



## **Public Rights of Way Representation**

**Planning Reference:** 21/01776/FUL

**Location:** Land rear of Solent View Road, with access off Seagrove Manor Road, Seaview

**Proposal:** Proposed construction of 9 dwellings with associated access, car parking, landscaping and highway works

**Date of Report:** 4<sup>th</sup> October 2021

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The Public Rights of Way Service (Service) of the Isle of Wight Council has considered the above-mentioned application and makes the following representations:

The Service is under a statutory duty to protect the public rights of way network.

A Public Bridleway provides a way for the public at all times on foot, on horseback and by bicycle. The Service is required to ensure that the public are able to use a bridleway in a safe and convenient manner. Further, the surface of a bridleway is dedicated to the Council as highway authority and is required to maintain it to bridleway standard.

Vehicle access to this site for both construction and occupation will be via Seagrove Farm Road. Seagrove Farm Road is recorded on the Definitive Map for the Isle of Wight as Public Bridleway R67 ("Bridleway"). Unless lawful authority exists, using the Bridleway in a motor vehicle will constitute an offence under s34 Road Traffic Act 1988.

It will also be necessary to cross the Bridleway at a second location (i.e. between development site as applied for under planning reference 21/00779 and the site proposed by this application ("crossing point")).

The Bridleway provides a much needed recreational facility for the public away from busy roads to enjoy in a safe and convenient manner. The section of Bridleway to be used as access to the proposed development serves a small number of existing properties. Notwithstanding this, the Bridleway provides a relatively quiet and safe area along an unmade track adjacent a recreation ground and is generally in a "green/countryside" environment providing an enjoyable experience which promotes health and wellbeing.

The Service is of the opinion that the proposed development will lead to an adverse impact on the Bridleway and its users. The occupation of 9 additional dwellings will lead to a significant increase in the number of daily vehicle movements which will cause inconvenience to users, be less enjoyable and a safety concern, especially for equestrians and young users. In the event of planning approval being granted for this development and for 21/00779 the Bridleway will be lost in terms of its use as a safe and convenient route for walkers and riders as it will effectively become a housing estate access road.

In addition to reducing convenience, enjoyment and safety, the proposed development would also impact on the surface of the Bridleway which the Service is statutorily bound to

maintain. The damage caused to an unmade surface by motor vehicle use is substantial, especially during wet winter months. Motor vehicle use associated with the occupation of 9 dwellings will cause significant damage to the unmade surface which, in turn, will create hazards for users and liability for the Service both in terms of potential claims resulting from accident/injury and being required to carry out repairs attributable to private motor vehicle use. This must be avoided.

The section of Bridleway immediately leading off of Seagrove Manor Road is narrow (3m) and therefore a pinch point. The Service considers there to be insufficient space for Bridleway users and additional motor vehicles to use this area in a safe and convenient manner, especially as it is a junction with an adopted carriageway.

Use of the crossing point with motor vehicles will constitute a public nuisance. Unless lawful authority exists, crossing the Bridleway in a motor vehicle will constitute an offence under s34 Road Traffic Act 1988. The Service objects to the crossing point with motor vehicles which will result in an adverse affect on users of the Bridleway in terms of safety, convenience and enjoyment.

The Service has reviewed the Transport Plan and makes the following observations in respect of section 3.5:

3.5.2: None of the measures referred to in this section appear to make improvements for Bridleway users – the provisions appear to address the needs of motorists only.

3.5.2 (first bullet point): A gravel surface along this section is insufficient – it requires a sealed surface to adoptable standards with adequate drainage provision. Widening this section to enable two-way traffic would have the effect of worsening safety for walkers, cyclists and horse riders. A separate and designated non-motor vehicular path would be required for Bridleway users. It is considered that the proposed widening of this section would be outside of the extent of the Bridleway and on land outside of the applicant's control.

3.5.2 (second bullet point): The provision of a passing bay is considered to be a measure wholly inadequate to cater for the considerable amount of additional motor vehicle use and to provide safety for walkers, cyclists and horse riders. It is considered that the formation of this passing bay would be outside of the extent of the Bridleway and on land outside of the applicant's control

3.5.2 (third bullet point): Ideally, a separate 3m wide path designated for bridleway users only should be provided as part of the development, as one would expect to find on a new housing development of this size. The proposed localised widening is considered to be outside of the extent of the Bridleway and on land outside of the applicant's control

3.5.3: It is acknowledged that a gravel surface is appropriate for the Bridleway – it is in keeping with the environment as it currently exists. However, such a surface would not withstand the considerable and additional motor vehicle use that would be associated with the occupation of the proposed dwellings. It will require regular and costly repairs. The Service is responsible for the dedicated surface of the Bridleway but to maintain it to bridleway standard only. It has insufficient resource to maintain it to a standard required for motor vehicle use and is not under a duty to maintain to such a standard in any event. The Service should not be placed into a position whereby it could potentially be liable for damage/injury to Bridleway users as a result of damage caused by additional private motor vehicle use and/or for the cost of repairs caused by such private use.

