Comments from KC, PROW (footpaths)	
2022/92406 Land adj. 67 Chapelgate, Scholes	
Erection of 10 affordable dwellings, with access from Chapelgate and associated works, including resident play zone	
Date Responded : 24/11/2022	Responding Officer : Phil Champion

The Council has recently received an application for a Definitive Map Modification Order (DMMO) to add to the Definitive Map and Statement of public rights of way (the DMS) a public footpath through a former quarry – the proposed development site.

The route claimed commences at the existing entrance at the junction of Scholes Road / White Wells Road / Chapelgate and runs in a generally south easterly direction across the floor of the quarry towards the south end of the site. The claimed route climbs out of the quarry area and beyond the red line boundary before splitting in two where it passes through a wooded area, the two routes then heading in a generally north westerly direction over Council owned playing fields to Oak Scar Lane.

The DMMO application is supported by evidence of use from 22 individuals, all of whom indicated use on foot. The use described is indicated to have been mostly daily or weekly over extended periods up to 2022, with some claimed use extending back to 1968. The application is not currently under investigation due to a backlog of other high priority cases.

No advice can be offered at present on the likelihood of a Definitive Map Modification Order being made or confirmed.

The route of the alleged public right of way, as indicated on the plan accompanying the DMMO application is in direct conflict with multiple elements of the proposed development, including plots 2 3 and 4 in Block A, covered cycle storage, covered community meeting area, the scooter storage area, and areas of planting.

Should the development be approved, and it is shown that a public right of way exists through the former quarry, in order for the development to be carried out it would be necessary for any public right of way within this area to be stopped up or diverted.

<u>If consent is granted, please add the following advice:</u>

An application has been made to the Council to formally record a public footpath affecting land within the planning application boundary. Application submitted under Section 53 and Schedule 14 of the Wildlife & Countryside Act 1981.

That application “claims" that a public footpath subsists over land within the planning application site and that the Council should add this alleged public highway, by Order, to the Definitive Map and Statement of public rights of way. The Council, as Surveying Authority, is yet to consider these "claims". If the application is successful, then this would result in the recording of public rights of way. There is a right of appeal to any

Council refusal of thatapplication.

The issue of planning consent or commencement of construction on the site would have no effect on the legal existence of any public footpath(s). If public rights of way are recognised across the site this may have significant effects on land use or its sale / transfer.

Separate formal legal process subject to separate fees would be required if there was an intention to divert or extinguish any extant public right of way. Any works undertaken affecting the alleged public ways would be at the landowners' / developers' risk.

The Council's Public Rights of Way team may be contacted at publicrightsofway@kirklees.gov.uk or telephone: 01484 221000.