

Agenda Item	A10
Application Number	Associated with 23/01283/FUL
Proposal	To permanently divert a Public Footpath reference: FP0102023 in Morecambe to enable the implementation of development pursuant to the proposals set out in application 23/01283/FUL for the erection of a storage building (B8) and construction of a boundary wall.
Application site	Public Footpath No: FP0102023
Applicant	Mr William Daw
Agent	Mr Lee Fenton
Case Officer	Mr Robert Clarke
Departure	N/A
Summary of Recommendation	<ol style="list-style-type: none"> 1) That, subject to planning permission being granted for planning application 23/01283/FUL, an Order be made pursuant to Section 257 of the Town and Country Planning Act 1990 to divert Public Footpath FP0102023 in Morecambe in the manner set out in the report and the subsequent Order to enable the development to be carried out in accordance with the planning permission, and in the event of no objections being received or any objections being received are withdrawn, the Order be confirmed. 2) That the Chief Officer Planning and Climate Change be granted delegated powers to take or authorise any action considered necessary in respect of the making and confirmation of the Order duly authorised to be made.

(i) Procedural Matters

Planning application 23/01283/FUL relates to the erection of a storage building (B8) and construction of a boundary wall. Planning application 23/01283/FUL is reported to and recommended to be approved at this Planning Committee meeting. In accordance with the Councils constitution, approval for the making of a diversion order has to be made via Planning Committee.

1.0 Application Site and Setting

1.1 Public Footpath FP0102023 is a public right of way that lies within Morecambe. The footpath runs from south to north. Its southern most section commences on Sunderland Drive and passes through the development site subject of planning permission 23/01283/FUL before then navigating between neighbouring caravan sites and connecting with Westgate to the north. In total it measures approximately 350 metres, though the section which passes through development site subject of

planning permission 23/01283/FUL and which is subject to the diversion order measures around 25 metres.

- 1.2 Within the development site subject of planning permission 23/01283/FUL, Public Footpath FP0102023 comprises tarmac surfacing.

2.0 Background

- 2.1 Planning application 23/01283/FUL which is recommended to be approved, subject to conditions, is a full planning application for the erection of a storage building (B8) and construction of a boundary wall.
- 2.2 In order to secure an acceptable and safe development layout, it is necessary to divert the existing public right of way.
- 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. If there are no objections or all objections are withdrawn or resolved, the Order can be confirmed by the local planning authority.

3.0 The Proposal

- 3.1 The applicant has applied to divert the section of Public Footpath FP0102023 which passes through the development site. The submitted diversion route plan shows the way in which Public Footpath FP0102023 would be relocated to the pedestrian pavement along Sunderland Drive before making a connection with the footpath already established along the eastern periphery of the development site and which follows the course of the small stream. The diverted section of Public Footpath FP0102023 would then connect with the extant route along the boundary of the neighbouring caravan site. The final position of the alternative route is a matter that shall be addressed and formalised through the diversion order process.
- 3.2 Fundamentally, the alternative route for the diverted Public Footpath FP0102023 shall maintain the connection between Sunderland Drive and Westgate. As confirmed by the PROW Officer at the County Council, the diverted route must have a minimum width of 2 metres, have a firm properly constructed surface with no gates or stiles crossing the new route. The precise position of the diverted route shall be provided on an amended Diversion Route Plan before the Order is made and publicity takes place. Part of the consultation and publicity will involve the County Council's public right of way team who are already aware of the development proposals and the need for the diversion order.

4.0 Advice

- 4.1 The existing footpath provides pedestrian connectivity between Sunderland Drive and Westgate. The critical part of this proposal is to ensure that the public right of way is legally maintained to ensure that the pedestrian movements between Sunderland Drive and Westgate can continue to be provided. The level of change is relatively minor, and would in effect involve the removal of the section of the public footpath from within a storage and distribution yard, and its re-routing around the periphery of the yard before connecting with its extant route. The final position shall be determined before the Order is made and in consultation with the County Council Public Rights of Way team.

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 (the test). 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 future developer who proceeds with implementing planning permission 23/01283/FUL should pay the costs of diverting Public Footpath FP0102023.

5.0 Recommendation

5.1 That the local planning authority proceeds to make an Order pursuant to Section 257 of the Town and Country Planning Act 1990 to divert a section of Public Footpath FP0102023 in Morecambe to enable the development to be carried out in accordance with the planning permission 23/01283/FUL. In the event of no objections being received to the Order, or any such objections received being withdrawn, the Order be confirmed. This is on the terms the developer pays the cost of diverting the footpath and providing the alternative route in accordance with the requirements of the confirmed Order.

5.2 That the Chief Officer of Planning and Climate Change be granted delegated powers to take or authorise any action considered necessary in respect of the making and confirmation of the Order duly authorised to be made.

Background Papers

None