

**Highways (Amendment) Bill 2019 –
Standing Orders suspended to take remaining stages at this sitting**

Mrs Lord-Brennan to move:

That Standing Orders be suspended to the extent necessary to take the remaining stages of this Bill at this sitting.

The President: Suspension of Standing Orders. Mr Henderson?

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Mrs Lord-Brennan: It is actually –

The Clerk: Mr President, there was an error on an earlier version of the Order Paper. It should be Mrs Lord-Brennan to move.

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The President: Mrs Lord-Brennan to move.

Mrs Lord-Brennan: Thank you, Mr President.

270 Further to my statement last week, I would like to seek suspension of Standing Orders to take the remaining stages of the Highways (Amendment) Bill at this sitting of Council, and I thank the Council Members for supporting the First Reading.

As outlined, there has been some urgency attached to this becoming law, so I am grateful for Members' consideration of this and for Members taking the chance to consider this and speak with me about it in the past week.

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As explained, the issue with the definition of planning approval is currently preventing the Department from bringing forward a Highway Diversion Order to Tynwald Court for its approval. In the most pressing instance currently, the Order is urgently required to allow a footpath to be diverted so that a major quarry operator can extend their operations to their next area of reserves before their current reserves are exhausted. The reserves have been running down these past few months. Without the Bill becoming law, to allow for the Orders to be put to Tynwald and made the operator will not be able to divert the path lawfully and therefore will not be able to continue quarrying into their new extension area. This, in turn, could impact on the construction industry and the overall economy. Other developments are also affected, as I have indicated to Hon. Members of this Council.

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In anticipation of queries, I am advised upon asking the questions myself that planning permission for the quarry extension was granted in August 2018. It is a separate matter to what this Bill covers, but notices regarding the proposed public right of way diversion were sent out in August 2018 to the affected landowners and the local authority, along with notices in the paper and on the ground. No objections were received.

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This is more detail than I would need to provide for this Bill, but I thought Members would appreciate the extra background information and context.

I would be glad, therefore, if Hon. Members of this Council would support my motion to suspend Standing Orders, given the situation, and I do appreciate it is an accommodation on their part.

Mr President, I therefore seek the Suspension of Standing Orders.

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The President: Mr Crookall.

Mr Crookall: More than happy to second, Mr President.

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The President: Mrs Poole-Wilson.

Mrs Poole-Wilson: Thank you, Mr President.

I think in the circumstances this is a very short Bill and I think Mrs Lord-Brennan has outlined why we need it – it is correcting an earlier error – and I think she has explained very clearly what the impact of the Bill is. Although Standing Orders and our stages are there for a very good reason to make sure that we properly scrutinise legislation, I think in the circumstances of such a short Bill – it is straightforward, has been properly explained and Mrs Lord-Brennan has engaged with all Members of Council to help understanding of the impact of the Bill – I would be happy in this case to support the suspension of Standing Orders.

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The President: Hon. Members, I put the motion that Standing Orders be suspended to the extent necessary to take the remaining stages of this Bill at this sitting. Those in favour, say aye; against, no. That carries unanimously.

Highways (Amendment) Bill 2019 – Second Reading approved

The President: Mrs Lord-Brennan, Second Reading.

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Mrs Lord-Brennan: Thank you, Mr President.

Thank you very much to Hon. Members of this Council for agreeing on this occasion to the suspension of Standing Orders. I think it is quite right to point out that it is not ordinary and I am glad that the other information in the context of background information has allowed Council to feel comfortable with doing this on this occasion.

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Thank you, Mr Crookall, for seconding and to Mrs Poole-Wilson for her comments too.

I would like to move the Second Reading of the Highways (Amendment) Bill 2019.

In moving the Second Reading I will be brief in light of the fact that I gave a detailed breakdown of the Bill during the First Reading.

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The purpose of the Bill is to amend the definition of ‘planning approval’ for the purposes of the Highways Act 1986 and to amend the Tynwald procedure in respect of certain orders amending the definitive maps for rights of way.

