

Formal Objection Letter (Access) – SMD/2025/0237

To: Chris Johnston, Planning Officer, Staffordshire Moorlands District Council (SMDC)

From: Jarrod Ford, Rock Cottage, Garston

Date: 8th October 2025

Dear Mr Johnston,

I am grateful for the officer's thorough report and I fully endorse the reasons for refusal already set out. In particular, I wish to provide further observations on section 7.2.2. With respect, the conclusion that conflicts between vehicles, pedestrians and other users of Cotton Bank are "purely a legal matter" does not reflect established legal and policy tests. Case law confirms that where public rights of way are involved, such conflicts are a material planning consideration. Intensification of vehicular use on a public footpath inevitably creates unacceptable and unsafe conflict with walkers. This is reinforced by the Highways Authority's own view that the site is not in a sustainable location. Planning policy is clear: intimidating or deterring lawful users of a footpath is inconsistent with the National Planning Policy Framework (paras 96(b), 105, 115(b), 117(a–c), 118(b)) and with Local Plan Policies T1 (Development and Sustainable Transport) and DC1 (Design Considerations).

The access via Cotton Bank is inherently unsuitable. It is a continuous public footpath (FP80 Kingsley and FP5 Oakamoor), only 7 feet wide, enclosed for 1.7 km with just three passing places. The proposed scheme would generate upward of 30 additional vehicle movements per day — approximately 210+ per week — mostly from guest trips but also servicing and deliveries. This is exactly the kind of "radical change" and unsafe intensification identified in *McAdams Homes Ltd v Robinson* [2004] EWCA Civ 214, reaffirmed in *Stanning v Baldwin* [2019] EWHC 1350 (Ch), and accepted in *Whitney v Secretary of State* [2004] EWCA Civ 2 as a material planning matter. The courts confirm that where intensification imposes a manifestly excessive burden and undermines safe coexistence, the issue cannot be dismissed as private. As a public highway on foot, pedestrians must have priority, and any development that reverses this balance is plainly contrary to planning policy.

The proposed access via Cotton Bank remains legally and physically unsuitable, unsafe for the public, and contrary to national and local planning policy. This objection is grounded in authoritative legal opinion, statutory context, and planning policy, and focuses on the legal status of the lane, its physical constraints, the effects of intensification, and direct conflicts with policy and case law.

1. Legal Opinion: Status of the Track (FP80 Kingsley Parish / FP5 Oakamoor Parish)

Counsel's opinion confirms the following:

- The track coincides with Public Footpath No. 80 (Kingsley Parish) and Public Footpath No. 5 (Oakamoor Parish). Together they form a continuous public footpath along the full length of the access track.
- Both are referenced in the Whiston Enclosure Award of 1815.
- Section 8.1 of the Award set out the track as a "private or occupation road" for adjoining landowners, conferring limited vehicular rights and obligations of repair.
- The Definitive Map records the route as a public footpath – a highway maintainable at public expense for pedestrian passage only (Highways Act 1980, s.36(2)(a)).
- The track therefore has a dual character: a public highway on foot (FP80 Kingsley and FP5 Oakamoor) and a private occupation road with limited vehicular easements.
- There is **no public vehicular right of way**.

The legally accurate description is:

“A highway maintainable at public expense as a public footpath (FP80 Kingsley Parish and FP5 Oakamoor Parish), coinciding with a private occupation road created by the Whiston Enclosure Award of 1815, conferring private vehicular rights upon adjoining landowners.”

This dual status is highly material for planning purposes. The route is not a general vehicular highway but a continuous public footpath with limited private access rights. Any material intensification of vehicle use raises unavoidable planning concerns of safety, amenity, and conflict.

2. Unsuitable and Unsafe Access (Policy T2)

The only access to the site is via this 7ft-wide track, legally recorded as Public Footpath No. 80 (Kingsley Parish) and Public Footpath No. 5 (Oakamoor Parish). Vehicular rights are private and limited, never intended for intensive or commercial use. The proposal would introduce numerous vehicle trips (guest arrivals, departures, servicing, deliveries). On a track of this width, with three very limited passing places and lawful pedestrian priority, such intensification would create unacceptable conflicts, contrary to Policy T2 (Highway Safety and Access Design).

