

DECISION DATE 12 July 2005	APPLICATION NO. 05/00674/CU A12	PLANNING COMMITTEE: 27 June 2005
DEVELOPMENT PROPOSED CHANGE OF USE OF FOOTPATH TO FORM GARDEN AREA AND CLOSURE OF FOOTPATH		SITE ADDRESS 4 AND 5 HIDINGS COURT LANE MORECAMBE, LA4 4QJ.
APPLICANT: Mr P Heartwell and Mr J Dring, 4 Hidings Court Lane, Morecambe, LA4 4QJ.		AGENT:

REASON FOR DELAY

N/A.

PARISH NOTIFICATION

N/A.

LAND USE ALLOCATION/DEPARTURE

Lancaster District Local Plan - No specific proposals relating to the application site, however, the linked play areas and playing field are designated as Urban Green Space within the Lancaster District Local Plan.

STATUTORY CONSULTATIONS

Chief Engineer - Confirms that the footpath is neither public highway nor a definitive right of way, therefore, no interests in its closure. Assumes that the footpath is presently maintained by City Contract Services.

City Contract Services - Views awaited.

Property Services - Views awaited.

OTHER OBSERVATIONS RECEIVED

Seven individual letters have been received from neighbouring residential occupiers as part of the application submission. These letters all expressed support for the proposal and outline the problems associated with this footpath including criminal damage to cars and fencing, drug abuse and general noise nuisance. The route is not considered safe to use at certain times of the day and the underused play area becomes a haunt for teenage youths to loiter.

To date no comments have yet been received following the wider neighbour consultation to all the residents of Hidings Court Lane. Any comments will be reported verbally to Committee.

REPORT

Site and its Surroundings

The application site comprises a link footpath located within a small development of 2/3 bedroom houses. The footpath was constructed as part of a residential development by Allen homes in 1989 to link the main element of the housing to a small play area to the rear of a number of the dwellings. The dwellings enjoy an open plan design with the footpath running between the driveways of two residential properties, numbers 4 and 5 Hidings Court Lane. Hidings Court Lane is accessed from Schola Green Lane, an older residential street comprising predominantly of three bedroom semi detached dwellings.

The play area developed as part of the planning consent is now in a very poor condition and has very limited facilities. A separate play area is located very close to the south of the site and is better maintained and equipped. Both these play areas are associated with a neighbouring playing field all of which all immediately behind Hidings Court Lane and Schola Green Lane and enjoy both pedestrian and vehicle access off Schola Green Lane.

The proposal

It is understood that the access route from Hidings Court Lane is now a source of many problems, vandalism etc from older youths abusing the area in general. The present proposal seeks consent to remove the link footpath and absorb the land equally into the garden areas of the neighbouring dwellings by the erection of a new boundary fence whilst maintaining the open frontage. Access to the play area and playing field would be maintained via the existing and much larger vehicle/pedestrian access around the corner on Schola Green Lane available. This access is slightly less convenient for the occupants of Hidings Court Lane and would necessitate an additional walk of an additional 70/80 metres including a short section along Schola Green Lane. However, the location of the existing alternative access is less problematical as it is positioned at the end of the houses and already serves the larger play area and playing fields.

Planning History

As indicated earlier in the report, the site was developed as a small-scale residential scheme in 1989. The scheme provided for toddler play area to the rear of a number of the dwellings with a link from the development site to the play area. The play area was handed over to the local authority and has been maintained since 1991. However, it is understood that the link footpath was not taken over and has remained in the ownership of the two neighbouring dwellings, numbers 4 and 5 Hidings Court Lane.

Planning Policy

Planning policy within the Lancaster District Local Plan seeks to ensure that residential development provides suitably designed and located plays area to serve the development. Appendix 1 of the local plan provides guidance on the scale and nature of the play area indicating that the children's play area should:

be conveniently located in relation to surrounding dwellings and main pedestrian routes;

be designed to minimise potential danger from nearby roads; and

be located to allow maximum visibility from surrounding dwellings and public areas.

Comments

It can be clearly argued that the closure of the footpath link does not conform with the aims of the guidance as the closure will result in the loss of the most convenient link to the play area and the alternative does necessitate the use of a short length of a more heavily trafficked road. However, the location of the play area to the rear of the dwellings and the introduction of a footpath between two houses is not an ideal situation as it does not afford natural surveillance and has led to antisocial problems for local residents. In addition, the alternative route is not considered to be overly long and Schola Green Lane, whilst being more heavily trafficked, is not a busy highway.

On balance it is considered that the removal of the footpath link will improve the quality of life for many of the neighbouring residents whilst generating little inconvenience to the local residents who wish to access both the play areas and the playing fields. The application should therefore be supported.

HUMAN RIGHTS ACT IMPLICATIONS

This application has to be considered in relation to the provisions of the Human Rights Act, in particular Article 8 (privacy/family life) and Article 1 of the First Protocol (protection of property). Having regard to the principles of proportionality, it has been concluded that there are no issues arising from the proposal which appear to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

RECOMMENDATIONS

Subject to no significant objections being raised by the consultees that **PERMISSION BE GRANTED** with the following conditions: -

1. Standard 5 year time limit.
2. Development to be completed in accordance with the approved plans.
3. Precise details of the removal of the footpath to be agreed.
4. Details of the finished colour of fencing to be agreed.
5. As may be required by the consultees.