

**DIVERSION OF PUBLIC FOOTPATH NO. 431056 (FORMER HAIG COLLIERY COASTLINE)**

**LEAD OFFICER:** Tony Pomfret, Development Control Manager

**REPORT AUTHOR:** Clinton Boyce, Legal Services Manager

**Summary and Recommendations:**

**Summary:** This report informs the Panel of a Temporary Closure Order in respect of public footpath no. 431056 which was made because of danger to the public as a result of unstable cliffs and visual subsidence and now recommends a permanent diversion of the footpath.

**Recommendation:** That subject to the Land Trust being in agreement with the proposal and not claiming compensation for loss caused by the diversion order the Council makes a footpath diversion order in respect of public footpath number 431056 under section 119 of the Highways Act 1980 the approximate line of the diversion being shown by a broken black line on the plan at Annex 1 and running between points A-B-C-D and that the determination of the exact line of the diversion route be delegated to the Head of Legal & Democratic Services together with the determination of any issues that may be raised by the Land Trust or the Cumbria County Council relating to the footpath diversion order.

**1.0 INTRODUCTION**

- 1.1 The Executive considered a report on 29<sup>th</sup> March, 2010 about the safety issues around Saltom Pit, the public footpaths in the area and at South Beach.
- 1.2 Discussions with County Council officers had resulted in a decision to propose a road traffic regulation in respect of public footpath number 431056 to close it due to the dangerous condition of the landscape.
- 1.3 The Executive endorsed this proposal and the County Council made two emergency road/footpath closure orders each for a period of 21 days in respect of footpath number 431056 by a Temporary Closure

order on 6<sup>th</sup> July, 2010 for a period of six months. The Temporary Closure Order ends on 7<sup>th</sup> January, 2011.

- 1.4 Information received from the County Council states that the majority of footpath number 431056 is situated on an unstable cliff/spoil/slag heap which appears to be falling into the sea. There are holes, fissures and loose rock along the line of the route. The Council owns the land over which this footpath passes and is therefore concerned about public safety.
- 1.5 Section 119 of the Highways Act 1980 enables the Council to make a public path diversion order in respect of a footpath where in the interests of the owner, lessee or occupier of the land crossed by the footpath or of the public, it is expedient that the line of the footpath should be diverted.
- 1.6 The footpath diversion order has to be advertised in the local press and a notice of the making of the diversion order has to be served on all statutory consultees. There is a period of 28 days for representations/objections and if none are received the Council can confirm the order as an unopposed order. If any representations/objections are received and are not withdrawn the order has to be submitted to the Secretary of State for confirmation.
- 1.7 Section 119(6) of the Highways Act 1980 states that the Secretary of State will not confirm a public path diversion order and the Council cannot confirm any such order as an unopposed order unless they are satisfied that the diversion is necessary and that the diverted footpath will not be substantially less convenient to the public. The proposed diversion order is necessary as existing footpath number 431056 is dangerous and cannot be used by the public. The proposed diversion cannot be said to be substantially less convenient as it runs parallel to the existing footpath. It will also enhance the area as it runs along part of the open space restoration area and will add to public enjoyment of the area.

