Williams, Karen

From: Ward, Dominic (F&C) <dominic.ward@staffordshire.gov.uk>
Sent: 05 February 2019 15:35
To: Planning (SMDC)
Cc: ECU Consultations (Place)
Subject: SMD/2019/0017

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The application documents don't recognise the existence of Public Footpath No 62 Kingsley Parish which runs through the proposed application site from the southern-eastern and north-western boundaries. It appears from the planning documents that the development proposals not will impact on the public rights of way.

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. For further information the applicant should be advised to read section 7 of DEFRA's Rights of Way Circular (1/09). If the footpath does need diverting as part of these proposals, the applicant would need to apply to your council under section 257 of the Town and Country Planning Act 1990 to divert the footpaths to allow the development to commence. The County Council will need to be formally consulted on any proposal to divert these footpaths.

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.

It is important that users of the path 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 surface of the footpaths 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 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.

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