, Hampshire Countryside Service as Highway Authority prior to commencement, to ensure the protection of biodiversity and public safety.
7. There must be no surface alterations to a Public Right of Way without the consent of Hampshire County Council as Highway Authority. Planning permission under the Town and County Planning Act (1990) does not provide this and separate consent is required. To carry out any such works without this permission would constitute an offence under Section 131 of the Highways Act (1980).
8. No works to the surface of the Public Right of Way shall be carried out without prior approval of the Area Countryside Access Manager. Any damage caused to the surface of the Public Right of Way by construction traffic will be required to be restored to the satisfaction of the Area Countryside Access Manager on the completion of the build.

Yours sincerely,

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