From: Frost, Shona (F&C) <shona.frost@staffordshire.gov.uk>
Sent: 14 December 2017 14:35
To: Planning (SMDC)
Cc: ECU Consultations (Place)
Subject: RE: EC3210SM - SMD/2017/0775 - Land off Woodhouse Lane, Biddulph - outline application - PRoW Response

Dear Sir/ Madam,

Rights of Way

The application doesn't recognise Public Footpath No. 62 Biddulph Town which runs from its junction with Woodhouse Lane to the east of the proposed site, west of Mansfield House, in a north westerly direction across the field. This footpath was created under Wildlife and Countryside Act 1981, Section 53 by Staffordshire County Council (Public Footpath No. 62 Biddulph Parish) Modification Order 2005. It appears that the application will directly affect this footpath.

The attention of the applicant should be drawn to the existence of the path and to the requirement that any planning permission given does not construe the right to divert, extinguish or obstruct any part of the public path. If the path does need diverting as part of these proposals the applicant would need to apply to Staffordshire Moorlands District Council under section 257 of the Town and Country Planning Act 1990 to divert the footpath to allow the development to commence. The applicants should be reminded that the granting of planning permission does not constitute authority for interference with the right of way or its closure or diversion. For further information the applicant should be advised to read section 7 of DEFRA's Rights of Way Circular (1/09).

It is important that users of the path are still able to exercise their public rights safely and that the path is reinstated if any damage to the surface occurs as a result of the proposed development. The surface of the footpath must be kept in a state of repair such that the public right to use it can be exercised safely and at all times. Heavy vehicular use can cause the way to become unsuitable for use and in some instances dangerous. Some attention needs to be drawn to this and that surface works may be required.

The County Council has not received any further application under Section 53 of the Wildlife and Countryside Act 1981 to add or modify the Definitive Map of Public Rights of Way, which affects the land in question. It should be noted, however, that this does not preclude the possibility of the existence of a right of way at common law, or by virtue of a presumed dedication under Section 31 of the Highways Act 1980. It may, therefore, be necessary to make further local enquiries and seek legal advice in respect of any physically evident route affecting the land, or the apparent exercise of a right of way by members of the public.

Yours sincerely,

Shona Frost CGeog (GIS) FRGS
Staffordshire County Council

------< HP Records Manager Record Information >------

Record Number : 003/07/01/103815
Title : EC3210SM - SMD/2017/0775 - Land off Woodhouse Lane, Biddulph - outline application

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