

Footpath Stopping Up/ Diversion Order at Lowca

ITEM: 9

Lead Officer: Tony Pomfret, Development Control 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 09 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 no 4/09/2465/0F1 refers).

2.0 THE STOPPING UP/DIVERSION ORDER REQUEST

- 2.1 The applicant has informed the Council that to enable the development to proceed they require public footpath no 413012 (which is shown on the plan at Annex 1) to be stopped up and permanently diverted under Section 257 of the Town and Country Planning Act 1990 in accordance with the development granted by planning permission 4/09/2465/0F1.
- 2.2 Public Footpath 413012 currently runs along the front elevation of the dwelling, Swallow Barn, and Hallcat Farm. The proposed route will take the footpath outside of the curtilage of Swallow Barn, approximately 30m to the east. It will then join the existing route 40m to the north and continue along the driveway of Hallcat Farm which joins the public highway. The Public Footpath had previously run along a similar route, but within the curtilage of both Swallow Barn and Hallcat Farm until 2008 when a Modification Order was made by Cumbria County Council to the current position at the request of the objector.

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 footpath 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 the site as before.
- 3.6 It is expected that the developer will be responsible for payment of the legal and administrative cost of making any order.

4.0 RECOMMENDATION

- 4.1 The length of footpath no 413012 runs along the access to Hallcat Farm and then along the front of the property and the applicant's adjoining dwelling, Swallow Barn. The applicant is requesting to stop up the existing footpath between points B to C to D, and divert the route along the dashed line on the attached plan straight from point B to D.
- 4.2 It is recommended that the Council makes a stopping up order under Section 257 in respect of the footpath number 413012 and that the applicant be responsible for the costs of making the order.

Contact Officers: Marlene Jewell, Senior Legal Services Officer;
Simon Blacker, Planning Officer

Background papers: Planning Application 4/09/2465/0

