

## Highways Committee

2 February 2012

Belle Vue, Consett



## Town and Country Planning Act 1990 Public Path Stopping-Up Order

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**Joint Report of Ian Thompson, Corporate Director of Regeneration & Economic Development and Colette Longbottom, Head of Legal & Democratic Services**

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### Purpose of the Report

- 1 To consider a proposal to make a Public Path Stopping-Up Order to extinguish any public rights of way which may exist within a defined area of Belle Vue, Consett, to enable development in accordance with planning permission.

### Background

- 2 On 9 March 2010 the Planning Committee approved an application (ref. 928/1/190) for outline planning permission to demolish the former council offices, leisure centre and football club facilities at Belle Vue, Consett, and to construct new leisure facilities and a new academy. A copy of the planning permission is at **Appendix A**.
- 3 To enable the permitted development to be carried out it is necessary to stop up any public rights which may exist over the area subject to the development. It is not possible for the development to proceed, in particular to provide a secure site to meet the requirements for child safety, with unrestricted public access through that part of the site.
- 4 The relevant statutory provision for the stopping-up of a public path in order to enable development to be carried out in accordance with planning permission is Section 257 of the Town and Country Planning Act 1990..
- 5 The Act gives authority to a Council to make a Public Path Stopping-Up Order if it is satisfied that it is necessary to do so to enable development to be carried out in accordance with planning permission.
- 6 An Order under Section 257 may, if the County Council is satisfied that it should do so, provide for the creation of an alternative highway as a replacement for the one to be stopped-up.
- 7 The Definitive Map and Statement of Public Rights of Way for County Durham does not show any recorded public rights of way over the area in question. An extract of the Map is at **Appendix B**.

- 8 Even though there are no recorded public rights over the land in question, it is accepted that the public have used a number of routes and that public rights may therefore have been acquired on the basis of usage. It is considered that it is therefore appropriate to ensure that any such rights have been extinguished prior to the commencement of the development.
- 9 The area covered by the proposed Order is the area of the existing buildings which are to be demolished and the area and the area of the academy and leisure centre development.
- 10 As part of the development of the whole site, which will include the sports pitches and other open areas, a network of new paths will be provided for the public to use. These will be the subject of further consultation in due course, but an indicative layout is at **Appendix C**.
- 11 Consultations on the proposed Stopping-Up Order have been carried out with the Local Members, the Ramblers' Association and other user groups. A copy of the consultation letter and the accompanying plans is at **Appendix D and C**.
- 12 An objection was received from County Councillor Temple, **Appendix E**.
- 13 This objection specifically relates to the application for Village Green status in respect of part of the Belle Vue site, and suggests that the stopping up of any public rights of way should not proceed whilst the final determination of Village Green status is awaited.
- 14 By way of background, there has been some local opposition to the development at Belle Vue, leading to part of the site being subject to an application for Village Green status. The determination of that application has been through a separate process, and the application was unsuccessful following a Public Inquiry. However, there remains to be determined by the High Court an application for Judicial Review of the Council's decision, as Registration Authority, to refuse the Village Green application. A decision from the Court is expected in the near future.
- 15 However, it is important to note that a decision by this Committee to make a Stopping-Up Order is only the trigger for a statutory process. This process can be abandoned at any stage prior to the confirmation of the Order, so a decision to make an Order does not prejudice any aspect of the ongoing Village Green case.
- 16 There is local interest in the proposed Stopping-Up Order and it has been explained to anyone enquiring that, if this Committee decides to make an Order, there will be a statutory period of notice during which anyone is entitled to make comment on the Order. Any objections to the Order which are made within the statutory period and are not withdrawn will be forwarded to the Secretary of State, who will determine the Order having considered all representations, probably by means of a Public Inquiry.

## **Recommendations and reasons**

- 17 Planning permission for the development has been granted, and it is necessary to stop up any public rights in the area covered by the permission to enable the development to be carried out. New routes will be provided to maintain public access between Ashdale Road, Medomsley Road, Villa Real Road and Oakdale Road.
- 18 The proposal is in accordance with the Council's policy and the statutory framework on the stopping up of public rights of way as it is not possible for the development to proceed without the stopping-up of the paths, and suitable alternative routes will be provided as the development proceeds.
- 19 In light of the above information, it is recommended that:
  - a) an Order to stop-up pedestrian public rights of way at Belle Vue, Consett be made,.

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## **Appendix 1: Implications**

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### **Finance**

If the Order is not made it will delay the construction of the new academy and leisure centre in Consett.

### **Staffing**

None

### **Equality and Diversity**

None

### **Accommodation**

None

### **Crime and disorder**

None

### **Sustainability**

None

### **Human rights**

The statutory procedures covering Orders made under s.257 of the Town and Country Planning Act 1990 allow any person to make their views known, and for any such views to be considered by an independent Inspector.

### **Localities and Rurality**

None

### **Young people**

If the Order is not made it will delay the construction of the new academy in Consett.

### **Consultation**

A consultation has been carried out with Local members and user groups.

### **Health**

None