

From: Victoria Smith <Victoria.Smith@viaem.co.uk>
Sent: 17 June 2025 09:01
To: PABC
Subject: RE: Planning application consultation - 25/00371/OUT

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Good morning,

I have checked the Definitive Map for the Stapleford area and can confirm that Beeston Footpath 17 crosses the site edged in red on the site location plan (DRG: P23_2377_DE_014 Sheet No: 01 Rev:B).

The correct legal alignment of the public right of way can be checked by carrying out an official search, contact row.landsearches@nottsc.gov.uk. Inaccuracies or misalignments of the routes on a legal diversion may result in two paths being legally recorded, generating further inaccuracies and problems.

Public Rights of Way (PROW) are the minor highway element of the public highway network and are afforded the same level of protection and control as the major highway network (i.e. all classes of roads including motorways). They are a material condition in the planning process and due attention should be made to the treatment of them in the application for development. They form part of the sustainable transport network that has links to healthy living, reducing carbon footprints, safe non-motorised links to local facilities, so it is important ensure that they are linked to the other networks and are of a good design that encourages safe use.

Paragraph 105 of the National Planning Policy Framework (NPPF) states that planning policies and decisions should protect and enhance PROW including taking opportunities to provide better facilities for users. Paragraph 117 states applications should prioritise pedestrian and cycle movements and create places that are safe, secure and attractive, minimising the scope for conflicts between users and vehicles.

The Rights of Way team has some concerns about how Beeston Footpath 17 is identified on the plan. Although there is some suggestion, it is not clear where the right of way comes into the site. Please can the applicant identify more clearly where the Rights of Way are and where they are to be within the site? In addition, how will the right of way be accessed in the West corner of the plan? It should be noted that any new structure on existing PROW requires authorisation of the highway authority and can only be made under certain criteria.

It is not clear what the width of Beeston Footpath 17 is proposed to be or what the surface is proposed to be. Can the applicant please provide further details as to the proposed width of the path, how far the path is to be from the new buildings, the surface that is to be used and what the boundary treatments either side of the path are to be?

Please can the applicant provide clarification on who is responsible for the surface repairs and can this information be passed to the residents (deeds, covenant etc).

There are a number of pedestrian routes identified on the plan, it is not expected these will become rights of way but will be managed by the manco in line with the other public open space.

If housing is to be built next to the right of way it should be made clear to all new property owners that they are responsible for the maintenance of that boundary, including the hedge/tree line ensuring that it is cut back so as not to interfere with the right of way. Consideration should also be given for planting and allowing enough space for planting to grow so that it does not encroach on the right of way. The height of any planting should also be considered for safety purposes. If there will be any fencing in particular, can you provide information about the type and height of fence proposed?

Can the applicant also please be made aware of the following:

- For path which required a TCPA diversion
Under Section 12 of the Growth and Infrastructure Act 2013, it is now possible for the planning authority to carry out preliminary consultations, draft and make the Order under the appropriate Regulations (Town & Country Planning Public Path Orders Regulations 1993) **if** an application has been made under Part 3, and **before** planning permission has been granted, if on granting it, it is necessary to alter a public path. The order can be confirmed **if** planning permission is then granted. This can avoid the previous delays caused by developers having to wait for planning permission to be granted before applying for a diversion.
- In cases where a Diversion Order has yet to be secured, the grant of planning permission does not permit the obstruction of the public right of way and that separate statutory approval for the stopping up or diversion order will be required under the provisions of the Highways Act 1980 or the Town and Country Planning Act 1990 or any other statutory provision
- The development will require the diversion of a public right of way and no part of that development hereby permitted or any temporary works or structures shall obstruct the public right of way until approval has been secured and the diversion has been constructed in accordance with a detailed design and specification first submitted to and approved in writing by the Local Planning Authority. This is to ensure that the right of way is retained in such a state that it achieves continuity with the wider rights of way and highway networks.
- There should be no disturbance to the surface of the footpath without prior authorisation from the Rights of Way team.
- If the route is to be fenced, ensure that the appropriate width is given to the path and that the fence is low level and open aspect to meet good design principles. The route should have natural surveillance and is not narrowly fenced as this is a concern for public safety and a consideration for potential crime.
- If a structure is to be built adjacent to the public footpath, the width of the right of way is not to be encroached upon.
- Structures cannot be constructed on the line of the right of way without the prior authorisation of the Rights of way team. It should be noted that structures can only be authorised under certain criteria and such permission is not guaranteed
- open aspect should be retained as far as is practicable as part of any development, with good practice design principles applied to either ensure that the route does not become enclosed and/or is incorporated it as part of a greenspace corridor. See NCC development guide.
- If the design of any proposed development requires the legally recorded route of the RoW to be diverted because it cannot be accommodated on the legal line within the scheme, then this

should be addressed under the relevant provisions within the Town and Country Planning Act 1990 for the diverting/stopping up of public rights of way affected by development. An application under this act should be made to the Planning authority and is a separate application to the planning permission

- The existing boundary hedge/tree line directly bordering the development/boundary etc is the responsibility of the current owner/occupier of the land. On the assumption that this boundary is to be retained it should be made clear to all new property owners that they are responsible for the maintenance of that boundary, including the hedge/tree line ensuring that it is cut back so as not to interfere with right of way.
- Should scaffold be required on or over the RoW then the applicant should apply for a license and ensure that the scaffold is constructed so as to allow the public use without interruption. licences@viaem.co.uk

If this is not possible then an application to temporarily close the path for the duration should also be applied for (6 weeks' notice is required), email countryside.access@nottscc.gov.uk

- If a skip is required and is sited on a highway, which includes a RoW then the company supplying the skip must apply for a permit. <http://www.nottinghamshire.gov.uk/transport/licences-and-permits/skip-permit> and also ensure that the RoW can still be accessed appropriately by the users permitted by its status i.e. equestrians if on a bridleway, motorised vehicles if on a byway open to all traffic
- The safety of the public using the path should be observed at all times. A Temporary Closure of the Footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information and costs may be obtained by contacting the Rights of Way section. The applicant should be made aware that at least 5 weeks' notice is required to process the closure and an alternative route should be provided if possible.

Please can the applicant address these issues in order that the Rights of Way team may then comment further. It is recommended that early discussions are held with the RoW team at NCC (Via) on any impact a development might have on a right of way (surface, width, location etc) or potential change to the route, before the development commences. Contact countryside.access@nottscc.gov.uk

These comments have been provided by Via East Midlands Limited on behalf of Nottinghamshire County Council, in its capacity as Highway Authority, through Via's continuing role of providing operational services on behalf of the County Council

Many thanks

Victoria

Victoria Smith

Rights of Way Officer

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