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

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Mrs Sharpe: I beg to second and reserve my remarks.

The President: I put the question that the Highways (Amendment) Bill be read for the second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Highways (Amendment) Bill 2019 – Clauses considered

The President: We turn to the clauses. Mrs Lord-Brennan.

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Mrs Lord-Brennan: Thank you, Mr President, and I thank Members again for their support.

I will now move the clauses in more detail.

Clause 1, title: this clause gives the Act resulting from the Bill its short title.

Mr President, I beg to move that clause 1 stand part of the Bill.

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The President: Mrs Sharpe.

Mrs Sharpe: I beg to second and reserve my remarks.

345 **The President:** I put the question that clause 1 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 2.

Mrs Lord-Brennan: Thank you, Mr President.
350 Clause 2, Highways Act 1986 amended, introduces the amendments that are made to the Highways Act 1986 by clauses 3 and 4.
Mr President, I beg to move that the clause stand part of the Bill.

The President: Mrs Sharpe.
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Mrs Sharpe: I beg to second.

The President: I put the question that clause 2 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
360 Clause 3.

Mrs Lord-Brennan: Thank you, Mr President.
Clause 3 – amendment of definitive maps and associated statements, section 92A amended – amends section 92A of the 1986 Act to provide that an order which amends a definitive map only in consequence of the making of (a) an order under sections 33, 34 or 91, (b) an agreement under sections 4 or 87, or (c) both such an order and such an agreement, need only be laid before Tynwald, because in these circumstances the process is essentially administrative in nature and the original related order would already have been subject to Tynwald approval procedure.
365 Mr President, I beg to move that clause 3 stand part of the Bill.

The President: Mrs Sharpe.
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Mrs Sharpe: I beg to second.

The President: I put the question that clause 3 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
375 Finally, clause 4.

Mrs Lord-Brennan: Thank you, Mr President.
380 Clause 4 – interpretation, section 119 amended – adjusts the definition of ‘planning approval’ for the purposes of the Highways Act 1986. Omitting the words ‘pursuant to a development order’, therefore removing that narrowness specific to a development order only, has the effect to restore the situation whereby orders can be made where approval has been granted by planning application.
385 Mr President, I beg to move that clause 4 stand part of the Bill.

The President: Mrs Sharpe.

Mrs Sharpe: I beg to second and reserve my remarks.
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The President: I put the question that clause 4 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

**Highways (Amendment) Bill 2019 –
Third Reading approved; Bill passed**

The President: We turn now to the Third Reading. Mrs Lord-Brennan.

395 **Mrs Lord-Brennan:** Thank you, Mr President.

I would again like to thank Members for supporting this Bill through this Chamber and for accommodating and listening to the other concerns about the need to, in this instance, allow it to progress quickly through this Chamber.

In particular, I would like to thank my seconder, Mrs Sharpe.

400 This legislation seeks to amend the Highways Act 1986 by rectifying a deficiency in the definition of ‘planning approval’ within the Act to allow the Department to make highway orders so as to enable development to occur.

This Bill also changes the Tynwald procedure for section 92A orders when they are made under that section as a consequence of (a) an order under sections 33, 34 or 91; (b) an agreement under sections 4 or 87; or (c) both such an order and such an agreement. In these circumstances, the order would be laid before Tynwald.

405 Mr President, I hope that Hon. Members will give it their support and I beg to move that the Highways (Amendment) Bill 2019 be read for a third time.

410 **The President:** Mrs Sharpe.

Mrs Sharpe: I beg to second and reserve my remarks.

The President: Mr Henderson.

415 **Mr Henderson:** Gura mie eu, Eaghtyrane.

I am very supportive of what the Hon. Member is doing, so there is no problem there but I just want to ask a clarifying question, such as we heard on the First Reading, really.

