

From: GHI PROW Planning <PROWplanning@suffolk.gov.uk>

Sent: 03 February 2022 11:08

To: BMSDC Planning Area Team Yellow <planningyellow@baberghmidsuffolk.gov.uk>

Cc: Bron Curtis <Bron.Curtis@baberghmidsuffolk.gov.uk>

Subject: DC/21/03292 - Land South Of Birch Avenue, Bacton

PUBLIC RIGHTS OF WAY AND ACCESS RESPONSE

REF: DC/21/03292 Proposal: Planning Application - Erection of 85no dwellings (including 30no Affordable Housing dwellings) including vehicular access from Birch Avenue, open space provision, community facility provision, soft landscaping, biodiversity enhancements, SuDS and parking provision

Reason(s) for re-consultation: Mitigation Strategy Plan received 13.01.22 and sent to you via email.

Thank you for your consultation concerning the above application.

As the developer is aware from previous correspondence, the proposed site does contain a public right of way (PROW): Bacton Public Footpath 13 and also a claimed route. Both are depicted on previous site plans.

The following comments are made:

- **We welcome engagement by Developer and Network Rail with the Public Rights of Way team to discuss this proposal and how to best address impacts on the public right of way and the rail crossing**
- **Before closing or diverting a Public Right Of Way that crosses a railway line safety considerations should be taken into account. We welcome proposals to improve the safety of a public right of way where it crosses a railway line. Whether this is a form of maintenance of the existing level crossing, miniature warning lights, other forms of barrier, speed restrictions, bridging.**
- **The Public Rights of Way network to the west and north west of the development site serves as key access for recreation use and to the village centre, including the Primary School, shop, garage and public house.**
- **We will require further details and discussions to clarify exactly how access will be managed whilst any mitigation works are carried out.**

The following must also be taken into account:

1. **PROW MUST remain open, unobstructed, and safe for the public to use at all times**, including throughout any construction period. If it is necessary to temporarily close or divert a PROW, the appropriate process must be followed as per point 4 below.
2. PROW are divided into the following classifications:
 - Public Footpath – only for use on foot or with a mobility vehicle
 - Public Bridleway – use as per a public footpath, and on horseback or by bicycle
 - Restricted Byway – use as per a bridleway, and by a ‘non-motorised vehicle’, e.g. a horse and carriage

- Byway Open to All Traffic (BOAT) – can be used by all vehicles, in addition to people on foot, mobility vehicle, horseback and bicycle

All currently recorded PROW are shown on the Definitive Map and described in the Definitive Statement (together forming the legal record of all currently recorded PROW). There may be other PROW that exist which have not been registered on the Definitive Map. These paths are either historical paths that were not claimed under the National Parks and Access to the Countryside Act 1949 or since, or paths that have been created by years of public use. To check for any unrecorded rights or anomalies, please contact DefinitiveMaps@suffolk.gov.uk.

3. The applicant, and any future owners, residents etc, must have private rights to take motorised vehicles over a PROW other than a BOAT. To do so without lawful authority is an offence under the Road Traffic Act 1988. Any damage to a PROW resulting from works must be made good by the applicant. Suffolk County Council is not responsible for the maintenance and repair of PROW beyond the wear and tear of normal use for its classification and will seek to recover the costs of any such damage it is required to remedy. We do not keep records of private rights and suggest that a solicitor is contacted.
4. **The granting of planning permission IS SEPARATE to any consents that may be required in relation to PROW.** It **DOES NOT** give authorisation for structures such as gates to be erected on a PROW, or the temporary or permanent closure or diversion of a PROW. Nothing may be done to close, alter the alignment, width, surface or condition of a PROW, or to create a structure such as a gate upon a PROW, without the due legal process being followed, and permission being granted from the Rights of Way & Access Team as appropriate. Permission may or may not be granted depending on all the circumstances. To apply for permission from Suffolk County Council (as the highway authority for Suffolk) please see below:
 - To apply for permission to carry out work on a PROW, or seek a temporary closure – <https://www.suffolk.gov.uk/roads-and-transport/public-rights-of-way-in-suffolk/rights-and-responsibilities/> or telephone 0345 606 6071. **PLEASE NOTE** that any damage to a PROW resulting from works must be made good by the applicant. Suffolk County Council is not responsible for the maintenance and repair of PROW beyond the wear and tear of normal use for its classification and will seek to recover the costs of any such damage it is required to remedy.
 - To apply for permission for structures such as gates to be constructed on a PROW – contact the relevant Area Rights of Way Team - contact the relevant Area Rights of Way Team <https://www.suffolk.gov.uk/roads-and-transport/public-rights-of-way-in-suffolk/public-rights-of-way-contacts/> or telephone 0345 606 6071.
5. **To apply for permission for a PROW to be stopped up or diverted within a development site, the officer at the appropriate borough or district council should be contacted at as early an opportunity as possible** to discuss the making of an order under s257 of the Town and Country Planning Act 1990 - <https://www.suffolk.gov.uk/roads-and-transport/public-rights-of-way-in-suffolk/public-rights-of-way-contacts/> **PLEASE NOTE** that nothing may be done to stop up or divert the legal alignment of a PROW until the due legal process has been completed and the order has come into force.
6. Under Section 167 of the Highways Act 1980 any structural retaining wall within 3.66 metres of a PROW with a retained height in excess of 1.37 metres, must not be constructed without the prior written approval of drawings and specifications by Suffolk County Council. The process to be followed to gain approval will depend on the nature and complexity of the proposals. Construction of any retaining wall or structure that supports a PROW or is likely to affect the

stability of the PROW may also need prior approval at the discretion of Suffolk County Council. Applicants are strongly encouraged to discuss preliminary proposals at an early stage.

7. Any hedges adjacent to PROW must be planted a minimum of 1.5 metres from the edge of the path in order to allow for annual growth. The landowner is responsible for the maintenance of the hedge and hedges must not obstruct the PROW. Some hedge types may need more space, and this should be taken into account by the applicant. In addition, any fencing should be positioned a minimum of 1.0 metre from the edge of the path in order to allow for cutting and maintenance of the path, and should not be allowed to obstruct the PROW.
8. **There may be a requirement to enhance the PROW network relating to this development. If this is the case, a separate response will contain any further information.**

In the experience of the County Council, early contact with the relevant PROW officer avoids problems later on, when they may be more time consuming and expensive for the applicant to address. More information about Public Rights of Way can be found at www.suffolk.gov.uk/roads-and-transport/public-rights-of-way-in-suffolk/.

Thank you for taking the time to consider this response.

Public Rights of Way Team
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