

ORIGINATING DIVISION: HIGHWAYS AND TRANSPORTATION
CAPITA

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

DATE: 18th January 2018

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

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

1.0 PURPOSE OF THE REPORT

To request that Members authorise the Director of HR Legal & Corporate Services to apply to the Magistrates' Court for the necessary Order for the Stopping Up of an adopted path which runs between West Park Road and Dukes Brow, Blackburn.

2.0 BACKGROUND AND DETAILS

On 19th October 2017 Capita Highways received a formal request from Queen Elizabeth's Grammar School for a stopping up of a path which runs through the school grounds. The school has agreed to meet the costs of the legal process as described in the Council's Fees and Charges list.

The path, shown hatched black on the plan, is an adopted highway which 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.

The path provides access to Corporation Park from Dukes Brow but does not align with the junctions of either Hope Terrace or Adelaide Terrace with Dukes Brow. For persons wishing to gain access to the park from either of these roads, there are entrances at the north westerly and south easterly ends of West Park Road both of which can be easily accessed without the need for the path. It is reasonable to take the view that the path 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

Customer	None
Financial	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.
Anti-poverty	None
Crime and Disorder	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: 20th November 2017