

CARLISLE CITY COUNCIL

Report to:- **Development Control Committee**

Date of Meeting:- **15th March 2002**

Agenda Item No:-

A2

Public	Operational	Delegated: Yes
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Accompanying Comments and Statements	Required	Included
Environmental Impact Statement:	No	No
Corporate Management Team Comments:	No	No
City Treasurers Comments:	No	No
City Solicitor & Secretary Comments:	No	No
Head of Personnel Services Comments:	No	No

Title:- **DIVERSION OF PUBLIC FOOTPATH TO THE SIDE OF THE LAKE, BLACKFORD**

Report of:- **Director of Environment & Development**

Report reference:- **EN.033/02**

Summary:-

This report relates to the proposed diversion of the public footpath to the side of a new building at the farm known as "The Lake", Blackford, Carlisle.

Recommendation:-

The Committee authorise the diversion of the public footpath, following the Section 257 Planning Act 1990 powers subject to owner/occupier contributing to the costs of advertising the Order.

Contact Officer: **Andrew Evans**

Ext: **7176**

M Battersby

Director Environment and Development

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None

**Report to the Chairman and Members of the
Development Control Committee**

EN.033/02

1.0 Introduction

- 1.1 On the 7th of September 2001 planning consent was granted for the erection of an Agricultural building to provide a Dairy Cubicle Unit, a feed unit, a beef unit, and a milking parlour and slurry system. The plan that is reproduced following this report shows the application site. In order to implement the planning consent it is necessary to divert the footpath. This procedure is authorised by Section 257 of the Town and Country Planning Act 1990.

2.0 Planning application reference numbers 01/0662; 01/0663; 01/0664 and 01/0665

- 2.1 The proposal that required planning consent was for the erection of an agricultural building. The building was broken down into separate planning applications for each section. The applications were as follows:

2001/0662: Erection of Agricultural/ Dairy Cubicle Unit
2001/0663: Erection of Feed Unit
2001/0664: Erection of Milking Parlour & Slurry System
2001/0665: Erection of Beef Unit

- 2.2 In line with usual procedures the planning applications were advertised by means of a site notice and the direct neighbour notification of surrounding dwellings. No letters of representation were received. Various consultations were carried out. The following is a summary of consultation responses:

Kirklington Parish Council - No representations;

Carlisle City Council Environmental Services – No objection;

Environment Agency – No objections, but pointed out that the development must comply with the Control of Pollution Regulations 1991;

Highway Authority – No objection, subject to a diversion order being obtained under section 257 of the Town & Country Planning Act 1990.

- 2.3 The planning applications were subsequently approved on the 7th of September 2001, with the inclusion of 3 conditions. A copy of the decision notice is attached to this report. The decision was made under delegated powers because there were no objections from any consultees or any third party.

3.0 Diversion Order

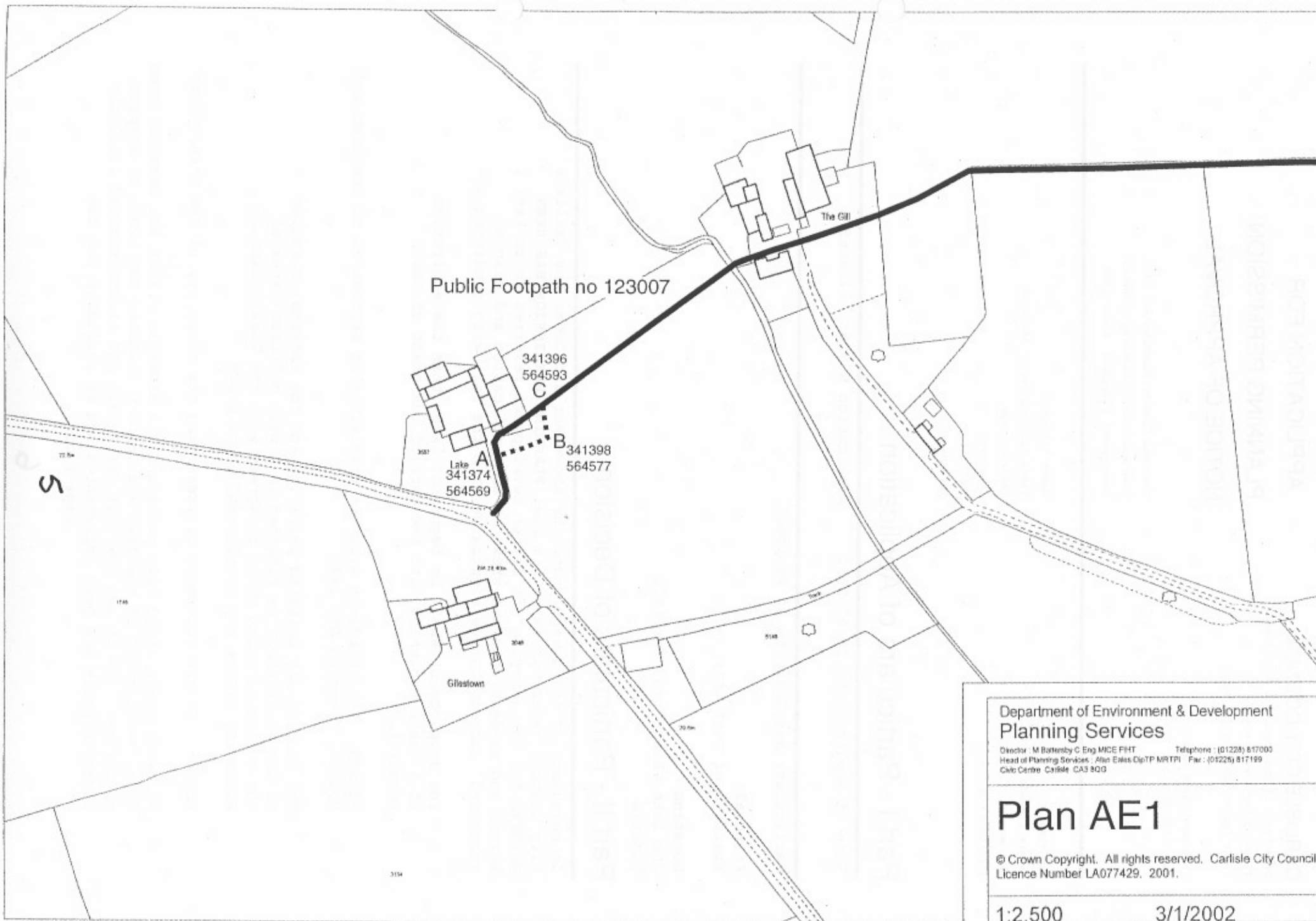
- 3.1 Section 257 of the Town and Country Planning Act 1990 empowers a local authority by Order to authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted.
- 3.2 In this instance it is necessary to divert the footpath to enable the development to be implemented. If Members give authority to proceed with the Order it will be drafted and then publicised by means of a notice in the local newspaper and a site notice. Various consultations will have to be undertaken. If there are no objections the council can confirm the Order without modification, or if there are any objections to the Order, it must then be submitted to the Secretary of State for approval.
- 3.3 The Draft Order will be advertised in the local newspaper and re-advertised when it is confirmed. The cost of advertising will be approximately £400. The applicants have agreed in writing to cover these costs.

