

<b>Agenda Item</b> A12	<b>Committee Date</b> 22 July 2019	<b>Application Number</b> Associated with 17/00073/FUL
<b>Application Site</b> Public Footpath No.55 in association with development site at Land adjacent to Aikengill Scotforth Road, Lancaster		<b>Proposal</b> To permanently divert a section of Public Footpath No.55 in Hala to enable the implementation of residential development pursuant to the proposals set out in application 17/00073/FUL
<b>Name of Applicant</b> Fellside Land Development Ltd		<b>Name of Agent</b> JWPC Chartered Town Planners
<b>Case Officer</b>		Mr Andrew Drummond
<b>Summary of Recommendation</b>		<p>1) That, an Order be made pursuant to Section 257 of the Town and Country Planning Act 1990 to divert Public Footpath No.55 in Hala in the manner set out in the report to enable development to be carried out in accordance with planning permission 17/00073/FUL, and in the event of no objections being received or any objections being received are withdrawn, the Order be confirmed.</p> <p>2) That the Head of Legal Services be granted delegated powers to take any action considered necessary in respect of the making and confirmation of the Order duly authorised to be made.</p>

## **1.0 The Site and its Surroundings**

- 1.1 Public Footpath No.55 is a public right of way that lies within the Scotforth East Ward. This footpath links Scotforth Road (A6) with Collingham Park. Starting at Scotforth Road, the footpath generally runs in a south south easterly (SSE) direction for approximately 110 metres to the rear boundary of no.1 Oakwood Gardens. At this point the official line of the public footpath continues through the plot of no.1 Oakwood Gardens to the pavement in front of the dwelling. At this point the public footpath splits, running due south or due east. Both spurs will remain unchanged. The eastern spur runs along the pavement serving Oakwood Gardens for about 12m in front of no.1 Oakwood Gardens before turning north east for about 17m along the pavement serving Collingham Park. At this point the public footpath turns again, this time in a north westerly direction for about 24m and then terminates in the south east corner of the application site at no particular defined point.
- 1.2 Generally, the footpath was unmade and grassed with no defined edging – typical of rural public rights of way with a pinch point between the rear boundaries of no.1 Oakwood Gardens and no.1 Mulberry Lane.

## **2.0 Background**

- 2.1 On 6 April 2018, the Planning Committee resolved to approve a planning application for residential development on land off Scotforth Road (17/00073/FUL). The development comprises 7 dwellings with associated new access and cycle paths.
- 2.2 The relationship of the development to the section of Footpath No.55 that crosses the application site was highlighted to the applicant as a key constraint to the development, mainly on the grounds that the public footpath is well used and should therefore be maintained and enhanced. This position

has been endorsed by the Council's Engineers for a number of years in association with the development of the District's cycle network. In order for the development to be acceptable in planning terms and to satisfy the concerns of Officers of the Council and consultees, the Council resolved to approve the development subject to a Grampian condition requiring Footpath No.55 to be diverted.

- 2.3 Section 257 of the Town and Country Planning Act 1990 (the Act) provides that the local planning authority authorised to grant planning permission may, by Order, authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted under Part III of the Act.
- 2.4 When an Order is made by a local planning authority under Section 257, it is necessary for the local authority to give notice of the Order by publishing a notice in a local newspaper, displaying a notice on site and notifying specified persons and bodies. In the event that objections are made and not withdrawn, the Order will need to be referred to the Secretary of State for consideration and confirmation.

### **3.0 The Proposal**

- 3.1 Following the Council's resolution to approve the development, the applicant has applied to divert Public Footpath No.55. The application does not seek to divert the entire length of the footpath. The alternative footpath shall commence at point B within the application site (OS grid reference 348045 458896), running in a south easterly direction for 27m to point C (348069 458883), continuing in a southerly direction for 40m to point D (348071 458843) as indicated on the map appended to this report (all lengths and compass directions are approximate). From this point, the footpath will continue along its existing alignment on Collingham Park and Oakwood Gardens. The diversion would effectively extinguish the existing section between points B and F. In reality since the development of no.1 Oakwood Gardens, the users of this footpath have been walking crudely along the proposed alignment given part of the official route is within private ownership.
- 3.2 The width of the section of the alternative footpath will be 3m with the exception of the pinch point between the rear boundaries of no.1 Oakwood Gardens and no.1 Mulberry Lane, which will be 2m.
- 3.3 The alternative footpath has partially been constructed and will be finished in tarmac. The details of site boundaries along the length of the footpath and the safety barriers at either end of the footpath must be submitted to, and agreed in writing by, the local planning authority, as this is secured by planning condition.

### **4.0 Advice**

- 4.1 The existing footpath provides an important connection between Scotforth Road and Collingham Park and is well used by pedestrians. The proposals sought as part of the planning application include upgrading this route to allow use by other non-motorised forms of transport, such as cyclists. This is very much in line with the planning policies that seek to promote walking and sustainable travel.
- 4.2 Section 257 of the Act gives local planning authorities a power to change the route of a public footpath where a diversion is necessary to enable development to be carried out in accordance with a planning permission. It was clear when the Council resolved to grant planning permission for the redevelopment of the site for housing (under 17/00073/FUL) that Footpath No.55 would need to be diverted to make it acceptable in planning terms as the proposed development includes the construction of some houses on the line of that part of the footpath to be diverted. In view of the circumstances set out above and the suitability and availability of an alternative route, it is considered that, the test set out in Section 257 is satisfactorily met. Further, it is considered the applicant should pay the costs of closing that part of the existing footpath to be diverted and the cost of providing the alternative route.

### **5.0 Recommendation**

- 5.1 That, an Order be made pursuant to Section 257 of the Town and Country Planning Act 1990 to divert Footpath No.55 in Hala as set out in the report and on the terms the developer pays the cost

of closing that part of the existing footpath to be diverted and the cost of providing the alternative route, to enable development to be carried out in accordance with planning permission 17/00073/FUL, and in the event of no objections being received or any such objections received being withdrawn, the Order be confirmed.

That the Head of Legal Services be granted delegated power to take any action considered necessary in respect of the making and confirmation of the Order duly authorised to be made.

### **Background Papers**

Map showing the proposed Public Footpath diversion