

**ORIGINATING DIVISION:** HIGHWAYS AND TRANSPORTATION  
CAPITA

**REPORT TO:** BLACKBURN WITH DARWEN BOROUGH COUNCIL  
PLANNING AND HIGHWAYS COMMITTEE

**DATE:** 21<sup>st</sup> December 2017

**TITLE:** STOPPING UP OF THE PATH BETWEEN WEST PARK  
ROAD AND DUKES BROW

**WARD:** Corporation Park      **COUNCILLORS:** John Wright  
Arshid Mahmood  
Tasleem Fazal

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## **1.0 PURPOSE OF THE REPORT**

The purpose of the report is to inform Members of the receipt of a request from Queen Elizabeth's Grammar School for the Council to progress an Order for the Stopping Up of a path which runs between West Park Road and Dukes Brow, Blackburn and to ask Members to authorise the Director of HR Legal & Corporate Services to apply to the Magistrates' Court for the necessary Order as per the attached plan.

## **2.0 BACKGROUND AND DETAILS**

Capita Highways received a formal request for a stopping up on 19<sup>th</sup> October 2017 from Queen Elizabeth's Grammar School who have agreed to meet the costs as described in the Council's Fees and Charges list.

The path shown hatched black on the plan runs through Queen Elizabeth's Grammar School grounds and basically bisects the school site. During a recent inspection by Ofsted the path was highlighted as a high risk to pupil safeguarding and a general risk to security. In order that the school's rating was not downgraded, the inspectors require, as a minimum, that security fencing is installed either side of this adopted path. This would greatly increase the already disruptive effect that the path has to the smooth running of the school site and also the head teacher fears that the increased lack of permeability across the site could in the event of a serious fire on site increase the risk to pupils.

As there is an equally commodious path between the two roads approximately 150 metres away it is reasonable to take the view that it has no role as a public highway and is therefore eligible to be Stopped Up under the terms of Section 116 of the Highways Act 1980.

## **3.0 PROCEDURE**

The power to make a Stopping Up Order under the Highways Act is vested in the Magistrates' Court, and only the Highway Authority for the road to be stopped up may make the application. Section 116 allows the Magistrates' to make this order if they are satisfied that the Highway is no longer "necessary" or it "can be diverted so as to make it nearer or more commodious to the public", In this instance the applicable reasoning for the proposed closure is on the grounds of lack of necessity. The Court will require evidence that the road is unnecessary and that notices and consultations with all affected and interested parties, in

accordance with the requirements of the Act, have been made, and that there are no outstanding objections to the making of the Order.

**4.0 IMPLICATIONS**

<b>Customer</b>	None
<b>Financial</b>	The costs of implementing the change will be met by Queen Elizabeth's Grammar school. Any future cost on the Council as the Highway Authority for maintaining this path following its closure will cease.
<b>Anti-poverty</b>	None
<b>Crime and Disorder</b>	None

**5.0 RECOMMENDATION**

It is recommended that Committee authorise the Director of HR Legal & Corporate Services to progress with the closure of the path between West Park Road and Dukes Brow, Blackburn and if the Department believes there is a good chance that the application will be successful, to apply to the Magistrates' Court for the necessary Order.

**6.0 BACKGROUND PAPERS:** None

**7.0 CONTACT OFFICERS:** Gina Lambert

**8.0 DATE PREPARED:** 20<sup>th</sup> November 2017