

ORIGINATING DIVISION: HIGHWAYS AND TRANSPORTATION

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

DATE: 26th May 2022

TITLE: REQUEST TO STOP UP HIGHWAY AT DAVY FIELD ROAD,
ROMAN ROAD INDUSTRIAL ESTATE, BLACKBURN, BB1
2LU, UNDER SECTION 116 OF THE HIGHWAYS ACT 1980

WARD: Blackburn South and Lower Darwen

COUNCILLORS: Denise Gee
Jaqueline Slater
John Slater

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 a small section of highway which leads off Davy Field Road as outlined in red on the attached plan. This is used as a private car park and belongs to Accrol Papers and we ask Members to authorise the Deputy Director of Legal & Governance to apply to the Magistrates' Court for the necessary Order.

2.0 BACKGROUND AND DETAILS

Land which included adopted highway land was sold by the Council to Phoenix Court Blackburn Limited on 11th July 2017 to allow for Accrol Papers to be further developed with an alternative through road and ancillary car parking for their business, utilising this section of highway. It was intended for the new landowner to take forward a stopping up order under Section 247 of the Town and Country Planning Act 1990 (as amended) in concert with the build works. To the best of the Council's knowledge issues arose relating to this closure process and their application was stalled. As the development was completed without the highway being stopped up under Section 247, the Department of Transport formed the view that this legislation no longer applied and they therefore discontinued the application.

The Council has now been approached by the new property owners of the site to formally close the highway under Section 116 of the Highways Act 1980 as this section of land falls within the car park boundary of the site.

It is reasonable to take the view that as this section of land has no role as public highways and has not done so for a number of years already, it therefore qualifies to be Stopped Up under the terms of Section 116 of the Highways Act 1980 on the grounds that it is unnecessary.

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, although it has the discretion to apply its powers on the request of third parties as is the case here (Section 117 of Highways Act

1980). 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 applicant. 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 CONSULTATION

The Council's highway officers have no objection to the proposed Stopping Up of this section of highway

No public or external consultation has been carried out by the Council in respect of the proposed Stopping Up at this stage. 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 Deputy Director of Legal & Governance to progress with the closure of that part of the highway 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:	Plan Streetview Map
7.0 CONTACT OFFICERS:	Karen Timperley
8.0 DATE PREPARED:	3rd May 2022