

ORIGINATING DIVISION: HIGHWAYS AND TRANSPORTATION
CAPITA SYMONDS

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

DATE: 15th February 2018

TITLE: REQUEST TO STOP UP OF PART OF FISHMOOR DRIVE,
BLACKBURN AND SURROUNDING PATHS AND STREETS
UNDER SECTION 116 OF THE HIGHWAYS ACT 1980

WARD: Higher Croft **COUNCILLORS:** Matthew Gibson
Amy Johnson
Andy Kay

1.0 PURPOSE OF THE REPORT

The purpose of the report is to inform Members of the receipt of a request by the Highways Team for the Council to progress an Order for the Stopping Up of parts of Fishmoor Drive, Blackburn and path and roads off 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

Roman Road council house estate was built in the mid 70's. Since that time there have been many changes to the estate both whilst it was under council ownership and more recently under the control of Twin Valley Homes.

Unfortunately many of the changes were undertaken without the involvement of the council's Highways and Transportation team. This has resulted in much of the adopted highway network being abandoned and in many cases landscaped over without them being legally stopped up as highways. Where the roads in these abandoned areas still exist there is an ongoing risk to the council of third party 'slips and trips claims'. This is an exercise to legally remove these no longer available roads and paths from the adopted highway records. It will also remove further maintenance liabilities for that part of the highway network.

It is reasonable to take the view that these sections of roads/paths have no role as public highways and are therefore eligible to be Stopped Up under the terms of S.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 from the Highway Maintenance budget. Any future cost on the Council as the Highway Authority for maintaining these streets following their 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 parts of the streets listed above 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:

30th January 2018