

## **Stopping up of public highway; Land at Runnon Moor, Hatherleigh**

Report of the Chief Officer for Highways, Infrastructure Development and Waste

***Please note that the following recommendation is subject to consideration and determination by the Committee before taking effect.***

### **Recommendation: It is recommended that:**

- (a) the amended extent of highway land at Runnon Moor, Hatherleigh, as detailed in Appendix I, is not needed for public use; and**
- (b) this Committee resolves that subject to the consultations referred to in section 4, Devon County Council makes an application to the magistrates' court for an order under Section 116 of the Highways Act 1980 that the said highway land be stopped up.**

### **1. Introduction**

Under Section 116 of the Highways Act 1980, Devon County Council can make an application to a magistrates' court to stop up a section of highway if they think it is unnecessary.

We have received representation from Peter, Peter and Wright solicitors that their client, Mr A K Norman, wishes to apply for a stopping up order so that the land in question (as shown in Appendix I) no longer forms part of the public highway. The land in question is actually registered with the Land Registry as belonging to Mr A K Norman.

In March 2018, this committee approved the principal of stopping up this public highway, however further consultations have required a slight reduction in the area to be stopped up which requires further committee approval.

### **2. Proposal**

The land at Runnon Moor, Hatherleigh was originally dedicated to Devon County Council to be utilised as public highway through a Memorandum of Dedication dated 21 September 1959 (Appendix II).

From the wording in the dedication, however, it was only ever intended that the actual lane itself should be the subject of the dedication and not the verge, or land adjoining.

The original Memorandum of Dedication dated 21 September 1959 included the area on a very small-scale plan leading to some confusion. As such both the lane and verge were dedicated as public highway rather than just the lane itself.

The stopping up order seeks to legally rectify the position so that the land reverts solely to Mr A K Norman's ownership and no longer forms part of the public highway. However, we will retain a one metre service strip adjacent to the carriageway.

### **3. Alternatives**

Devon County Council could refuse the application but would have no specific reasons for doing so. The land in question is currently fenced off and has not been utilised as an area of public highway for some time, supporting the assertion that it is unnecessary as public highway.

### **4. Consultations**

Since the last meeting a number of organisations have been contacted. A list of organisations and their response can be found in Appendix III.

### **5. Financial Considerations**

There are no financial implications to this proposal as all costs will be met by the applicant.

### **6. Environmental Impact Considerations**

There are no environmental impacts in relation to this proposal.

### **7. Equality Considerations**

There are no equality considerations in relation to this proposal.

### **8. Legal Considerations**

Under Section 116 of the Highways Act 1980 a highway authority can apply to a magistrates' court to stop up highway on the ground that it is 'unnecessary'. Whether a highway is unnecessary is a question of fact. It should be unnecessary for the sort of purpose for which the public might reasonably be expected to use it, for example, to reach a specific destination or for recreational purposes.

Only a highway authority can apply to a magistrates' court for a stopping up order. A highway authority has discretion on whether or not to make an application. However, this discretion is capable of being judicially reviewed. It should therefore have good reason for not making an order.

### **9. Risk Management Considerations**

No risks have been identified.

### **10. Public Health Impact**

There are no implications of the proposals on public health in the area.

### **11. Reasons for Recommendations**

In summary it is recommended that the Committee approve the request for an application to the magistrates' court for a stopping up order on the 'Land at Runnon Moor', Hatherleigh described above, as the land is not needed for public use and is unnecessary as public highway.

