

From: [Hall, Julie \(F&C\)](#)
To: [Planning \(SMDC\)](#)
Cc: [ECU Consultations \(Place\)](#)
Subject: Consultation Letter - App ref SMD/2021/0384 Totmonslow
Date: 09 July 2021 07:54:37

Dear Arne,

Rights of Way

There is no mention of Rights of Way within the current application documents. There are a number of rights of way that run within/adjacent to the site: Public Footpath Nos: 15, 27 and 32 Draycott in the Moors Parish and Public Footpaths Nos. 2 and 4 Checkley Parish. A plan will need to be submitted showing these rights of way.

The attention of the developer should be drawn to the existence of the footpaths 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 network. If the paths do need diverting as part of these proposals the developer would need to apply to your 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 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).

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 surface of the footpath network 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 rights of 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 is only responsible for the surface of the footpath network for pedestrians not vehicles, and the applicant should be made aware of this.

The proposed security fencing around the site could potentially obstruct a number of these footpaths.

In order to erect a gate, a landowner will need to obtain the consent of the County Council, as highway authority. Consent can only be given by the County Council, if the gates are required to prevent the ingress and egress of animals on land which is used for, or about to be brought into use for, agriculture or forestry. (Section 147 of the Highways Act, 1980.) The sole exception to the above is that the County Council may, on its own authority, erect gates on public footpaths or bridleways as it deems necessary to safeguard people using the highway (Section 66 of the Highways Act 1980, as amended by Section 70 of the Countyside and Rights of Way Act 2000).

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.

Kind Regards,

Julie

Julie Hall

Spatial Information Officer

Staffordshire County Council

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