4.0 Planning Officer Comments

- 4.1 The proposal is acceptable in planning terms and no objections were received during the consultation process. It is therefore recommended that Members give authority to proceed with the Order.

5.0 Recommendation

- 5.1 The Committee authorises the diversion of the public footpath adjacent to The Lake, Blackford, Carlisle following the Section 257 Planning Act 1990 powers subject to the owner contributing to the costs of advertising the Order.



Department of Environment & Development
Planning Services

Director : M Battersby C. Eng. MICE FHRT Telephone : (01223) 517000
Head of Planning Services : Alan Eales DipTP MRTPI Fax : (01223) 517199
Civic Centre Carlisle CA3 8QG

Plan AE1

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CARLISLE CITY COUNCIL

Department of Environment & Development
Planning Services Division
Civic Centre Carlisle CA3 8QG

Telephone 01228 817000
Fax 01228 817413

APPLICATION FOR PLANNING PERMISSION NOTICE OF APPROVAL

Town and Country Planning Act 1990
Town and Country Planning (General
Development Procedure) Order 1995

Applicant:
Messrs I Bouch
The Lake
Blackford, Carlisle
Cumbria

Agent (if any):
Tsada Building Design Services
Tsada Cottage
Longtown
CARLISLE
CA6 5NA

Part I - Particulars of Application

Date of Application: 26/07/2001 Application Number: 01/0665

Particulars and Location of Proposal:

Proposal:
Erection of beef unit

Location:
The Lake, Blackford, Carlisle
Cumbria

Part II - Particulars of Decision

In pursuance of the powers under the above Act and Order the Carlisle City Council hereby gives notice that **PLANNING PERMISSION HAS BEEN GRANTED** for the carrying out of the development referred to in Part 1 hereof and as described and shown on the application and plan(s) submitted, subject to due compliance with the following condition(s):

1. The development shall be begun not later than the expiration of 5 years beginning with the date of the grant of this permission.

REASON: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. The roof of any building permitted and the external cladding of the walls shall be finished in a dark coloured material, the colour of which shall be agreed with the local planning authority before any development takes place.

REASON: In the interests of preserving the character of the countryside.

3. No development shall take place until a diversion order has been obtained under section 257 of the Town and Country Planning Act 1990, in respect of footpath 123007 and the beef unit shall not be constructed until the diverted route has been implemented and is available for use.

REASON: In order to prevent any obstruction to a public right of way.

Date: 13 February 2002

Signed:

A C Eales
Head of Planning Services

Important Note

This notice neither conveys nor implies any other approvals, entitlements or statutory rights which may require to be obtained from any other public or private utility or agency prior to work being carried out. In particular, if the proposal involves building work you should ensure that you obtain any approval which may be necessary under the Building Regulations before commencement of development.

Advisory Notes

- i) Any approval by the local planning authority of further details required by conditions specified in this notice must be obtained in writing and such notice of approval should thereafter be appended to this notification of decision.
 - ii) It is recommended that this notice (and any subsequent written approval of details required to satisfy conditions) be annexed to the property deeds to which the application relates.
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1. The applicant is advised that a public right of way exists adjacent to the application site and that this permission does not purport to convey any approval or consent to any interference with the public right of way or to its stopping up or diversion. The legal procedure of diverting or 'stopping up' a right of way takes between six months and a year, and, during this time, the right of way cannot be obstructed. Application forms to divert or 'stop up' a right of way should be obtained at an early date from Cumbria County Council or in appropriate cases, Carlisle City Council.

Notice to Applicant of Rights of Appeal

- . Where an application for planning permission has been refused, or has been granted subject to a condition or conditions with which you are dissatisfied, you are entitled to appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990.

- . Appeals must, however be made within six months of the date of this notice. Forms for submitting an appeal can only be obtained by written request from:

The Planning Inspectorate
Department of the Environment
Tollgate House
Houlton Street
Bristol
BS2 9DJ

- . The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- . The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.
- . In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by him.

Purchase Notices

- . If either the local planning authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- . In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Compensation

- . In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.
- . These circumstances are set out in sections 114 and related provisions of the Town and Country Planning Act 1990.