3.5.4 and 3.5.5: This is not agreed and the Service considers these paragraphs to be wholly unrealistic and inaccurate. The amount of vehicle movements generated by the occupation

of 9 (17) dwellings will be substantial compared to the present situation. The dwellings will need to be accessed by usual delivery/service vehicles (some will be large, including waste collection lorries). This will be a further safety concern to users of the Bridleway and will cause significant damage to the unsealed surface.

The Service fully agrees with and supports the representations made by Island Roads on this application.

In view of the comments made above, the Service recommends refusal of the application.

If planning approval is to be granted notwithstanding the Service's recommendation, then the following will be required:

- if possible, provision of a separate non-motor vehicle facility (3m wide) for the exclusive use of Bridleway users;
- the crossing point to be formed to enable users of the Bridleway to have right of way at all times (i.e. give way provision on the access roads);
- a private maintenance agreement to be entered into providing for repairs/maintenance to Seagrove Farm Road;
- all recommendations and conditions required by Island Roads be imposed and complied with;
- substantial mitigation in the form of a planning obligation to improve public rights of way in the area.

The Service would also require the following matters to be addressed, preferably by way of condition, in any planning permission which were to be granted:

**Temporary obstructions.** No materials, plant, temporary structures, excavations or operations of any kind should be deposited / undertaken on or adjacent to the public right of way with the effect of obstructing it and/or making it unsafe for public use whilst development takes place. Reason: To ensure the public right of way remains available, safe and convenient for public use at all times.

**Route alterations.** No changes to the public right of way direction, width, surface, signing or structures shall be made without prior written permission by Isle of Wight Council's Public Rights of Way Service. Reason: To protect the public right of way and to ensure it remains available along its legal alignment and width and in a safe and convenient state for public use at all times.

**Vehicle access (construction):** No construction / demolition vehicle access may be taken along or across a public right of way without prior written permission of (and appropriate safety/mitigation measures approved by) the Isle of Wight Council's Public Rights of Way Service. Reason: To ensure the public right of way remains available, safe and convenient for public use at all times.

**Vehicle access (occupation):** No vehicle access may be taken along or across a public right of way to residential or commercial sites without prior written permission of (and appropriate safety and surfacing measures approved by) the Isle of Wight Council's Public Rights of Way Service. Reason: To ensure the public right of way remains available, safe and convenient for public use at all times.

**Vehicle Access Rights:** The applicant's attention is drawn to the fact that private rights of motor vehicle access must be obtained before the use of the public right of way serving the

development. Reason: to avoid the committing of an offence pursuant to s34 Road Traffic Act 1988.

**Damage to Surface:** Prior to commencement of the development the applicant to provide a written undertaking that they will meet all costs incurred by the Isle of Wight Council in the repair of the surface of the public right of way as a result of damage caused by demolition/construction traffic/machinery or to make good such damage to the satisfaction of the Isle of Wight Council's Public Rights of Way Service. Reason: To protect the dedicated surface of the public right of way.

**Visitors and Contractors:** The applicant is advised that all visitors/contractors to/on the site should be made aware that they will be driving along a public right of way. Reason: To ensure the public right of way remains available, safe and convenient for public use at all times.

**Services:** The applicant is advised that the Isle of Wight Council's Public Rights of Way Service must be informed prior to the laying of (or alteration to) any services beneath the public right of way. Reason: To ensure records as to location of services are updated.

**Ground Levels and Drainage:** Where ground levels adjacent the public right of way are to be raised above the existing ground levels, a suitable drainage system to be installed adjacent the public right of way to a specification agreed by Isle of Wight Council's Public Rights of Way Service. Reason: To protect the surface of the public right of way from surface water damage and flooding.

**Gates/Doors and right of way:** Any gates and/or doors (or other openings) provided in association with the development shall be set back from the public right of way or shall not open outwards from the site across the public right of way. Reason: To ensure that gates/doors (and other openings) are opened/closed in the interests of public right of way user safety.

**Improvements to Routes:** Public rights of way should be improved to meet the pressures caused by the development whilst retaining their character. No improvements may be implemented without prior approval of Isle of Wight Council's Public Rights of Way Service Reason: In compliance with the Rights of Way Improvement Plan 2018-28 and to ensure that public rights of way retain amenity and character for public use and enjoyment as a safe leisure facility.

**Temporary Closure:** In the event of it being impossible for the public right of way to remain available for safe and convenient public use for any period(s) during development the applicant must apply to the Isle of Wight Council's Public Right of Way Service for an appropriate Traffic Regulation Order together with payment of the relevant fee. At least three weeks' notice is required. A suitable diversion must be provided whenever possible. For the duration of the closure it is the applicant's responsibility to maintain necessary signage and barriers to warn/inform the public and to prevent unauthorised access. In the event of the duration of the closure exceeding six months the applicant to pay an additional fee to the Isle of Wight Council to cover the cost of applying to the Department for Transport for an extension and will provide supporting information to assist in such an application when requested. Reason: On the grounds of health and safety.

End of comments

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