

DERBYSHIRE COUNTY COUNCIL

**MEETING OF CABINET MEMBER – JOBS, ECONOMY AND
TRANSPORT**

25 March 2014

Report of the Strategic Director – Economy, Transport and Environment

**SECTION 116 OF THE HIGHWAYS ACT 1980 - PROPOSED
STOPPING UP OF HIGHWAY ADJACENT LANGER LANE,
CHESTERFIELD**

(1) **Purpose of the Report** To seek the Cabinet Member's approval for the processing of an Order under Section 116 of the Highways Act 1980, to extinguish highway rights on an area of land, currently highway verge.

(2) **Information and Analysis** Planning consent has been granted for the change of use of the highway verge into domestic curtilage Ref CHE/09/00545/FULL. The area has already been enclosed by means of a wall and development has taken place on part of it in the form of a domestic garage.

The existing highway verge status requires the implementation of a Stopping-Up Order to formalise the development. The land in question is shown hatched on the attached plan number HA1.

The applicant has made a formal request under Section 117 of the Highways Act 1980 that the Council uses its powers under Section 116 of the Highways Act 1980 to process the Stopping-Up Order. The applicant has further agreed to pay the Council's costs of making the application.

Chesterfield Borough Council has been consulted, as required by Section 116 of the Act, and has confirmed that it has no objection to the proposals.

Local Member Comment

Councillor Allen has been informed and has no comment.

(3) **Financial Considerations** The applicant has confirmed that they will meet all reasonable costs incurred by the County Council in processing the Order, whether successful or not.

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Extinguishment of the land as highway would remove any maintenance or other liability for the County Council.

(4) **Legal Considerations** Section 116 of the Highways Act 1980 provides that a Highway Authority may apply to the Magistrates' Court for a highway to be stopped on the grounds that it is unnecessary.

Part 1 Schedule 12 of the Act requires that notices are served on various parties prior to the Highway Authority making an application to the Magistrates Court for an order. This includes the publication of a notice in the press and the posting of notices on site.

The Director of Legal Services will be required to undertake all necessary steps to seek a Stopping-Up Order in respect of this land including the formal submission of the case to the Magistrates' Court.

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

(5) **Key Decision** No.

(6) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(7) **Background Papers** Held on the development control file within the Economy, Transport and Environment Department. Officer contact details - Sue Murdoch, extension 38694.

(8) **OFFICER'S RECOMMENDATION** That the Cabinet Member approves the making of an application by the Director of Legal Services under Section 116 of the Highways Act 1980 for a Stopping-Up Order for the section of highway verge adjacent Langer Lane, Chesterfield as shown on drawing no HA1.

Mike Ashworth
Strategic Director – Economy, Transport and Environment

