



Countryside Planning and
Development Control
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Your reference APP/23/00471

Date

01 October 2024

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For the attention of the Case Officer,

Planning reference: APP/23/00471

Site location: Land of North of Fire Station (Blue Star Land), Waterlooville

Proposal: Outline planning application for a residential development of up to 69 dwellings with access from Laxton Leaze and emergency access from Ellisons Crescent and all other matters reserved.

Consultation response: Holding objection pending further information.

Thank you for consulting Hampshire Countryside Service ('the Service') as Highway Authority in respect of Public Rights of Way ('PROW') and 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 ('HCC') Parks and Countryside Sites.

Background:

This consultation response follows the services previous consultation response of 19th July 2023 and the receipt of further information from the Applicant/Local Planning Authority (LPA).

A copy of the Definitive Map of Rights of Way and Definitive Statement and Countryside Sites can be found at

<https://maps.hants.gov.uk/rightsofwaydefinitivemap/> and
<https://www.hants.gov.uk/landplanningandenvironment/rightsofway/definitivemap>

Policy:

Development proposals will need to demonstrate regard to the National Planning Policy Framework (NPPF). The NPPF has various paragraphs relevant to PROW; for example, paras. 96, 97, 102, 104, 108, 110, 116. The Service highlights the following:

- 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***'.
- Para.108 c): '***Transport issues should be considered from the earliest stages of plan-making and development proposals, so that: ... c) opportunities to promote walking, cycling and public transport use are identified and pursued***'.
- Para. 110: 'planning policies should "**provide for attractive and well-designed walking and cycling networks** with supporting facilities such as secure cycle parking (drawing on Local Cycling and Walking Infrastructure Plans).'
- Para. 116 a-c): '*Within this context, **applications for development should: a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use; b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport; c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards***'

Commentary:

The Service welcomes the Applicants submission of supporting plans indicating an approximate route of Havant Footpath 11 (FP11).

When assessing the impacts to the legal highway, in this case specifically FP11, the service must be reasonably satisfied over the safety of PROW users and their priority access at all times. At present the applicant appears to propose a parking/vehicular area to the west of FP11 and a large building (referred to as a Landmark Building) to the east of FP11; shown between points 1 and 2 in Fig 1. However, as currently presented, it is not shown how those parking in this area will then access the aforementioned Landmark Building on foot. Are paths or other access installations proposed to cross FP11? A revised plan and clarity on this at an outline stage will be required in order to for the service to reasonably consider the safety and priority of PROW users



Fig 1

For the avoidance of any doubt, the Service is not against the principle of the proposed PROW diversion within the development site. To secure such a diversion as a result of development, an Order would need to be made by the LPA, who could make such an Order under section 257 of the Town & Country Planning Act 1990. The service 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 FP11 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 Service notes the permissive cycle route that severs FP11 in an approximate east to west direction. FP11 does not have the legal right for cycling use and we trust the installation of appropriate signage will be considered to avoid any public confusion or illegal use of a PROW. The applicant is requested to confirm its acceptance of this, with detailed plans to follow for Reserved matters Approval by the Service.

The Service notes the installation of utilities/pipework/drainage proposed under the PROW network. We must take this opportunity to further notify the applicant that the PROW network is to remain open and safely accessible at all times during construction and occupation of the development. If the applicant believes it is impractical to keep the PROW network open during construction, prior to the Service approving any application for its temporary closure the applicant will need to demonstrate other possible mitigating measures. If a temporary closure is applied for, giving 6-weeks' notice to the Service, and subsequently approved, the Service

would ordinarily expect an applicant to provide a local alternative route at its liability for the duration of a temporary closure. Further information on how to apply for a Temporary Closure Notice can be found here: [Apply for a temporary closure | Hampshire County Council \(hants.gov.uk\)](https://hants.gov.uk/apply-for-a-temporary-closure/)

In addition to the above, the Service notes reference to proposed tree/vegetation planting adjacent to the FP11 within the *Illustrative Landscape Masterplan*. as per its consultation response of 19th July 2023, the Service must insist that any additional trees are to be planted at a minimum of 5 metres from any PROW (shrubs at a minimum of 2 metres) so as not in future disturb the PROW surface and thereby create a trip hazard or an offence of encroachment, which may result in enforcement action against any future landowner. The Applicant is requested to confirm its acceptance of the above and annotate/revise plans accordingly.

As an informative, the Service must advise the applicant that there is to be no surface alterations to the PROW network without the consent of HCC as Highway Authority. Planning permission under the Town and Country Planning Act 1990 does not provide this and separate consent is required via a Section 278 agreement. To carry out any such works without this permission would constitute an offence under Section 131 of the Highways Act (1980).

In the event this application is permitted and constructed, it is reasonable to expect 225+ new residents and a consequent increase in use of the local PROW network. No additional internal site paths are proposed other than what already exists will not deliver all access needs of future site residents - people will venture further afield for longer dog walks, for personal/ group recreation, or other. The existing path surfaces, whilst acceptable for the present volume of use, will need improvement so as to satisfy an increased volume of user and the reasonable expectation of those users to enjoy convenient year-round access. In which case the Service will seek either for the applicant to deliver suitable mitigation works within a Section 278 agreement or agree a commuted sum within a suitable Section 106 obligation for it to deliver such work. The Service will require the PROW to be 2 metres wide, and re-surfacing completed to our design standards. The Applicant is requested to provide confirmation of its acceptance at this outline stage, with detailed plans to follow for Reserved matters Approval by the Service.

In addition to the above, the local PROW network will experience increased user after site occupation and path surfaces will suffer an increased rate of wear, thereby requiring increased intervention and works by the County Council to mitigate such use. HCC corporate practice is to secure financial contributions for the future maintenance of its highway assets, whether this is road network or PROW (both are maintainable public highways), where development can reasonably be foreseen to increase the pressure on highway surfaces or other highway facilities. HCC considers it is inappropriate for it, consequentially, to be faced with an increased liability without mitigation. The Service will additionally calculate a sum for on-going maintenance of local PROW surfaces using a formula developed and consistently applied by the Highway Authority. The Service will then require this to be secured within a Section 106 obligation with the applicant. We await further discussions with the LPA and /or applicant to agree this prior to any approval of the application.

Yours sincerely,

Grant Mintram
Countryside Planning Officer
Hampshire Countryside Service