



Supporters of Ashton Gardens



28 August 2005

Dear Mr. Southworth

Wildlife & Countryside Act 1981 Claimed Public Footpaths Through Ashton Gardens, St Annes Claim Number 804/422

Further to the Committee's consideration of claimed ways through Ashton Gardens St Annes, on 31 August, I should be obliged if you would bring the content of this letter to the attention of your members.

1. The claimed ways did not include all the paths in the gardens because we accept that only those being used as ways through the land are rights of way.

We accept that use of the paths within the gardens for recreational purposes is a right granted by the Act (as you have stated). Our claim was never in respect of this use, but in respect of non-users of the gardens passing through this land on their way to the shops and transport links. We maintain that this use by the public going about their daily business is not dependent upon the Act, but is literally "as of right", and hope you will explain this difference to your members. We ask you to reconsider the advice you have provided to your members if we had not made this point sufficiently clear in our submission.

2. We refute the suggestion that our intention in this matter is to frustrate a land sale (*which has already been concluded*). That simply prompted our action by highlighting that the ways we had taken for granted could no longer be so considered. Our desire in this matter is to protect the rights of future users of the ways through the gardens. They are the most direct routes to the town centre and railway station and used by many pedestrians as a short, safe, traffic, and pollution free way to and from the centre of town from the north west corner of St Annes.

It had not previously been thought necessary to ask for the ways to be protected. This changed when the developer made clear his intention to close a path and build over it - even though both his earlier 'outline' and 'reserved matters' planning permissions specifically showed this path as a right of way. Nor had we expected our local authority to become complicit in the closure of the way when faced with the opportunity to generate a large capital receipt.

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We had thought the land might be sold with the way kept open and maintained for future use - as indeed it could still easily be kept open even after the development.

Subsequent to our claim to you, the developer submitted a second planning application, which has now been approved. This moves the building 2.9 m away from the path and provides for the way to remain open for public use. This plan would be implemented if the way is added to the definitive map. He thus currently has two valid planning applications, one which accepts the existence of the right of way but will see it built over, and a second which moves the building clear of the way, but which attempts to deny its existence. The reason for moving the building 2.9m away is to accommodate the right of way. (This can be confirmed by examining the planning officer's report to Fylde Council).

3. The report to your committee says no parish council exists in St Annes. This mistaken belief is understandable, but not accurate. The parish of Saint Anne's on the Sea was created last July, and elections were held in May this year. The new parish council has met several times since that date.

We would be happy for this claim for ways through Ashton Gardens to be deferred to allow the views of the elected parish council to be heard, and we ask you to formally consult them on the matter.

Yours sincerely

Fred Moor