420 What we are doing here is rearranging the process in general terms so that the Department is not tripping itself up, in my terminology, whereby the current situation, and specific to the quarry operation, the processes and procedures are out of sync with each other – is my take on it. We are rearranging it so that we can have one set of regulations synchronising with another set of regulations vis-à-vis planning approval, development orders and so on, and in the background of that we are not affecting the public’s interests with regard to rights of way and public footpaths. It is a case of just making the procedure a lot neater and for the different protocols to actually interact with each other in a more appropriate way so that permission or applications for development orders can go ahead and not be at odds with the definitive plan and planning process, basically – if I have got that right, Eaghtyrane.

430 **The President:** Mrs Lord-Brennan.

Mrs Lord-Brennan: Thank you, Mr President.

I thank Mr Henderson for outlining his query. At the top I would absolutely say anything that is being changed in this Bill is not affecting the public’s interests and any process to do with public rights of way. In terms of rearranging the process, I think there is clearly a misalignment but that is because of a change that was made in previous legislation because of the definition of ‘planning’, so it is more that there is an error in that respect that has come up since the Transfer of Functions Order. So it is to restore back to the original intention, and the original situation was that where planning approval was gained by way of planning application that could still go ahead. So then the only other change in the process is the laying before of the order relating to the change of the definitive map and at the moment that comes for Tynwald approval, and actually probably what

would have happened is that you would have,, in the previous Tynwald sitting, had the actual order to do with the original diversion or extinguishment.

445 So I think it is even less than rearranging the process, but I welcome any chance to clarify how it would work and what the background is on it. I am happy to answer any other questions that Mr Henderson or anybody else might have.

The President: Thank. You.
Miss August-Hanson.

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Miss August-Hanson: Thank you, Mr President.

I had originally queried the lay before and approval in section 92A and then looked at the amalgamation of the two processes that we talked about earlier, and following conversation with Mrs Lord-Brennan completely understand the need for the Department's tack and the way that they have moved forward with that.

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I would like to congratulate Mrs Lord-Brennan on the moving of her first Bill through Council and also say thank you to her for the very helpful background information that she has provided us with. She has been extraordinarily thorough and she has really provided us with the time that we have needed to question it – she certainly has for me and I would like to thank Mrs Lord-Brennan for that.

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The President: Does any other Hon. Member wish to speak?

Mrs Maska: Yes, Mr President.

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The President: Mrs Maska.

Mrs Maska: Thank you. It is a just a point for clarification, really; these matters occur as you are debating the Bill.

I wonder, since the Transfer of Functions Order in 2015, if any diversions might have happened that now ... I am wondering what the status might be of any transfer or diversions that have happened that would maybe not have been quite legal, or if their status might be questionable – if they have happened since 2015 under an irregularity in the system, what their status might be now. I apologise that this has only occurred to me as we debate, but I wonder if they might be challenged.

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The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: Thank you, Mr President, and thank you to Mr Henderson and Miss August-Hanson, and Mrs Maska for that query.

To my knowledge, the awareness of this error came last year, last summer. If there are any queries, I am not aware of them but I think it would be a question that is maybe not related to this Bill but related to other orders. I am happy to look into the process. The only comment I would make is that it is not going to be that often that we are dealing with big developments that are diverting them. I am happy to look into that if that is acceptable.

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Mrs Maska: I am obliged, thank you.

The President: Miss August-Hanson.

Miss August-Hanson: I would just like to ask if Mrs Lord-Brennan would be content to circulate that response, if that is all right, to the Legislative Council Members. Thank you.

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The President: Mrs Lord-Brennan.

Mrs Lord-Brennan: Yes, I would be happy to.

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The President: With that, I put the motion that the Highways (Amendment) Bill be read for the third time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, I would congratulate the mover, Mrs Lord-Brennan, for her steerage of the Highways (Amendment) Bill, the first piece of legislation in Council to stand in her name. (**Members:** Hear, hear.)

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Hon. Members, that concludes the business before us this morning. Council will now stand adjourned until we meet next Tuesday at 10.30 in Tynwald Court.