

Town and Country Planning Act 1990 Section 257

High Stell, Middleton St George proposal to divert part of Public Footpaths No 1 and No 4 in the Parish of Low Dinsdale

Public Rights of Way Officer's Report

1. Background

Darlington Borough Council proposes to make an Order under S257 of the Town and Country Planning Act (1990) for the diversion of part of Fp1 and Fp4, in the Parish of Low Dinsdale, on land proposed for development. This land, has been granted outline planning consent (15/00976/OUT) to be developed for residential use

A plan of the existing rights of way network is attached. The affected parts of footpaths Fp1 and Fp4 run from the same point on the southern edge of an agricultural field. Fp 1 runs north-west across the field to the point where it meets the field boundary and joins Fp 3. Fp 4 travels north across the field to its northern boundary, to a point just south of the water park.

2. Proposal

It will not be possible to retain the paths on their existing alignments due to the proposed development. A copy of the diversion plan is attached.

For Fp1, it is proposed that a length of approximately 320 metres will be created around the outside of the development and within the landscape buffer along the Southern and Western edges of the site. The footpath will be a 2 metres wide self-binding gravel path with timber edge.

Fp4 will cross the site via open green space and public roads, maintaining the broadly south-north alignment of the existing footpath, but diverted around the proposed SUDS basins. Approximately 240 metres in length, the width of the footpath will be about 2 metres.

The test to be satisfied under the Town and Country Planning Act 1990 s257 is that diversion is necessary to enable development to take place. It is for Darlington Borough Council as the Order Making Authority to be satisfied that the test is met.

The impact of the proposed development on the PROWs was considered as part of the planning application and Members of Planning Committee approved the outline planning application in the knowledge that a Diversion Order would be required to implement the approved development.

3. Consultations

As part of its Public Path Order procedures, the Council carried out informal consultation between 16 October and 6 November 2018 with key stakeholders including local Ward Members, relevant Cabinet Members, the Parish Council, statutory consultees, Public

Utilities and internal Council officers. The following summarises the responses received and subsequent actions where appropriate:

Darlington Borough Council Highways Officer – The plans show that the PROW will be diverted through private shared drives which is not an ideal solution. A preferred solution would be to route it through the green infrastructure via a separate path distinct and separate from the shared drives, the path could be made from timber edging and compacted stone/chippings to enhance the continuity of a rural walk, and a low timber “birdsmouth” style fence could be used to separate the path from private areas.

The plans have been amended to reflect the above comments and were deemed acceptable by Highways.

Middleton St George Parish Council - This proposed diversion will be substantially less convenient to the public, and will also be detrimental to public enjoyment of the path as a whole (since it will be crossed by two roads, and obstructed by two SUDS, which represent a danger to members of the public). The disadvantages of the proposed diversion outweigh any perceived advantages.

We are making the strong case that the existing PROW should remain, as it is are walked by villagers every day, and have been for at least the past 50 years. We therefore object to the proposed diversion of Footpath No.4.

Mr McBride – a local resident - I strongly object to the proposed diversion which will involve changes to footpath routes which have been established and used for centuries

The routes impose an unnecessary extension for walkers from the shortest distance between two points being a straight line and lead to confusion about the exact routes themselves. They can easily redesign the layout of the estate to accommodate the existing clearly designated and long established footpaths without creating a 'dogs breakfast' of a route like this proposal.

4. The Equality Act 2010

In considering this application the Council’s responsibilities under the provisions of the Equality Act 2010 have been taken into account. The proposed routes will have a surface usable all year round and will improve access for a range of users.

5. Crime and Disorder Act 1998 Implications and the Human Rights Act 1998 Implications

Darlington Borough Council, as the Order Making Authority, is required to consider the implications of this legislation in respect of the proposed diversion. This was covered in the Planning Application Committee Report.

6. Costs

The Council will not be expected to bear any costs associated with the diversion of this path. These will be borne by the developer, Carlton By Homes Limited.

7. General Conclusion

It is evident that a diversion of this path will be necessary to enable development for which planning consent has been granted to take place.

Steve Petch

Public Rights of Way Officer