Meg Booth  
Chief Officer for Highways, Infrastructure Development and Waste

## **Electoral Division: Hatherleigh & Chagford**

Local Government Act 1972: List of Background Papers

Contact for enquiries: James Bench

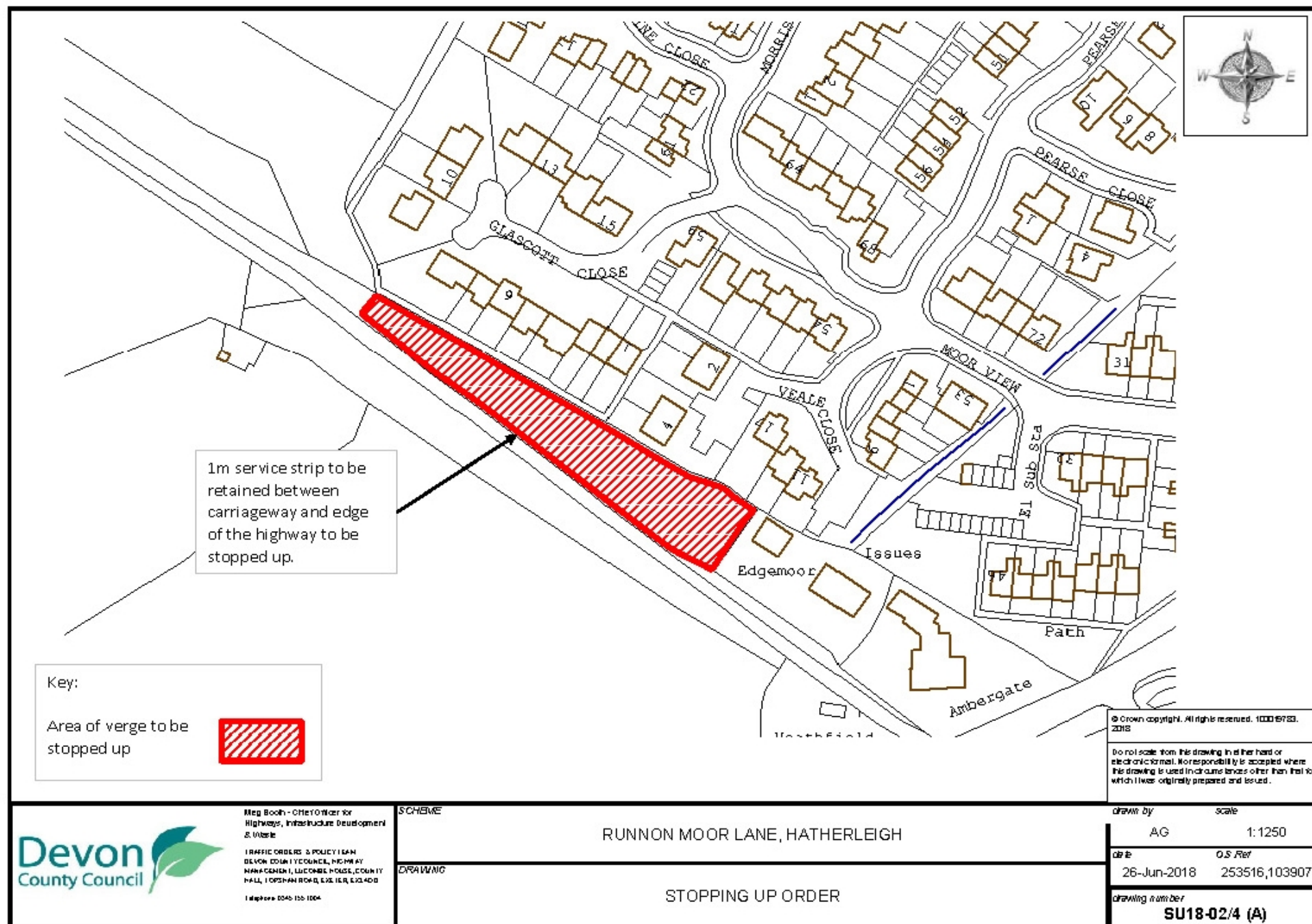
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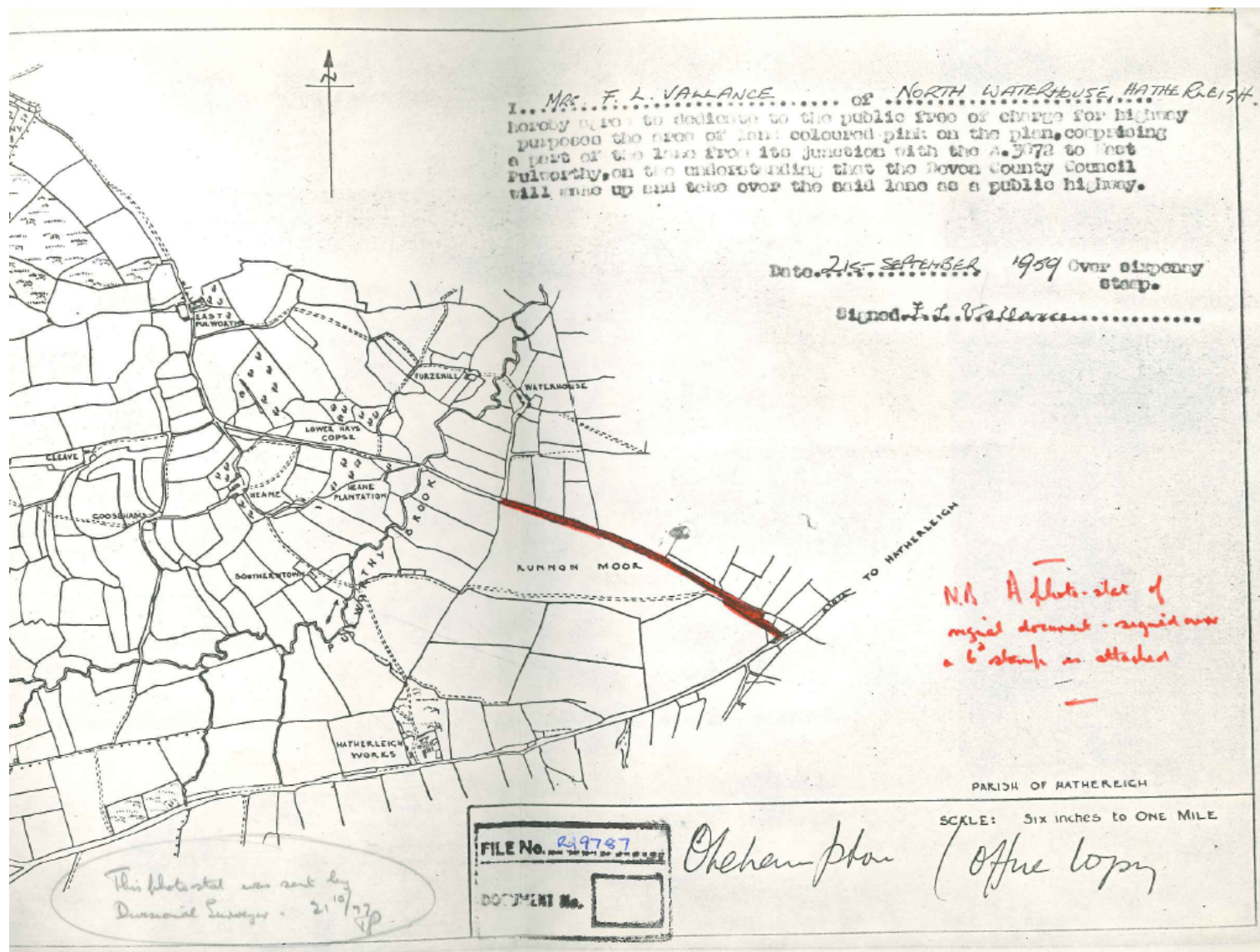
Background Paper	Date	File Ref.
None		

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Memorandum of dedication, 21<sup>st</sup> September, 1959.



**Appendix III  
To HIW/18/54**

**Organisations Contacted & Response**

<b>Organisation Contacted</b>	<b>Response</b>
West Devon Borough Council	No objection to proposal
Hatherleigh Town Council	No objection to proposal
38 adjacent landowners	1 objected as they do not wish houses to be built. This is an objection to the planning and not the stopping up.
British Horse Society	No response
Byways and Bridleways Trust	No response
Country Land and Business Association	No response
National Farmers Union	No response
Natural England Consultation Service	No response
Open Spaces Society	No response