

## Hyde, James

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**From:** Hall, Julie (F&C) <julie.hall@staffordshire.gov.uk>  
**Sent:** 15 July 2021 08:13  
**To:** Generic - DC Consultation  
**Cc:** ECU Consultations (Place)  
**Subject:** EC3210LD - 21/00317/COU - Land adjacent 37 Stockhay Lane, Hammerwich, Burntwood - conversion & extension of outbuilding to form a one bedroom dwelling

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Dear Helen,

### **Rights of Way**

The application documents don't recognise the existence of Public Footpath No.16 Hammerwich Parish which runs through the proposed application site, (along the access road to the north of the development, and the driveway). 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.

For further information the applicant should be advised to read section 7 of DEFRA's Rights of Way Circular (1/09). If the footpath does need to be diverted to allow the development to take place your council will need to process an Order under section 257 of the Town and Country Planning Act 1990. The County Council will need to be formally consulted on any proposal to divert this footpath.

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.

The applicant needs to be reminded that although the access road 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 applicant also needs to confirm they have a private right to use the access 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.

Any work that affect the surface of the footpath will first need to be discussed with the County Council Rights of Way Team.

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**

Spatial Information Officer  
Staffordshire County Council

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