

**DIVERSION OF PART OF PUBLIC FOOTPATH NO 413012 UNDER SECTION 257 OF THE TOWN & COUNTRY PLANNING ACT 1990**

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

**REPORT AUTHOR:** Marlene Jewell, Senior Legal Services Officer

**Summary and Recommendations:**

This report informs the Panel of a request to make a Public Path Diversion Order under Section 257 of Town & Country Planning Act 1990 and recommends such an Order be made in respect of that part of public footpath no 412012 from points A-B-C to points A-D-C on the plan attached to this report subject to the Applicant being responsible for payment of the Council's cost of making the Order and the provision of an access gate.

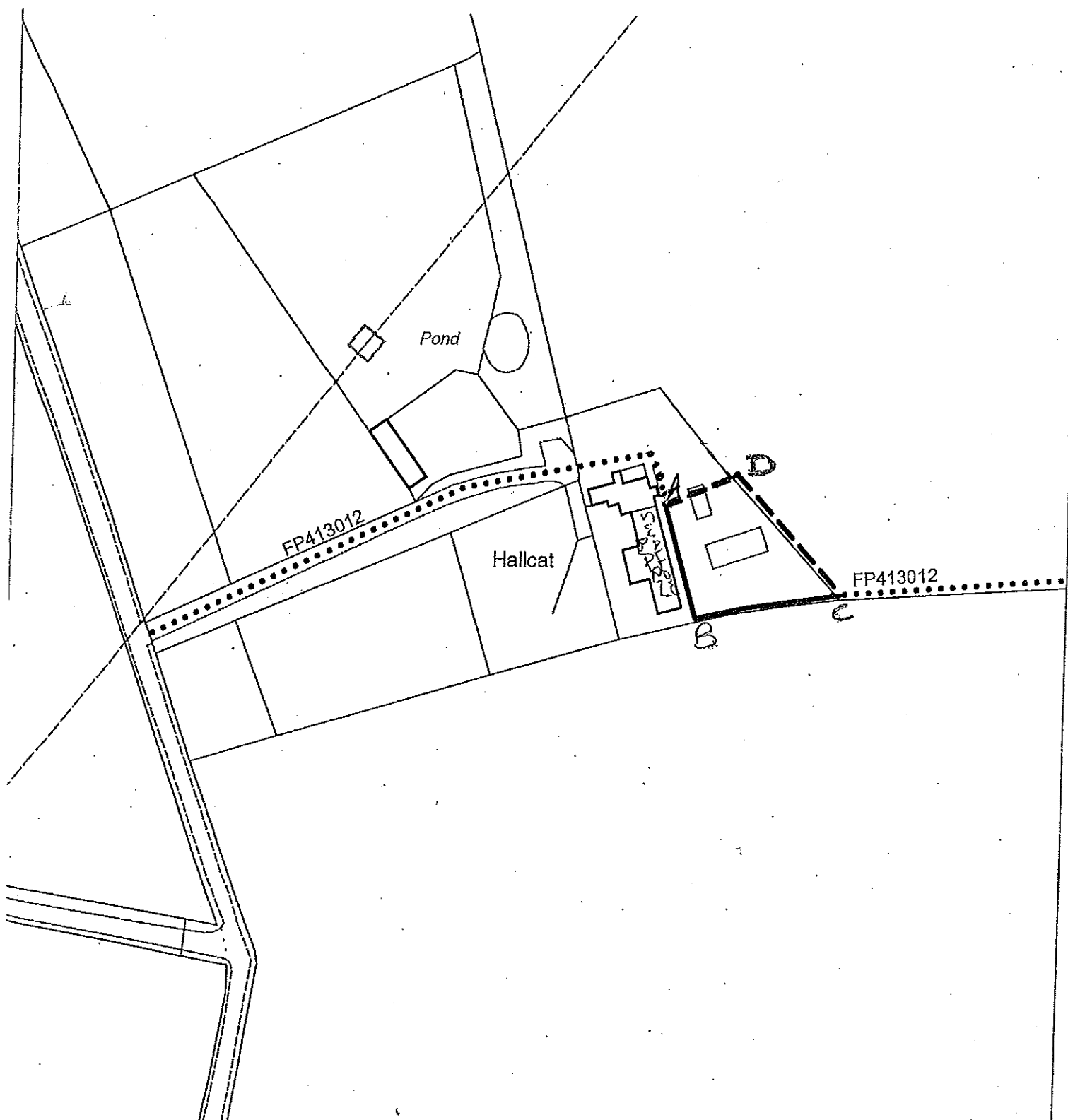
**1.0 INTRODUCTION**

- 1.1 On 9<sup>th</sup> December 2009 planning permission was granted for extensions and alterations and the re-siting of a public footpath at Swallow Barn, Lowca, Whitehaven (planning permission 4/09/2465/OFI refers).
- 1.2 The Applicant had requested the Council to make the necessary footpath diversion/stopping up order under Section 257 of the Town and Country Planning Act 1990. On 28<sup>th</sup> April 2010 The Planning Panel agreed to do this subject to the Applicant being responsible for the costs of making the order.
- 1.3 The order was made and several objections were received. One in particular was from an adjoining owner who refused permission for the footpath to be diverted over her land. The Planning Panel does not have power to confirm a footpath diversion order under Section 257 of the Town and Country Planning Act 1990 if objections are received. All such orders have to be sent to the Secretary of State for confirmation. However this has not been referred to the Secretary of State as it is unlikely that the Order would be confirmed where a landowner has refused permission for the public path to go over his/her land.
- 1.4 Following discussions with the Head of Legal and Democratic Services and the Development Services Manager the Applicant has put forward an alternative diversion order which would enable the development to be carried out and which is believed not to run over her neighbours land. This is shown on the plan at Annex 1. The Applicant has requested the Council to make the necessary footpath diversion order.

**2.0 RECOMMENDED**

- 2.1 That the existing public footpath shown with a bold black line on the plan be diverted at point A to point D and from point D to point C (this diversion is shown by a broken black line on the plan) with the Applicant being responsible for the installation of a suitable access gate at point D and for the payment of the Council's costs of making the order.

List of Background Papers: - Planning Permission 4/09/2465/OFI



**Footpath Division**  
 Footpath to be stopped up ————  
 Footpath to remain .....  
 ————  
 .....

Legal & Democratic Services  
 Copeland Borough Council  
 The Copeland Centre  
 Catherine Street  
 Whitehaven  
 Cumbria CA28 7SJ



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Scale: 1: 1,250