

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 STEPPED PATH ADJACENT TO
DARWEN MARKET SERVICE ROAD

WARD: Sunnyhurst **COUNCILLORS:** Pete Hollings
Dave Smith
Brian Taylor

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 stepped path adjacent to Darwen Market service road .

2.0 BACKGROUND AND DETAILS

As part of Darwen Market Redevelopment Scheme, it is proposed to stop up a stepped path which was formerly used by pedestrians to gain access to the 3 day market hall. The redevelopment design includes the creation of a new stepped path which will bring pedestrians into the newly developed square from Railway Road.

The new access will provide an equally commodious pathway for pedestrians leading them directly into the newly developed area. It will also allow the existing path to be soft landscaped to better divide the service road and service area from the redeveloped public open space. It is reasonable to take the view that the former 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 included within the scheme costs
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 stepped path adjacent to Darwen Market service road 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:	Plan
7.0 CONTACT OFFICERS:	Gina Lambert
8.0 DATE PREPARED:	4th January 2018