

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

12 October 2005

Report of the Chief Solicitor

Part 1- Public

Matters for Recommendation to Cabinet - Non Key Decision (Decision may be taken by the Cabinet Member)

1 PUBLIC RIGHT OF WAY: FOOTPATH MR 365 (PART) –WEST PECKHAM

Summary

An application has been received by this Council to divert part of public footpath MR365, West Peckham. It is recommended that a diversion order should be made, advertised and subsequently confirmed, if unopposed, or referred to the Secretary of State if objections are sustained.

1.1 Introduction

- 1.1.1 The Borough Council has received an application under section 257 of the Town and Country Planning Act 1990 to divert part of footpath MR365 at West Peckham. This diversion is sought to enable development to be carried out in accordance with planning permission granted under Part III of the 1990 Act. The proposed diversion would move the line of the existing path to the eastern and south eastern edges of a proposed irrigation reservoir.
- 1.1.2 The application has been made by the owner of the land, Hugh Lowe Farms Limited for the purpose of farm irrigation and diversion of the footpath would allow the public to enjoy the increase in wildlife and wildfowl arising from the water storage.
- 1.1.3 The views of the Council on the proposed diversion are requested prior to a diversion order being made. A diversion plan and an extract from the definitive Map of Public Rights of Way in Kent are shown at **[Annex 1]**.

1.2 Proposed route changes

- 1.2.1 The length of the existing footpath (marked A- B on the diversion plan) currently forms a cross-field footpath approximately 320 metres in total length.
- 1.2.2 The proposed new footpath (marked A- D- C on the diversion plan) would be located to run along the eastern and south eastern sides of the irrigation reservoir. The new footpath would have an approximate length of 396 metres.

1.3 Consultation

1.3.1 I have consulted West Peckham Parish Council, local members, the Director of Planning and Transportation, the Director of Leisure and the usual statutory authorities on the diversion proposal.

1.3.2 I have received no adverse comments on the proposal.

1.4 Comments on the proposal

1.4.1 I am satisfied that the proposed diversion of part of this footpath is in the interests of the owner of the land and that it is not substantially less convenient to the public and that public enjoyment of the route of the footpath, as a whole, is not prejudiced.

1.5 Recommendations

1.5.1 It is therefore **recommended** that subject to there being no adverse comments on the proposal from those whom I have consulted informally, and the Kent County Council, the Executive be asked to give approval to:

- 1) the making and advertising of a Diversion Order under the provisions of section 257 of the Town and Country Planning Act 1990;
- 2) the confirmation of the Order, if unopposed; or
- 3) referral of the Order to the Secretary of State for determination if any objections are received.

The Chief Solicitor confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

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Nil

Duncan Robinson
Chief Solicitor