

ITEM 7

DEVELOPMENT CONTROL COMMITTEE

14 February 2013

DELEGATION OF POWERS UNDER SECTION 119 HIGHWAYS ACT 1980 IN RELATION TO TYRINGHAM AND FILGRAVE BRIDLEWAY 2

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1. Purpose

To request that the Development Control Committee delegate its powers under Section 119 of the Highways Act 1980 to the Rights of Way Officer, in relation to the diversion of Tyringham and Filgrave bridleway 2.

2. Recommendation

That the Development Control Committee delegate its powers under section 119 of the Highways Act 1980 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 the Secretary of State and conduct of any public inquiry to deal with such objections, for the diversion of Tyringham and Filgrave bridleway 2 as per the attached plan.

3. The Site

Tyringham and Filgrave bridleway 2 is to be diverted in the interests of the landowner and the public. The bridleway currently travels in a north-north easterly direction along the eastern side of a fence line over a hard surfaced driveway for a distance of approximately 38 metres. It passes through a gate and continues to travel in a north-north easterly direction along the eastern side of the fence line over a grassed surface for a distance of approximately 52 meters and then through another gate into the field beyond.

The proposed new route will pass through a bridle-gate positioned to the west of the hard surface driveway and into the field. The bridleway will then travel in a generally north-north easterly direction along the western side of the fence line. Throughout its length the bridleway has a minimum width of 3.5 meters.

4. The Application

An application for the diversion of Tyringham and Filgrave bridleway 2 under s.119 of the Highways Act 1980 was submitted to Milton Keynes Council on 6 June 2012 by Mr Daksh Gupta, Rectory Farm, Filgrave. The bridleway to be diverted is shown on the attached map. Currently, Tyringham and Filgrave bridleway 2 runs from points A to B to C. The proposed diversion will run from point A to D to C. The length of bridleway

to be extinguished is 90m and the length of the new path to be provided is 90m and 3.5m wide.

The proposed route (shown with broken line) will not be any less commodious than the current route, as shown on the attached map.

Following a standard preliminary consultation of Statutory Undertakers potentially affected by the diversion, no objections have been received to the proposed route.

5. The s 119 Functions

Section 119 of the Highways Act 1980 vests the power in a competent authority to, by Order authorise the diversion of any footpath or bridleway if they are satisfied that it is expedient to do so on the ground that the path or way should be diverted (whether on to land of the same or of another owner, lessee or occupier) and to do so in the interests either of the public or of the owner, lessee or occupier for the land crossed by the path or way.

The Development Control Committee is vested with the power to authorise diversion of footpaths or bridleways. The power comprises the consideration of whether or not to make an Order and the procedure involved in making an Order.

When the authority is deciding whether or not to make the Order the following criteria should be considered so that they do not fail at confirmation stage:

The authority must be satisfied that a diversion is expedient and that the path or way will not be substantially less convenient to the public in consequence of the diversion.

If an Order is unopposed this may be confirmed by the Order making authority. In the case of an opposed Order and an unresolved objection, this must be sent to the Secretary of State. .

6. Reasons

This DCC power applies to footpaths, bridleways and restricted 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.

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. Compensation Issues

Before determining to make a public path diversion Order the Council may require the person who made the application to enter into an agreement with them to defray, or to make such contributions as may be specified in

the agreement towards any compensation which may become payable or any expenses which the Council may incur in bringing the new path or way into a fit condition for use by the public.