

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

03 September 2008

Report of the Chief Solicitor

Part 1- Public

Executive Non Key Decisions

1 PROPOSED DIVERSION OF PUBLIC RIGHT OF WAY MR144, KINGS HILL

Summary

An application has been received by this Council to divert part of public right of way MR144 at the above-mentioned location. It is recommended that a public path 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 119 of the Highways Act 1980 to divert part of public right of way MR144 at Kings Hill (land just off Tower View). The order is sought in the interests of the lessee of the land concerned.

1.1.2 The application has been made by the lessees of the land namely Liberty Property Trust UK Ltd and they will provide a replacement footpath to the required specification. I understand that the current route of the footpath will cross part of a car park and is not part of the route generally walked on site. The proposed new route is that which is currently walked.

1.1.3 The views of the Council on the proposed diversion are requested prior to the order being made. A plan is attached at Annex 1.

1.2 Proposed route change

1.2.1 The length of the existing footpath to be diverted is shown on the plan marked A – F and has a length of approximately 130 metres.

1.2.2 The proposed new footpath is shown on the plan marked A – B – C – D - E – F and has a length of approximately 160 metres.

1.3 Consultation

1.3.1 I am consulting local members and the Director of Planning, Transportation and Leisure on the proposal. The usual statutory authorities will be consulted when the order has been made. The Kent County Council are owners of the land concerned and they have confirmed that they have no objection to the proposal.

1.4. Comments on the proposal

1.4.1 I am satisfied that the proposed diversion of this footpath is in the interests of the lessee of the land and that the new footpath is not substantially less convenient to the public and that public enjoyment of the route of the footpath as a whole, is not prejudiced. The current line of the footpath from points A –F crosses part of a field and there is no footpath visible, whereas the route currently walked is clearly visible and this will form the new diverted route.

1.5 Recommendations

1.5.1 It is therefore **recommended** that subject to there being no adverse comments on the proposal from those who I consult informally, approval be given to:

- (1) the making and advertising of a Diversion Order under the provisions of the Highways Act 1980, section 119;
- (2) the confirmation of the Order if unopposed; or
- (3) the referral of the Order to the Secretary of State for the Environment, Transport and Regions for determination if any objections are sustained.

Background papers: Footpath Diversion file MR144,
Kings Hill

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Chief Solicitor