

**SMD/2022/0249, Residential development, Cheadle Road, Upper Tean****Hall, Julie**

Mon 13/02/2023 15:32

To: Jo Gregory

Cc: Plant, Chris

Hi Jo,

We've been passed this application by Dave Plant in SCC Highways. Can I ask that we are added as a consultee, please, particularly as it will involve the diversion of a right of way. We did respond to Pegasus Homes in October last year, asking for them to check SCC rights of way are consulted.

Comments are below:

**Rights of Way**

Public Footpath No. 44 Checkley Parish runs through the proposed development site.

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.

As the path will need diverting as part of these proposals the developer will need to apply to Staffordshire Moorlands District Council under section 257 of the Town and Country Planning Act 1990 to divert the footpath to allow the development to commence. The County Council will need to be formally consulted on the proposal to divert this footpath. 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. We would ask that trees are not planted within 3 metres of the footpath unless the developer and any subsequent landowners are informed that the maintenance of the trees is their responsibility.

Please note that Rights of Way Circular 1/09 (section 7.8) recommends 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 advised that the County Council Rights of Way Team are contacted to informally discuss the proposals.

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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