

PLANNING AND HIGHWAYS REGULATORY

COMMITTEE

STOPPING UP PART OF HALTON FOOTPATH No 1 8th DECEMBER 2014

Report of the Chief Officer (Governance)

PURPOSE OF REPORT

The report outlines the proposal for an Order to be made under Section 257 of the Town and Country Planning Act 1990 to stop up part of Halton Footpath 1 to enable a development at Halton Mills to be carried out.

This report is public

RECOMMENDATIONS

(1) That an Order be made under Section 257 of the Town and Country Planning Act to stop up part of Halton Footpath 1, as illustrated by a hatched area within the area marked A-B-C-A on Plan No 1-15-1-C (Appendix A), on the grounds that the City Council are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted.

(2) That in the event of no objections being received, the Order be confirmed and in the event of objections being received, the Order be sent to the Secretary of State and promoted to confirmation if necessary at a public inquiry.

1.0 Introduction

1.1 Development at Halton Mills is permitted under two live planning consents as follows;

- i) APP/A2335/A/07/2042910 (Appendix C) and '064113 Block 4 Site Plan' (Appendix D). This application was approved by appeal in 2007 and the permission activated by the installation of the site access.
- ii) 14/00200/FUL (Appendix E) and '432/PL01/Rev J' (Appendix F). This application for 14 units was granted planning permission by Lancaster City Council on 23 June 2014.

1.2 The proposed Order has been requested by Lancashire County Council, following an incorrect response to a local search by the County Council (as Highways Authority) that indicated that the footpath ran adjacent to the development site.

Closer examination of the alignment of the footpath has revealed that part of the width of the path crosses land where planning permission has been granted to erect a dwelling.

1.3 Lancashire County Council do not have the power to make an Order under Section 257 of the Town and Country Planning Act 1990 to enable a development that Lancaster City Council has granted planning permission for, as the Local Planning Authority.

1.4 This particular site is on the bend of a track, now known as Mill Lane. A location plan is attached (Appendix B). The track is also designated Halton Footpath 1 and is known to have changed alignment in recent years. However the legal alignment of the public footpath has not changed and is recorded on the Definitive Map and Statement (First Review), which is the legally conclusive record of public rights of way as running on the old alignment of Mill Lane. Attached (Appendix G), is a summary note that provides further information about the extent and position of Halton Footpath 1 at the bend in Mill Lane and the change in the alignment of Mill Lane.

1.5 The dashed line illustrating the alignment of the public footpath shown on Plan No 1-5-1-C identifies just the centre line of the footpath. There is no recorded width for this footpath on the Definitive Map and Statement, therefore in the absence of a recorded width, the presumption is that the full width from boundary to boundary of Mill Lane is public right of way. This particular site is on the bend of the old alignment of Mill Lane and on the bend it measures approximately 15 metres in width. This tapers over a 25 metres length of footpath, in either direction from the apex of the bend to a width of 4 metres.

1.6 In accordance with Section 257 of the Town and Country Planning Act 1990 it is within the City Council's powers to make the Order if it appears to the Council that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted. It is considered that the proposed stopping up is necessary in order to enable development to be carried out in accordance with planning permission 14/00200/FUL granted, as plot 4 of the development is crossed by part of the width of the public footpath.

1.7 With regard to any disadvantage or loss likely to arise as a result of the stopping up to members of the public generally, or to persons whose properties adjoin or are near the existing highway, weighed against the advantages of the proposed stopping up, it is considered that this proposal fulfils that test. If the Order is successful, Halton Footpath 1 will narrow to a minimum of 2 metres on the apex of the bend but it is considered that this is adequate for the public generally, particularly when consideration is given the intention that the adjacent width of the current alignment of Mill Lane is to be adopted as highway in the long term. There will be no disadvantage to the persons who will own or inhabit the properties that adjoin or are adjacent to the part of the highways proposed to be stopped up.

2.0 Proposal Details

2.1 Description of highway to be stopped up.

The highway to be stopped up is part of the width of Halton Footpath 1 in the City of Lancaster, shown on the plan as a hatched area within an area running from Point A at Grid Reference SD 5045 6476; south-east for 35 metres to Point B

(SD 5048 6474) then north for 20 metres to Point C (SD 5048 6476) continuing west for 25 metres back to point A (SD 5045 6476), an area of approximately 230m² (All grid references and distances are approximate).

A minimum width of 2 metres of Halton Footpath 1 that coincides in part with the southern footway of the new alignment of Mill Lane will be unaffected by this Order.

2.2 Land Ownership

The land crossed by that part of the public footpath proposed to be stopped up is in the ownership of BDW Trading Ltd, Barratt House, Cartwright Way, Forest Business Park, Bardon Hill, Coalville, Leics LE67 1UF and they are in agreement with the proposal. They have confirmed that the affected part of the development (Plot 4) is currently on hold awaiting the outcome of the Stopping Up Order.

2.3 The Equality Act 2010

It is also advised that the needs of the disabled have been actively considered and as such, the proposal is compatible with the duty of the City Council, as a local planning authority, under The Equality Act 2010 (formerly the Disability Discrimination Act 1995).

3.0 Details of Consultation

3.1 There is no requirement for any consultation before making a Town and Country Planning Act 1990 Section 257 Order. The necessary planning application consultations that were carried out prior to the granting of the planning permissions did not raise the likely effect on the public right of way as an issue.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: To make the Order	Option 2: Not to make the Order
Advantages	The development will be able to proceed in accordance with the planning permission granted.	None identified
Disadvantages	None identified	The development could not lawfully proceed in accordance with the planning permission granted as plot 4 would obstruct part of Halton Footpath 1.
Risks	Provided the decision is taken in accordance with the provisions of the relevant legislation, there are no significant risks associated with the decision-making process	This might be to the detriment of Lancashire County Council, as local Highway Authority and Lancaster City Council, as Local Planning Authority as making the Order has been identified as a means whereby if is successful, the development could lawfully proceed.

5.0 Conclusion

5.1 That subject to the Committee being satisfied that it is necessary to stop up part of Halton Footpath 1, to enable development to be carried out in accordance with planning permission granted, an Order be made under Section 257 of the Town and Country Planning Act to stop up part of Halton Footpath 1, as illustrated by a hatched area within the area marked A-B-C-A on Plan No 1-15-1-C

5.2 That in the event of no objections being received, the Order be confirmed and in the event of objections being received the Order be sent to the Secretary of State and promoted to confirmation if necessary at a public inquiry.

CONCLUSION OF IMPACT ASSESSMENT (including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)
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As set out in the report.

LEGAL IMPLICATIONS

The Legal implications are dealt with in this Report
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FINANCIAL IMPLICATIONS

There will be no additional financial implications for the City Council. Lancashire County Council, as Highways Authority, have agreed to pay for the Council's costs and disbursements incurred in making, confirming and certifying the Order. The Highways Authority have also undertaken to reimburse the Council, in full, all costs and disbursements incurred should the Order to opposed and a public inquiry be necessary.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Deputy Section 151 Officer has been consulted and has no further comments

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments

BACKGROUND PAPERS

None.

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