

ITEM 10

DEVELOPMENT CONTROL COMMITTEE

3 MARCH 2016

DELEGATION OF POWERS UNDER SECTION 257 TOWN & COUNTRY PLANNING ACT 1990 OAKGROVE FOOTPATH 32

Contact Officer: Andrew Burton, Rights of Way Officer (Tel: MK 25 2406)

1. Purpose

1.1 To request that the Development Control Committee delegate its powers under Section 257 of the Town & Country Planning Act 1990 to the Rights of Way Officer, in relation to the diversion of Oakgrove footpath 32.

2. Recommendation

2.1 That the Development Control Committee agree to delegate its powers under Section 257 of the Town & Country Planning Act 1990 to the Rights of Way Officer to make the appropriate Order, subject to normal consultation procedures and to deal with any proceedings which flow from an opposed Order including referral to Secretary of State and conduct of any public inquiry to deal with such objections, for the diversion of Oakgrove Footpath 32 as per the attached plan.

3. The Site

3.1 Oakgrove footpath 32 is to be diverted as it is necessary in the interests of allowing an authorised development to be carried out, for which planning permission has been granted. The footpath currently passes through the Oakgrove development site on a generally east-west axis. The path is currently made of tar-chip. The length of route to be stopped up is 226m. The proposed new route diverts in a generally northerly direction before turning generally south. This route will have a tar-chip surface and will be 325m in length. The old route and proposed new route both have a width of 2m.

4. The Application

4.1 An application for the diversion of Oakgrove footpath 32 under s.257 of the Town & Country Planning Act 1990 was submitted to the Council on 28th August 2015 to the Rights of Way department, Milton Keynes Council by Crest Nicholson Regeneration. Currently, Oakgrove footpath 32 runs from points A to D on the attached map. The proposed diversion will run from point A to D via B & C. The length of footpath to be extinguished is 276m and the length of the new path to be provided is 325m in length and 2m wide in an east to west direction.

4.2 Following standard preliminary consultation of Statutory Undertakers, potentially affected by the diversion and Ward & local Councillors, no objections have been received to the proposed route.

5. The s 257 Functions

5.1 Section 257 of the Town and Country Planning Act 1990 vests the authority in a competent authority to 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.

5.2 The Development Control Committee is vested with the power to authorise stopping up or diversion of footpaths of bridleways. This power includes the powers provided to local planning authorities who have granted a planning permission to stop up or divert footpaths and bridleways under section 257 of the Town and Country Planning Act 1990. The power comprises the consideration whether or not to make an Order and the procedure involved in making an Order.

5.3 The relevant consideration for the local planning authority is whether it is satisfied that it is necessary to stop up/divert the footpath/bridleway in order to allow the authorised development to be carried out.

5.4 The procedure under section 257 is governed by section 259 and Schedule 14 of the Town and Country Planning Act 1990. It involves making and giving notice of an Order. If the Order is unopposed the local authority may confirm themselves without modification. If objections are received, then the order must be sent to the Secretary of State for confirmation.

6. Reasons

6.1 This power applies to footpaths, bridleways & Byways which are already recognised as public rights of ways and which have been placed on the Councils' definitive map. The path or way in question should not have any vehicular rights over them and no prospect of any vehicular rights existing.

6.2 Delegation of this power to the Rights of Way Officer as recommended will assist in considering whether or not to make an Order and to deal with any proceedings which follow from an opposed Order.

7. Issues

Legal

7.1 An Order under Section 257 Town and Country Planning Act 1990 may, if the Council are satisfied that it should do so, provide for the preservation of any rights of Statutory Undertakers in respect of

any apparatus of theirs which immediately before the date of the Order is under, in, on, over or across any such footpath or bridleway.

7.2 An Order may require any person named in the Order to pay, or make contributions in respect of the cost of carrying out any such works for the diversion of the footpath or bridleway.