From:	Ward, Dominic (F&C)
To:	Planning (SMDC)
Cc:	ECU Consultations (Place)
Subject:	SMD/2018/0753
Date:	06 December 2018 14:42:23

The application plan 2018-2180-02 Existing conditions-Site Plan and Elevations show the existence of Public Footpath No. 5 Tittesworth Parish which runs across the proposed development. However, the plans do not show it in its correct alignment and indicate that the intention is to divert the footpath along the edge of the property. The outbuilding in this retrospective plan blocks the definitive line of the right of way which is a criminal offence. The definitive line of the footpath is not recognised in any of the documents.

The attention of the developer should be drawn to the requirement that any planning permission given does not construe the right to divert, extinguish or obstruct any part of the public path network. The path will need diverting as part of these proposals therefore the developer will need to apply to Staffordshire Moorlands District Council under section 257 of the Town and Country Planning Act 1990 (if the development is incomplete) or Highways Act 1980 (if it is complete) to divert the right of way to allow the development to commence. The County Council will need to be formally consulted on any proposal to divert the right of way which is also subject to public consultation. The developer needs to be aware that if the application to divert the footpath is not successful the building may have to be removed so that the definitive path line can be used.

The applicants should be reminded that the granting of planning permission does not constitute authority for interference with the rights of way or their closure or diversion. For further information the applicant should be advised to read section 7 of DEFRA's Rights of Way Circular (1/09), in particular the recommendation that:
"In considering potential revisions to an existing right of way that are necessary to accommodate planned development, but which are acceptable to the public, any alternative alignment should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic".

It is important that users of the path network are still able to exercise their public rights safely and that the paths are reinstated if any damage to the surface occurs as a result of the proposed development.

The County Council has not received any 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.

Dominic Ward
Rights of Way Officer (North)
Rural County
Staffordshire County Council
2 Staffordshire Place
Tipping Street
Stafford
ST16 2DH
07807 180439
dominic.ward@staffordshire.gov.uk
www.staffordshire.gov.uk

Staffordshire County Council

A Connected Staffordshire where everyone can prosper and be healthy and happy

Find out more by visiting the Staffordshire County Council website.

Sign up for free alerts and newsletters straight to your email or mobile phone to receive county council news and information on topics important to you.

Save time and download MyStaffs mobile app available on Android and iOS

Follow the county council on Twitter, Facebook, LinkedIn and YouTube

---

Disclaimer

This e-mail (including any attachments) is only for the person or organisation it is addressed to. If you are not the intended recipient you must let me know immediately and then delete this e-mail. If you use this e-mail without permission, or if you allow anyone else to see, copy or distribute the e-mail, or if you do, or don't do something because you have read this e-mail, you may be breaking the law.

Liability cannot be accepted for any loss or damage arising from this e-mail (or any attachments) or from incompatible scripts or any virus transmitted.

E-mails and attachments sent to or received from staff and elected Members may be monitored and read and the right is reserved to reject or return or delete any which are considered to be inappropriate or unsuitable.

Do you really need to print this email? It will use paper, add to your waste disposal costs and harm the environment.