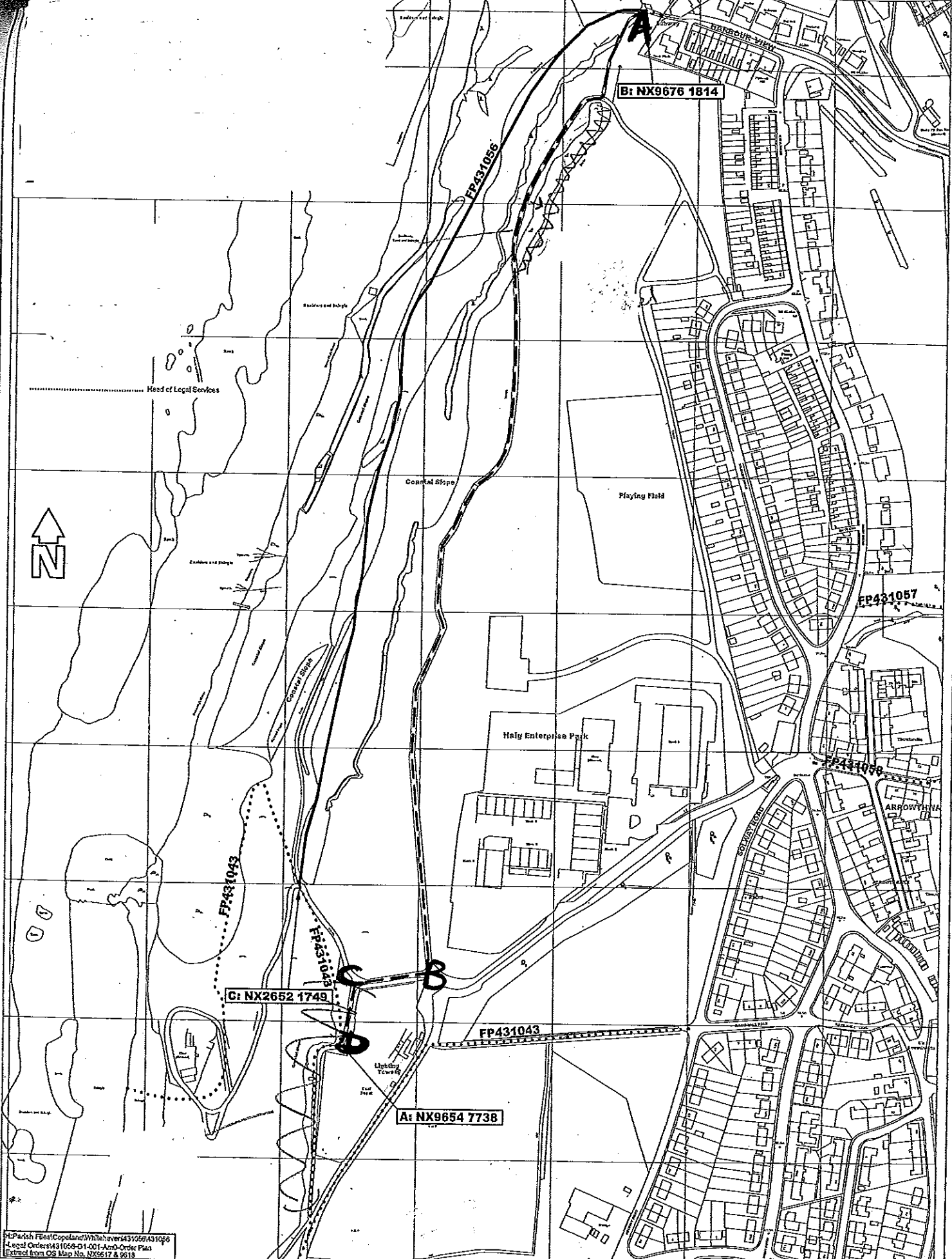
## **2.0 RECOMMENDATION**

- 2.1 As can be seen from the foregoing footpath number 431056 is dangerous along its entire route due to coastal erosion and colliery spoil slippage and it is considered that a solution would be to divert the footpath under section 119 of the Highways Act 1980. This section allows a footpath to be diverted where it is in the interests of the owner of the land crossed by the footpath to divert it. In this case it is in the interests of the public for safety reasons as the condition of the footpath is too dangerous to allow the public to use it or have access to it. It is also in the Council's interest as owner of the land as it would reduce exposure to liability caused by footpath collapse/disappearance or footpath dangers.

2.2 It is recommended as follows:

- 2.2.1 That the Council make a Public Path Diversion order in respect of public footpath number 431056 under section 119 of the Highways Act 1980, the approximate line of the diversion being shown by a broken black line on the plan at Annex 1 and running between points A –B, B-C, and C-D
- 2.2.2 That the determination of the exact line of the diversion route be delegated to the Head of Legal & Democratic Services together with the determination of any issues that may be raised by the Land Trust or the Cumbria County Council relating to the footpath diversion order.

# ANNEX 1



HP Parish Files/Copeland/White/aver431056/431056  
Legal Orders/431056-D1-001-AmO-Order Plan  
Extract from OS Map No. NX9617 & 9618