In addition, there have been two recorded events within the last decade where vehicle collisions occurred, both involving residents' cars who are otherwise familiar with the challenging nature of navigating the lane/footpath track. There has also been a recent near-miss incident involving a hard-of-hearing resident on foot, where a speeding 4x4 came to a halt only a foot away from the individual. Other pedestrians have reported being struck by protruding wing mirrors of passing vehicles, forcing them into boundary walls and bramble edges and causing minor injuries.

3. Conflict with Sustainable Transport and Rights of Way (Policy T1)

Policy T1 requires safe, sustainable, and convenient access for all users. The track is a designated public footpath (FP80 Kingsley and FP5 Oakamoor), providing valued local connectivity and recreational use. The proposal would:

- Endanger pedestrian safety and convenience.
- Diminish amenity through headlights, noise, dust, and intimidation by vehicles.
- Directly conflict with Policy T1, which seeks to protect and enhance walking routes, not degrade them.

4. National Policy Context (NPPF)

NPPF (Dec 2024, para. 118(b)) requires developments to minimise conflict between pedestrians, cyclists, and vehicles. NPPF (2023, para. 100) also requires local authorities to protect and enhance public rights of way. Approval here would undermine pedestrian safety and enjoyment, in direct conflict with the NPPF.

5. Physical Constraints

- Width: 7–7.5 feet ($\approx$ 2.1–2.3m).
- Enclosed by high banks and walls, no refuges.
- Length: $\sim$ 1.77 km, with only three informal passing bays.
- A typical car ($\sim$ 6ft wide) leaves minimal clearance; larger vehicles (SUVs, vans, campervans) fill the entire width.
- Safe management of pedestrian–vehicle encounters is impossible.

6. Impact of Intensification

Four glamping pods would generate upward of 28 vehicle movements per day, a 300–400% increase. This:

- Creates unavoidable conflict with lawful walkers.
- Intimidates and deters public use (children, vulnerable users, groups, horses being walked along the lane to farm land, driving cattle and sheep to and from pastures).
- Accelerates wear to a track never engineered for commercial traffic, with repair obligations falling on adjoining landowners under the Enclosure Award.

7. Case Law and Material Planning Considerations

- **McAdams Homes Ltd v Robinson [2004] EWCA Civ 214**: The Court of Appeal held that an easement could be curtailed where redevelopment entails a “radical change in the character” of the dominant land and a “substantial increase in the burden” on the servient land.
- **Stanning v Baldwin [2019] EWHC 1350 (Ch)**: The High Court reaffirmed McAdams, noting: “The correct legal test is whether there has been a radical change in the character of the dominant tenement and a substantial increase in the burden on the servient land.”
- **Whitney v Secretary of State [2004] EWCA Civ 2**: The Court of Appeal confirmed that “interference with a public right of way is a material planning consideration,” even where the interference arises indirectly through traffic generation or intimidation of use.
- **Penny v East Sussex CC [1989] RTR 305**: Held that an occupation road created under an Enclosure Award is private in nature, conferring easements on landowners but not public vehicular rights.
- **Bakewell Management Ltd v Brandwood [2004] UKHL 14**: The House of Lords confirmed that public and private rights can co-exist over the same track.

These cases demonstrate that both the lawful limits of vehicular rights and the planning consequences of interfering with public footpaths (FP80 Kingsley and FP5 Oakamoor) are squarely engaged by this proposal.

Planning Inspectors have applied these principles:

- APP/Y3940/W/20/3252313 (Wiltshire 2021): housing scheme refused due to unacceptable pedestrian/vehicle conflict along a public right of way.
- APP/W0530/W/17/3182440 (Cambridge 2018): holiday lodges refused as intensified vehicular use of a bridleway would cause unsafe conflict with walkers and riders.

