

DIVERSION OF PUBLIC FOOTPATH NO. 431001 (LAND AT THE REAR OF BRANSTY ROAD)

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Summary and Recommendations:

Summary: This report informs the Panel of a Temporary Closure Order in respect of public footpath no. 431001 which was made because of danger to the public due to land slippage and now recommends a permanent diversion of the footpath.

Recommendation: The Council makes a footpath diversion order in respect of public footpath number 431001 under section 119 of the Highways Act 1980 shown from points A to B on the plan at Annex 1 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 Cumbria County Council relating to the footpath diversion order.

1.0 INTRODUCTION

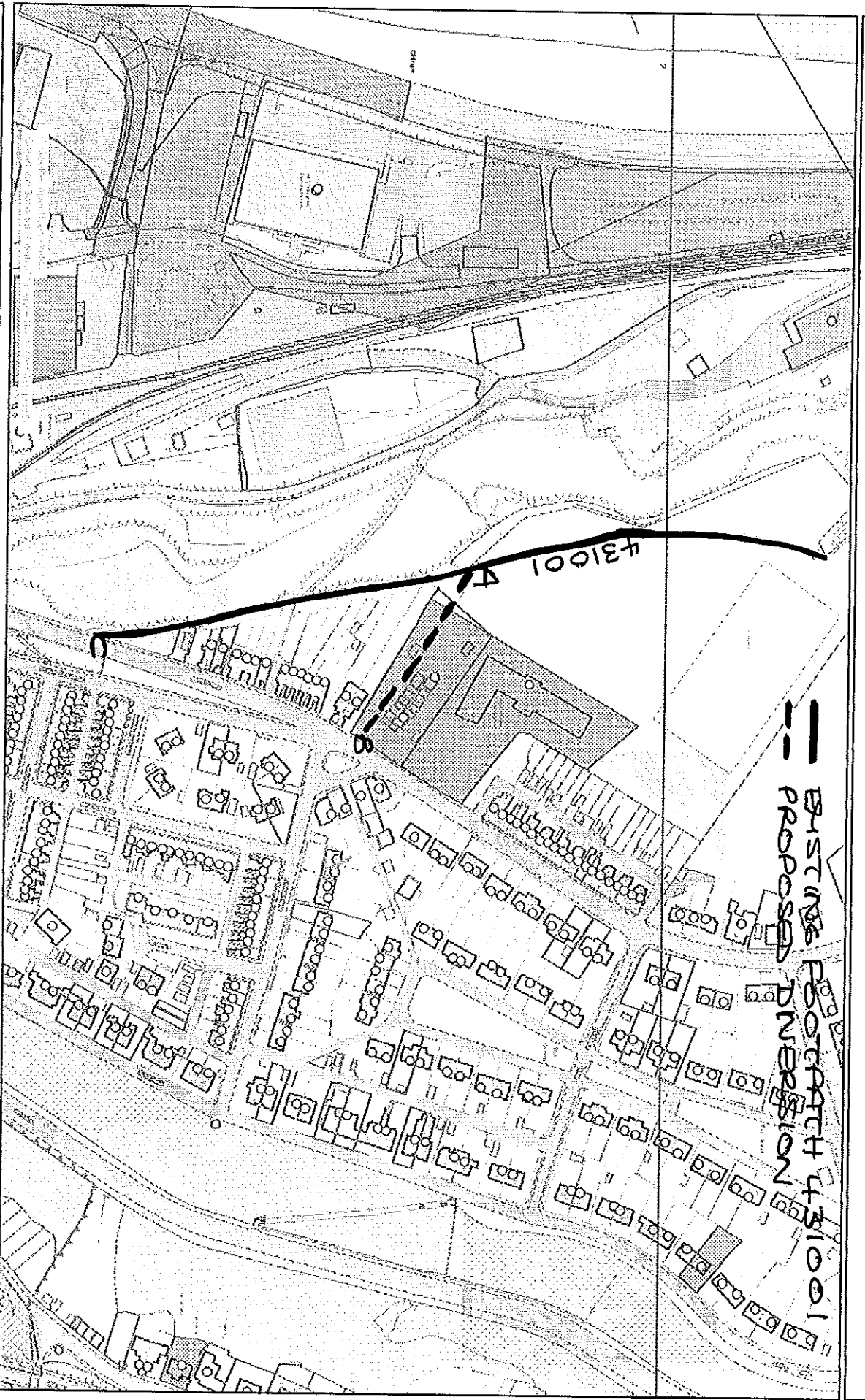
- 1.1 The Executive considered a report on 29th March, 2010 about the problems caused by land slippage of land forming part of an embankment between properties on Bransty Road, Whitehaven and the Wagon Road running from Bransty Row to Lonsdale House. This slippage left part of public footpath 431001 severely narrowed and unsafe for use.
- 1.2 As a result of this part of public footpath 431001 was temporarily stopped up on 24th December, 2009 by Cumbria County Council. The temporary order remains in force until 11th January, 2011. To extend the temporary order would mean that further County Council costs would be incurred.
- 1.3 The slippage has now made that part of public footpath 431001 from point A to point C and which runs along the gardens to some of the Bransty Road properties impassable and dangerous and discussions have been held with Cumbria County Council as to the future of this footpath.

- 1.4 The County Council has asked that this Council allows an alternative route to be taken over its garage site and which would exit onto Bransty Road. This route is shown between points A and B on the plan at Annex 1.
- 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.
- 1.5 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.
- 1.6 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 431001 is dangerous and cannot be used by the public. The proposed diversion cannot be said to be substantially less convenient as people have used the garage site as an access to the fields for many years.

2.0 RECOMMENDATION

- 2.1 As can be seen from the foregoing footpath number 431001 is dangerous from points A to C on the attached plan and it is considered that a solution would be to permanently 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 431001 under section 119 of the Highways Act 1980, the approximate line of the diversion being shown between points A and B on the plan at Annex 1; and

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 Cumbria County Council relating to the footpath diversion order.



— EXISTING FOOTPATH 431001
- - - PROPOSED DIVERSION



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