

**Housing, Community & Emergency Services Department
South East Area Office**

**To the Chairperson and Members of the
South East Area Committee**

**With reference to a proposal to extinguish the Public Right of Way
at Bracken's Lane, Dublin 2.**

At its meeting on 6th February 2017, the City Council assented to the proposed exchange of lands at Gloucester Street South / Moss Street / Bracken's Lane, with Brigante Investments Ltd (subsidiary of Tetrarch Capital Ltd) subject to the terms and conditions as outlined in Report No. 67/2017 (copy attached).

Condition 2 states inter alia "That the City Council will dispose of Fee simple interest subject to a lease forever dated 19th July 1732 in the area known as Bracken's Lane, off Moss Street, Dublin 2 as shown shaded yellow on the attached map Index No SM-2016-0549. The City Council will commence the process to extinguish the public right of way which currently exists over the lane."

Condition 6 states inter alia "That the City Council shall be granted a right of way for both pedestrian and vehicular access to the proposed residential block outlined at condition No. 3 over the existing Bracken's Lane (as shown in yellow on map index no. SM-2016-0549) and a right of way over the attached proposed entrance from Gloucester Street South (as shown hatched on map index no. SM-2016-0549). The ROW's are indicative and shall be determined by the line of the buildings in the final approved development site plan. Dublin City Council shall have a right of way to connect to all services along the route of each right of way".

The extent of the proposal to extinguish the public right of way at Bracken's Lane is shown on the attached Drawing No. R.M. 36645 dated 23rd November 2016. The laneway is under the charge of Dublin City Council and therefore a public right of way exists over it. The laneway is not a through-way.

The South East Area Committee, at its meeting on 13th March 2017 agreed to initiate the statutory procedures to extinguish the public right of way at this location under the provisions of Section 73 of the Roads Act 1993.

Service Check

A service check was carried out.

Gas Networks Ireland, Road Maintenance Services, Public Lighting & Electrical Services and Road Design have no objections.

ESB Networks has no objection to the proposal but has stipulated that it will require a wayleave over the existing cables in the laneway.

Virgin Media has no underground services in this location but has some overhead cabling on adjacent buildings.

Eircom Limited trading as "open eir" has stipulated that its statutory rights in respect of plant at Bracken's Lane are respected by owners of the lane and that it also requires access to its plant in the lane on an ongoing basis.

Tetrarch Capital Limited has confirmed that the requirements stipulated by the Service Providers will be complied with.

Statutory Requirement

By public advertisement in the Irish Independent on 20th March, representations or objections were invited by the 10th May 2017. Site notices were erected on Bracken's Lane on 20th March 2017 for a period in excess of 14 days.

Two submissions were received in relation to the proposal. Mr Mark Lacey, on behalf of Gloucester Street Sports and Recreation Centre and Mr Robert Hughes on behalf Culture, Recreation and Economic Services, Dublin City Council both sought clarification in relation to continued access for deliveries to Gloucester Street Sports & Recreation Centre, access for plant maintenance and maintaining a fire exit for the centre which is located on the lane. In his submission Mr Hughes stated that Dublin City Council owns the premises known as Gloucester Street Sports & Recreation Centre and that Culture, Recreation and Economic Services require that Dublin City Council be granted a right of way over Bracken's Lane if the public right of way is extinguished at this location.

Tetrarch Capital Limited has confirmed that Dublin City Council will be granted a right of way over Bracken's Lane which in turn will provide Gloucester Street Sports & Recreation Centre with a right of way.

Recommendation

I have considered the issues raised by Mr Mark Lacey on behalf of Gloucester Street Sports & Recreation Centre and Mr Robert Hughes on behalf of Culture, Recreation and Economic Services, Dublin City Council and I am satisfied that their requirements will be met.

At its meeting on 6th February 2017, the City Council assented to the proposed exchange of lands at Gloucester Street South / Moss Street / Bracken's Lane, with Brigante Investments Ltd (subsidiary of Tetrarch Capital Ltd) subject to the terms and conditions as outlined in Report No. 67/2017 (copy attached).

I accordingly recommend that the Committee recommend to the City Council that the extinguishment of the public right of way over the area indicated on Drawing No. R.M. 36645 be approved. The laneway shall not be used by the adjoining property owners or others for unauthorised use.

The extinguishment of a public right of way is a function reserved to the City Council.

Rose Kenny
Area Manager