

**From:** [Hall, Julie \(F&C\)](#)  
**To:** [Planning \(SMDC\)](#)  
**Cc:** [ECU Consultations \(Place\)](#)  
**Subject:** EC3210SM - SMD/2021/0271 - Land off Harlech Drive, Biddulph - construction of 4 wooden stables - PF No 11 Biddulph Town - Rights of Way  
**Date:** 17 August 2021 11:39:27

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Dear Chris

### **Rights of Way**

The application documents don't recognise the existence of Public Footpath No.11 Biddulph Town which runs immediately east of the proposed application site. 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.

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 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.

A plan of the proposed development needs to be submitted showing the legal line of the footpath, as defined on the Definitive Map of Rights of Way in Staffordshire. (Please refer to our [Definitive Map webpages](#) for further information). Any boundary treatments also need to be shown/detailed on the plan.

Access into the site needs to be shown, particularly as Public Footpath No.11 Biddulph Town runs along Harlech Drive and the track to the stables. If this route is used the applicant needs to confirm that they have a private right to use the track with vehicles. If not, the applicant needs to be aware that it is a criminal offence to drive a mechanically propelled vehicle on a public footpath or bridleway without lawful consent or indeed obstruct the right of way by parking a vehicle on it.

If it is necessary to divert the path now that development is substantially complete then you will need to submit an application under s. 119 of the Highways Act 1980. This application can be submitted to either Staffordshire Moorlands District Council or ourselves but there is strict criteria associated with a s.119 application and you will need to ensure this can be satisfied. For further advice please visit - <https://www.staffordshire.gov.uk/environment/RightsOfWay/Legal/Advice-for-Aplicants-wanting-to-submit-a-Public-Path-Diversion-Order.aspx>

The County Council has received an application under Section 53 of the Wildlife and Countryside Act 1981 to add or modify the Definitive Map of Public Rights of Way, which is adjacent to the land in question. The application (Reference LH628G) concerns the deletion of part of Public Footpath No. 135, Biddulph Town. Further information can be found on the [Modifications Applications Register](#). You will need to make further enquiries regarding the status of this definitive map modification order with our legal colleagues [rowallocations@staffordshire.gov.uk](mailto:rowallocations@staffordshire.gov.uk) 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 Hall**

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