

ITEM 9

DEVELOPMENT CONTROL COMMITTEE

3 MARCH 2016

DELEGATION OF POWERS UNDER SECTION 119 HIGHWAYS ACT 1980 RAVENSTONE FOOTPATH 4

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 119 of the Highways Act 1980 to the Rights of Way Officer, in relation to the diversion of Ravenstone footpath 4.

2. Recommendation

2.1 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 Secretary of State and conduct of any public inquiry to deal with such objections, for the diversion of Ravenstone footpath 4.

3. The Site

3.1 Ravenstone footpath 4 is to be diverted in the interests of the landowner. The public footpath runs across an area cross-field, headland and farm road. From point A (shown on the attached plan) the path crosses an arable field, North West, for 109m. Then generally west for 252m and through the farm yard for 65m and then continues as headland for 484m to point F.

The width of the path varies between 1m for Crossfield, 2.8m on the track and 1.5m on the headland.

4. The Application

4.1 An application for the diversion of Ravenstone footpath 4 under s.119 of the Highways Act 1980 was submitted to the Council on 6 September 2013 by Mr & Mrs Lane.

4.2 The footpath to be diverted is shown on the attached map. Currently Ravenstone footpath 4 runs from points A-F over a made up surface from B – C and natural surface from C - F. The route has a length throughout of 890m and a width throughout of approximately between 1m-5m and runs 304m on farm track, 108m cross field and the rest is natural and headland.

4.3 The proposed diversion will run from point A-F via G, H, I, K and L over a headland and cross-field surface. There is a varying width throughout between 1m (cross-field) and 2m for headland with a voluntary extra 1m width throughout the length of the footpath.

4.4 Following a standard preliminary consultation of statutory undertakers, ward and parish councillors and other interested parties potentially affected by the diversion no objections are outstanding regarding the proposed diversion.

5. The s119 Functions

5.1 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.

5.2 The Development Control Committee is vested with the power to authorise diversion of footpath or bridleways. The power comprises the consideration 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.

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

5.4 The Rights of Way department is satisfied that the application has been made in the interests of the landowner and it is expedient that the line of the path should be diverted. The Rights of Way department is also satisfied that the proposed new route will not be substantially less commodious for the public.

6. Reasons

6.1 This 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 exist.

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 The application is made under section 119 of the Highways Act 1980 in the interests of the landowner.

7.2 No objections were received to the application.

7.3 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.