

ORIGINATING DIVISION: HIGHWAYS

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

DATE: 20th November 2019

TITLE: STOPPING UP OF PART OF CHARLES STREET DARWEN

WARD: Darwen East **COUNCILLORS:** Paul Browne
Roy Davies
Margaret Oates

1.0 PURPOSE OF THE REPORT

The purpose of the report is to inform Members of a request received from the Growth and Development team to formally Stop-up part of Charles Street, Darwen from its junction with Edward Street in a north easterly direction and a further pathway which crosses the land and runs from the footbridge to the rear of Duckworth Street (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 14th November 2019 from the Growth and Development team, 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.

The Growth team are intending to dispose of a parcel of land which abuts this section of Charles Street and as part of that process, will provide an alternative footpath around the land as the existing one which currently crosses the land will be closed permanently. The alternative path will follow the line of and occupy part of this section of Charles Street. A second path which crosses the land and runs from the footbridge to the rear of Duckworth Street will also be closed permanently as part of the stopping up. It is felt that this path is not extensively used and more importantly that the planned alternative path will provide an adequate route for the pedestrians to access the shopping area and bus stops.

The section of Charles Street to be stopped up no longer exists as highway and has been landscaped. It also serves no properties. It is reasonable to take the view that it has 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 part of Charles Street, Darwen from its junction with Edward Street in a north easterly direction and the path which crosses the land and runs from the footbridge to the rear of Duckworth Street Darwen.

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 street 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 highways is necessary to allow the Council to dispose of the parcel of land and furthermore, the site to be developed by the proposed purchaser and is acceptable in highways terms.

8.0 BACKGROUND PAPERS: Plan

9.0 CONTACT OFFICERS: Gina Lambert

10.0 DATE PREPARED: 20th November 2019