

ORIGINATING DIVISION: HIGHWAYS

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

DATE: 10TH March 2020

TITLE: STOPPING UP OF A PATH OFF SHORROCK LANE
BLACKBURN

WARD: Mill Hill and Moorgate **COUNCILLORS:** Julie Gunn
Jim Smith
Damian Talbot

1.0 PURPOSE OF THE REPORT

The purpose of the report is to inform Members of a request received from Tyson Construction Ltd to formally stop-up a path off Shorrock Lane Blackburn (as per the attached plan) and to ask Members to authorise the Director of HR, Legal and Governance to apply to the Magistrates' Court to obtain the necessary Order.

2.0 BACKGROUND AND DETAILS

Blackburn with Darwen Highways received a formal request on 21st February 2020 from Tyson Construction Ltd, for the Stopping Up and an undertaking to bear all costs in obtaining the Stopping Up Order as described in the Council's fees and charges list.

Tyson Construction's client, Great Places Housing Group have obtained planning approval for a development of 16 new houses on land adjacent to Shorrock Lane. The footpath proposed for permanent closure lies within the curtilage of the site and is no longer required as part of the proposed development.

It is reasonable to take the view that the path will have no role as a public highway and is 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 by The Growth and Development Team. Any future cost on the Council as the Highway Authority for maintaining this road following its closure will cease.
Anti-poverty	None
Crime and Disorder	None

5.0 CONSULTATION

The Council’s highway officers have no objection to the proposed Stopping Up of the path off Shorrock Lane.

No public or external consultation has been carried out by the Council in respect of the proposed Stopping Up. However, should the Committee approve the Stopping Up, before making the Order, the Council would carry out consultation as required by S 116 of the Highways Act 1980. This would involve consulting statutory undertakers, posting site notices and publishing the proposed Orders in the local newspaper and London Gazette. A 28 days consultation period would allow interested parties to respond.

6.0 RECOMMENDATION

It is recommended that Committee authorise the Director of HR, Legal and governance to progress with the closure of this path 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.

7.0 CONCLUSION

It is considered that the proposed Stopping Up of the highway is necessary to allow the site to be developed by the developer and is acceptable in highways terms.

8.0 BACKGROUND PAPERS: Plan

9.0 CONTACT OFFICERS: Gina Lambert

10.0 DATE PREPARED: 10th March 2020