

## **Footpath Stopping Up/Diversion Order at Lowca**

**Lead Officer: Tony Pomfret, Development Services Manager**

This report informs the Panel of a request to make a stopping up order under Section 257 of the Town and Country Planning Act 1990

### **1.0 INTRODUCTION**

- 1.1 On 13<sup>th</sup> November 2006 planning permission was granted for a change of use to provide holiday park and erection of associate building complex known as Micklham Leisure Park, Lowca (planning permission no 4/06/2013/OFI refers).

### **2.0 THE STOPPING UP/DIVERSION ORDER REQUEST**

- 2.1 The developers have now informed the Council that in the interests of public safety they require the bridleway no 413005 (which is shown on the plan at Annex 1 by a thick black line running between points A and B) to be stopped up during construction of the development granted by planning permission no 4/06/2013/OFI.
- 2.2 They have also stated that in the longer term this development will prevent access to the existing bridleway no 413005 and therefore have asked for the bridleway to be permanently diverted under Section 257 of the Town and Country Planning Act 1990 by diverting it along the public highway between points A and C on the plan and then connecting with the existing public right of way between points C and D on the plan.

### **3.0 THE LEGAL POSITION**

- 3.1 Section 257 of the Town and Country Planning Act 1990 states that the Council may by order authorise the stopping up or diversion of any footpath or bridleway if the Council is satisfied that it is necessary to do so in order to enable the development to be carried out.
- 3.2 An order under this section can if the Council are satisfied that it should do so, provide for the creation of an alternative route for use as a replacement for the one authorised by the order to be stopped up or diverted. An order under Section 257 has to be made and then advertised for a period of not less than 28 days. During this time representations and/or objections can be received.

- 3.3 Notice of the making of the order also has to be given to every owner, occupier, lessee of any of the land; the parish Council; statutory undertakers and such other persons as the Council may consider appropriate. A copy of the notice also has to be displayed in a prominent position at each end of the bridleway that is to be stopped up; at the Council Offices and at all other places that the Council may consider appropriate.
- 3.4 If any representations or objections are received within the 28 day period the order has to be submitted to the Secretary of State for confirmation. If no representations or objections are received the Council can confirm the order as an unopposed order.
- 3.5 As soon as the order has been confirmed the Council has to publish it again in a local newspaper, serve notices to the people named above and display notices on site as before.
- 3.6 It is expected that the developer will be responsible for payment of the legal and administrative costs of making any order.

#### 4.0 RECOMMENDATION

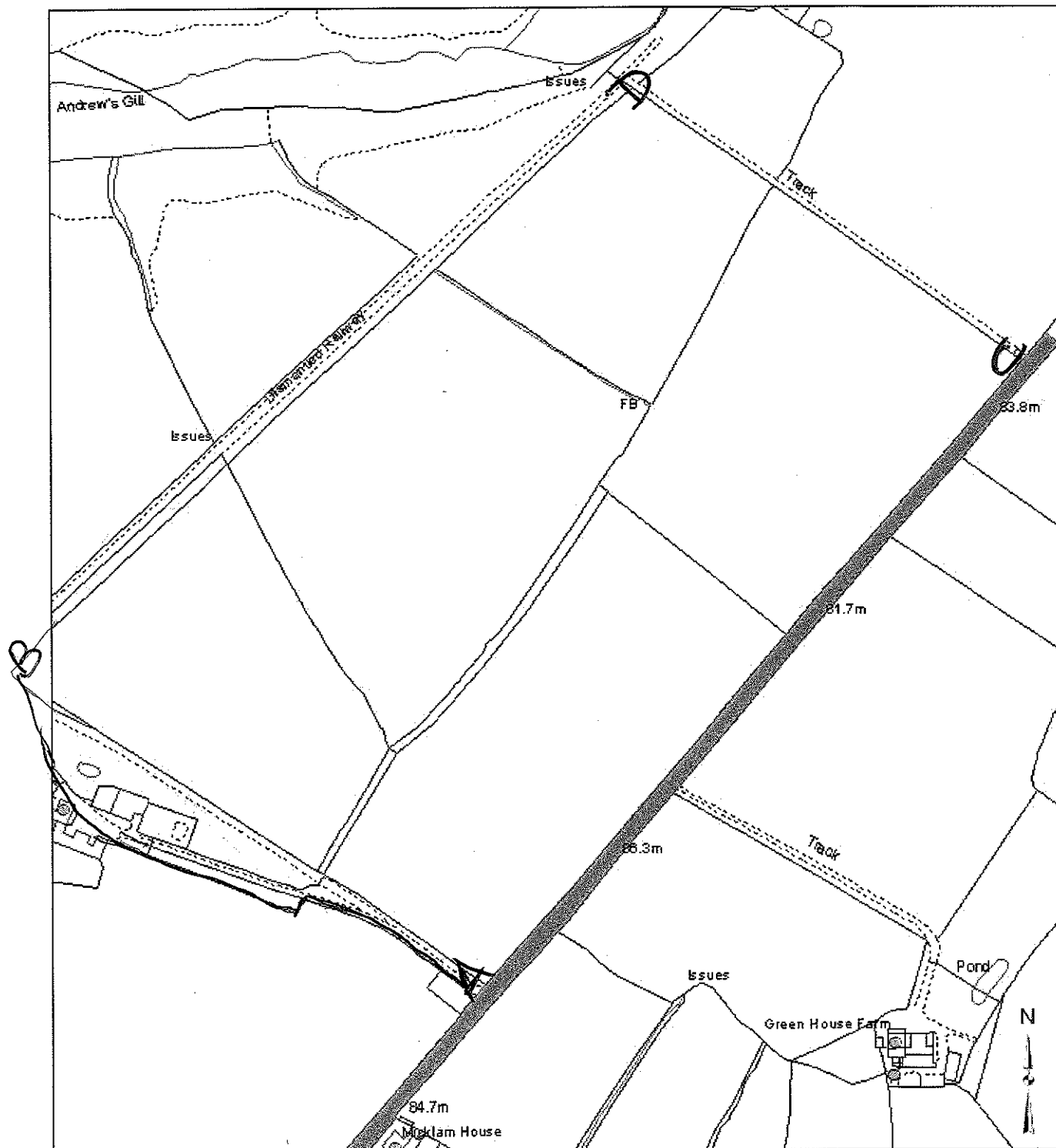
- 4.1 The length of bridleway no 413005 runs from the public highway to point B on the plan and does not connect with any other public footpath/bridleway. The applicant has requested that this bridleway be diverted to run between points A and C and C and D on the plan. But the point between A and C is a public highway and therefore there seems little or no point in diverting a bridleway to run along a public highway as the public already have access to that and the diversion between points C and D is not appropriate as this is already designated as a public right of way.
- 4.2 It is recommended that the Council makes a stopping up order under Section 257 in respect of bridleway number 413005 and that the applicant be responsible for the costs of making the order.

**Contact Officer:** Marlene Jewell, Senior Legal Services Officer

**Background Papers:** Legal File on Stopping up Order for Bridleway no 413005.

# Location Plan

**CAPITA SYMONDS**



Organisation	Capita Symonds Ltd	<ul style="list-style-type: none"> <li>— Maintainable at public expense</li> <li>— Not maintainable at public expense</li> <li>— Subject to S.38 Agreement</li> </ul> <p><i>The line length and width does not represent any particular extent.</i></p>	<p><b>Scale : 1:3,000</b></p> <p>This produce includes mapping data licenced from Ordnance Survey. (c) Crown Copyright 2006. Licence Number 100019596</p>
Department	Countryside and Heritage Management Services		
Location	Lowca		
Date	31/07/2009		