
Cabinet Member for City Services

12th December 2016

Name of Cabinet Member:

Cabinet Member for City Services - Councillor J Innes

Director Approving Submission of the report:

Executive Director of Place

Ward(s) affected:

Henley

Title:

Highways Act 1980 section 116 Application to Stop up Highway at Sandford Close

Is this a key decision?

No

Executive Summary:

An Application has been made to the Council by the owner of Brett Martin Daylight Systems, Sandford Close, Dutton Road, Aldermans Green Industrial Estate, Coventry CV2 2QU requesting the council to apply to the Magistrates' Court for an order which would stop up the highway known as Sandford Close. The highway in question is carriage way and footway that is a cul-de-sac and only serves the applicants premises.

Recommendations:

Cabinet Member for City Services is recommended to approve an application being made to the Magistrates' Court for an order stopping up the land, identified on the plan at Appendix 1 to the report, as a highway, in accordance with the provision of sections 116 and 117 of the Highways Act 1980.

List of Appendices included:

Appendix 1 - Plan of the highway to stop up at Sanford Close

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Highways Act 1980 section 116 Application to Stop up Highway at Sandford Close

1. Context (or background)

- 1.1 Sandford Close is currently highway maintainable at public expense, recorded on the Council's List of Streets. The Council is under a duty to maintain all highway that is on the lists of streets this includes fixing potholes and resurfacing. The Council is also liable for any injuries that might be caused through lack of maintenance.
- 1.2 An application can be made to the Council under section 117 of the Highways Act 1980 ('the Act') for the highway to be stopped under section 116 of the Act.
- 1.3 The Council can make an application under section 116 of the Highways Act 1980 to the Magistrates Court to have a highway stopped up if it is considered that the highway in question is surplus to highway requirements and is no longer required for public use. There are no other means of stopping up highway that is carriageway, footway or verge unless it is subject to a planning consent or development, in this case the land is not subject to a planning consent.
- 1.4 The Council has received an application from the applicant made under section 117 of the Act requesting that the Council makes an application to the Magistrates Court under section 116 of the Act to stop up the highway known as Sandford Close.
- 1.5 The applicant is not the freehold owner of the land over which the highway subsists. The freehold owner has agreed to amend the lease that has already been agreed with the applicant to incorporate the stopped up highway into the lease, should such an order be granted. This will ensure that the applicant receives the benefit of the stopping up.
- 1.6 The land surrounding Sandford Way is wholly occupied by the applicant. The carriageway and footway serve no other company or persons because Sandford way is a cul-de-sac and only serves the applicant's property it is therefore the applicant's opinion that there is no need for the public to use the route.

2. Options considered and recommended proposal

- 2.1 Sandford Close is a cul-de-sac route that is 98 metres long and 11 metres wide with a turning head approximately 50 metres from the entrance. The highway to be stopped in is recorded on the lists of streets as carriageway and footway.
- 2.2 The applicant and occupier of the land and has consulted the freehold land owner and owners of the sub soil, Coventry City Council, who did not object to the proposal. Statutory undertakers have also been consulted and have not objected to the proposal.
- 2.3 The applicant has agreed to cover all cost related to the stopping up.
- 2.4 It is believed that in light of the above the highway marked in red on the attached plan is no longer required for public use as it is only used by occupier, their employees and their agents and therefore in our opinion does not serve any function for the safe operation of the highway and can be stopped up.

3. Results of consultation undertaken

- 3.1 Before making an application for a stopping up order to the Magistrates Court the highway authority are required to serve notice of their intention to do so on the various third parties and organisations 28 days prior to the making of the application. The notice must also be published in the London Gazette and at least one local newspaper 28 days prior to the making of the application.
- 3.2 The applicant has carried out the following informal consultation:
- 3.3 The applicant has consulted statutory undertakers and no objections were received, the Council as the freehold landowner and the owner of the subsoil has also been consulted and did not object.

4. Timetable for implementing this decision

- 4.1 Subject to recommendations being approved, the application will be made as soon as practicable.

5. Comments from Executive Director of Resources

5.1 Financial implications

All costs will be met by the applicant so there is no cost to the Council of making this decision. The stopping up of the highway at this location will result in a small reduction in the Council's highways maintenance expenditure.

5.2 Legal implications

The recommendation in this report and all subsequent actions are provided for in the Act. Section 116 of the Act provides the power for a highway authority to apply to the Magistrates' Court for an order stopping up a highway, or part of a highway. Section 117 enables a highway authority to apply for a stopping up order on a third parties behalf and entitles the authority to recover its reasonable costs in doing so. Schedule 12 to the Act sets out the form to be used for notices in connection with an application for a stopping up order.

Following the stopping up, the responsibility for the land so released reverts to the subsoil owners.

Legal services will be required take the necessary steps to seek the Order. This includes advertising the application in the press, serving notices on various parties and making a formal application to the Magistrates' Court.

6. Other implications

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

N/A

6.2 How is risk being managed?

N/A

6.3 What is the impact on the organisation?

N/A

6.4 Equalities / EIA

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property and transport considerations.

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None

Report author(s):

Name and job title:

Alexander Le Marinel
Public Rights of Way Officer

Directorate:

Place

Tel and email contact:

Tel: 02476 831055

Email: Alexander.lemarinel@coventry.gov.uk

Enquiries should be directed to the above person.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
Contributors:				
Colin Knight	Assistant Director - Planning, Transport and Highways	Place	25/11/16	01/12/16
Karan Seager	Head of Traffic and Transportation	Place	25/11/16	28/11/16
Michelle Salmon	Governance Services Officer	Resources	25/11/16	25/11/16
Names of approvers for submission: (officers and Members)				
Clara Robson	Planning and Highways Lawyer, Legal Services	Resources	25/11/16	25/11/16
Graham Clark	Lead Accountant	Resources	25/11/16	25/11/16
Councillor J Innes	Cabinet Member for City Services	-	25/11/16	28/11/16

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