

## Order of the Day

### 3. BILL FOR SECOND READING

#### 3.1. Highways (Amendment) Bill 2019 – Second Reading approved

Mr Harmer to move:

*That the Highways (Amendment) Bill 2019 be read a second time.*

**The Speaker:** Item 3, Bill for Second Reading, Highways (Amendment) Bill 2019. I call on the Minister, Mr Harmer, to move.

**Mr Harmer:** Thank you, Mr Speaker.

I am pleased to promote this short Bill on behalf of the Department of Infrastructure to rectify a deficiency in the definition of planning approval within the Highways Act 1986, which I will refer to in this speech as 'the Act'.

The Department has powers within the Act to make highway closure or highway diversion orders under section 33.

These powers enable the Department to divert or extinguish a highway for the purpose of enabling development to be carried out in accordance with a planning approval. Where the Department is satisfied that it is expedient to do so, it may then make an order to deal with extinguishment or diversion of the highway, and therefore enable the development to proceed.

However, it should be noted that planning approval, as defined in section 119 of the Act, only means approval to the development of land granted pursuant to a development order under Part 2 of the Town and Country Planning Act 1999, and to no other approvals.

The situation has arisen due to the Transfer of Planning and Building Control Functions Order 2015. At that time, planning approvals via an order or an application would give sufficient reason for the Department to extinguish or divert a highway.

However, the Transfer of Functions Order amended the definition of a development order within the Town and Country Planning Act by limiting it to approvals granted by an order. Inadvertently, this had the effect of stopping the Department from making orders to close or divert a highway so as to enable development to occur, even where an approval had been granted via a planning application.

The Bill is proposing to omit any reference to a development order from the definition of planning approval in the Act, which in turn will allow the Department to make the necessary highway orders to enable development to occur.

This Bill is simply reinstating the powers contained within the Act before the Transfer of Functions Order came into operation.

The opportunity presented by this Bill is also being used to improve an anomaly in the process for highway closures and diversions with regard to public footpaths. Public footpaths are classed as highways, and if a highway closure order or highway diversion order, which requires Tynwald approval, is made for a footpath, the Department is then required to make a subsequent order under a different section of the Act, and again seek Tynwald approval, to amend the definitive map itself, i.e. Tynwald is asked twice to approve the same change.

Highway closure orders and highway diversion orders have to be approved by Tynwald, essentially giving agreement to the principle of the proposed change to the definitive map. Therefore, this Bill will amend section 92A to provide that an order made under that section as a consequence of: (a) an order under section 33, 34 or 91; or (b) an agreement under section 4

or 87; or (c) both such an order and such an agreement, need only to be laid before Tynwald, because in these circumstances the process is essentially administrative in nature.

I must stress the Department is not intending to change the procedure set out in the Act where any proposed closure or diversion orders are advertised and open to objection by the public. These orders will still be subject to public scrutiny and the scrutiny of Tynwald.

Having outlined the broad principles of the Bill I hope that Hon. Members will give it their full support.

I beg to move that the Highways (Amendment) Bill 2019 be read for a second time.

**The Speaker:** I call on the Hon. Member for Ayre and Michael, Mr Baker.

**Mr Baker:** Thank you, Mr Speaker.

I beg to second and reserve my remarks.

**The Speaker:** The question is that the Highways (Amendment) Bill 2019 be read for a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.