8. Clarification in Relation to Officer’s Report

The report notes that conflicts on Cotton Bank may be regarded as a “legal matter.” In order to support and complement the officer’s overall assessment, it is important to highlight that case law and legal opinion confirm the dual legal status of the track (FP80 Kingsley and FP5 Oakamoor as public highways on foot, with limited private occupation road rights) is also a material planning consideration. Safety, convenience, and amenity impacts for lawful users therefore fall squarely within planning judgment under the NPPF and Local Plan. This clarification reinforces and strengthens the officer’s reasoning.

9. Conclusion and Refusal Reasons

The development would materially worsen pedestrian–vehicle conflict along a legally defined public footpath (FP80 Kingsley Parish and FP5 Oakamoor Parish) of substandard width and enclosure, intensifying vehicular use to a manifestly excessive level. The proposal fails to provide safe and suitable access for all users, contrary to:

- NPPF (paras 100, 110, 112, 115, 117, 118(b));

- Staffordshire Moorlands Local Plan Policies T1 and T2.

Suggested refusal reason:

"The proposal would materially worsen pedestrian–vehicle conflict along Cotton Bank (Public Footpath No. 80, Kingsley Parish, and Public Footpath No. 5, Oakamoor Parish), a narrow, enclosed highway maintainable at public expense as a footpath which coincides with a private occupation road. Owing to its limited width, enclosure and lack of refuges, safe sharing between vehicles and pedestrians cannot be achieved. The development therefore fails to demonstrate safe and suitable access for all users and to minimise conflicts between pedestrians, cyclists and vehicles, contrary to the National Planning Policy Framework (including para 118(b) and the transport policies on safe access and pedestrian priority) and Staffordshire Moorlands Local Plan Policies T1 (Development and Sustainable Transport) and T2 (Highway Safety and Access Design)."

Annex: Supporting Legal & Policy Extracts

NPPF (Dec 2024), Para 118(b): "Planning policies and decisions should ensure that developments ... minimise the scope for conflicts between pedestrians, cyclists and vehicles."

NPPF Transport Section:

"Development should ensure that safe and suitable access to the site can be achieved for all users."

"Applications ... should give priority first to pedestrian and cycle movements ... and minimise the conflict between pedestrians, cyclists and vehicles."

Highways Act 1980:

- s.66: classification of rights of way.
- s.36(2)(a): public footpaths on the Definitive Map are highways maintainable at public expense.

Case Law:

- McAdams Homes Ltd v Robinson [2004] EWCA Civ 214 – Full case available at: <https://www.casemine.com/judgement/uk/5a8ff6fd60d03e7f57ea558a>
- Stanning v Baldwin [2019] EWHC 1350 (Ch) – Full case summaries at: <https://www.falcon-chambers.com/news/stanning-v-baldwin-2019-ewhc-1350-ch> and <https://www.casemine.com/judgement/uk/5e6881d72c94e041f1973088>
- Whitmey v Secretary of State [2004] EWCA Civ 2
- Penny v East Sussex CC [1989] RTR 305
- Bakewell Management Ltd v Brandwood [2004] UKHL 14

Appeal Decisions:

- APP/Y3940/W/20/3252313 (Wiltshire 2021): refusal decision document.
- APP/W0530/W/17/3182440 (Cambridge 2018): refusal decision document.

References & Citations:

- National Planning Policy Framework (Dec 2024). Full text: https://assets.publishing.service.gov.uk/media/67aaf8f3b41f783cca46251/NPPF_December_2024.pdf
- NPPF Transport Guidance: <https://www.gov.uk/guidance/national-planning-policy-framework/9-promoting-sustainable-transport>
- Newark & Sherwood DC Planning Committee, Jan 2025: <https://democracy.newark-sherwooddc.gov.uk/documents/>
- Charles Russell Speechlys commentary on intensification: <https://www.charlesrussellspeechlys.com/en/insights/expert-insights/real-estate/2019/redevelopment-was-the-proposed-use-of-a-right-of-way-excessive/>