
From: Hall, Julie (E,I&S)
Sent: 21 September 2022 10:07
To: Planning (SMDC)
Cc: ECU Consultations (Place)
Subject: EC3210SM - SMD/2022/03725 - Land at Double Gates Nursery, Sytch Rd, Brown Edge - erection of 3 no detached dwellings & associated works - Rights of Way

Categories:

Dear Lisa,

Rights of Way

As noted in the Planning Statement, Public Footpath No. 15 Brown Edge Parish runs through the site access and along the western boundary of the site:

‘2.3 A public footpath (Brown Edge 15) passes along the vehicular access from Sytch Road, proceeding southwards along the western boundary of the site. The public footpath is not to be interrupted by this proposal.’

The footpath is depicted on the site plans. However, it deviates from the legal line of the footpath, as shown on the Definitive Map of Rights of Way in Staffordshire. A new plan should be submitted, showing the correct legal line, along with the site proposals. Please see our [Definitive Map webpage](#) for further information. (As the footpath also extends through the site access, and is within the red site boundary, this should also be depicted).

The attention of the developer 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 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 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 applicant needs to be reminded that although the access to the property is private, the fact that the route is a public highway (footpath) takes precedence. The use by private vehicles is subject, and subordinate to, the public's right. In other words pedestrians have a public right and vehicles need to give way to them not the other way around.

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 Hall
Definitive Map and Spatial Information Officer

Environment and Countryside
Staffordshire County Council

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