

## **FOOTPATH STOPPING UP ORDER AT LOWCA**

Lead Officer: Tony Pomfret, Development Services Manager

This report informs the Panel of the representations that were received to the Copeland Borough Council (Bridleway Number 413005 at Micklam, Lowca, Whitehaven, Cumbria) Stopping Up Order 2009 and considers whether or not to submit the application for a Stopping Up Order to the Secretary of State in view of the representations received.

**Resource Implications:** None to the Council

### **1.0 INTRODUCTION**

- 1.1** On 13<sup>th</sup> November 2006 planning permission was granted for a change of use to provide a holiday park and the erection of an associate building complex known as Micklam Leisure Park, Lowca (planning permission number 4/06/2013/OFI refers).
- 1.2** An application was submitted by the developers to stop up bridleway number 413005 at Micklam, Lowca and the Planning Panel agreed to make a Stopping Up Order at its meeting on 19<sup>th</sup> August 2009. A copy of the Order and plan is attached at Appendix 1. This bridleway is shown by a thick black line on the plan at Appendix A and the whole length of it runs between points A and B only. It does not connect with any other bridleway or public path and there is a locked gate at the end of it at point B.
- 1.3** The application was submitted following the grant of permission and the developers have stated that the development of the leisure park on this site will prevent access to the bridleway as it will be built over.

### **2.0 CONSULTATIONS**

- 2.1** Notices of the Order were placed in the local newspaper, at the site, and were sent to local Councillors, local amenity societies and nearby residents as part of the formal consultation process. A number of responses were received by the deadline of 26<sup>th</sup> October 2009 and these are summarised below: -
- (a) Cumbria County Council – objected on the grounds that the route could be diverted and that routes such as this will be an important link since the Marine and Coastal Access Act came into force in November 2009. This Act aims to improve public

access to and enjoyment of the English Coastline providing rights for people to enjoy the coast by making a coastal margin available for access around the coast of England. This legislation will be implemented by Natural England who will propose a series of long distance routes around the coast in consultation with local people, landowners and local access authorities and then submit the proposed routes to the Secretary of State. Cumbria is to be one of the pilot schemes for this.

- (b) The Ramblers objected because no alternative was offered; no reason was given; it was unclear that this public right of way is not needed for public use; we do not believe it is necessary to stop up the bridleway to carry out the development and we require further time to evaluate the implications and visit the site.
- (c) Miss M Oliver – the footpath is widely enjoyed by many children and adults of Lowca, feels strongly that the Council should be protecting footpaths as many teenagers walk every night along the path and this should be encouraged.
- (d) D McConnell – objects to the unnecessary stopping up of bridleway number 413005 as no alternative provision is being made for users of bridleway; the stopping up would significantly diminish the public rights of access and enjoyment of this coastal area; does not believe it is necessary to permanently stop up the bridleway; bridleway 413005 is used to access an unclaimed route along the old railway track bed that links to bridleway 413014 to the north and to the south it links back into the heart of the village of Lowca past the rugby club; the Marine and Coastal Access Bill will create a walking trail right round the English coast and it makes no sense to stop up this bridleway without a safe and suitable alternative.

**2.2** The objectors have stated that they will not withdraw their objections unless a suitable alternative footway is provided nearby. Discussions have been held with the Developer but it was not possible because of the layout of the development to route an alternative footpath through the site and the Developer maintained that as he was providing a footpath (which he would be looking to have adopted by the Highway Authority) round the perimeter of the site adjoining the public highway this could be regarded as an alternative.

### **3.0 LEGAL POSITION**

**3.1** The Council has power under S257 of the Town and Country Planning Act 1990 to make diversion or stopping up orders in respect of bridleways which are affected by development and for which planning permission has been granted. However orders which are opposed cannot be confirmed by the Council but must be submitted to the Secretary of State for determination.

### **4.0 FINANCIAL IMPLICATIONS**

- 4.1** If the stopping up order is submitted to the Secretary of State there will be costs although it is not possible to quantify the cost to the Council in the event that a public inquiry is required and there is no specific budgetary provision for the cost of a public inquiry. However it is expected that the costs will be paid by the developer.

**5.0 RECOMMENDATION**

- 5.1** The application to stop up bridleway number 413005 was made following the grant of planning permission for a holiday park at Micklam, Lowca.
- 5.2** The proposed stopping up order is required because the development of the holiday park goes over this bridleway and because of the layout of the development there is nowhere on the site for alternative replacement footpath.
- 5.3** Bridleway number 413005 only runs between points A and B on the plan at Appendix A and does not connect with any other bridleways or public paths. There is however another designated public path which runs parallel to it further along the roadway and which does connect with other public paths.
- 5.4** In view of the foregoing it is recommended that the stopping up order is submitted to the Secretary of State for determination, provided the Developer agrees to indemnify the Council in respect of any costs arising from the inquiry.

**Contact Officer: Head of Legal & Democratic Services**