

**Stopping up of Charleton Unclassified County Road No. 305
(Home Farm, East Charleton)**

Report of the Head of Highways, Capital Development and Waste

Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

Recommendation: It is recommended that:

- (a) the Unclassified County Road No. 305, Charleton at Home Farm, East Charleton, is not needed for public use; and**
- (b) this Committee resolves that 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 be stopped up.**

1. Summary

This report seeks approval for an application to the magistrates' court for the stopping up of the whole of Unclassified County Road No. 305, Charleton.

2. Background/Introduction

In 2014 the landowner, Mr Fairweather, proposed that the above highway should be stopped up. Devon County Council consulted all parties likely to be affected by the proposal in November 2014. Following this, in June 2015 Mr Fairweather made an application to Devon County Council to apply to the magistrates' court to stop up the above Road with no rights reserved (for example, not retaining public footpath or bridleway rights).

3. Proposal

The proposal is that the above Road be stopped up in its entirety from point A (the A379 at East Charleton) to point B (the site of a former quarry and the end of the road), as shown on Drawing Number HCW/PROW/14/108.

4. Consultations/Representations/Technical Data

Consultation was undertaken with all affected parties in November 2014, including County Councillor Brazil and the Parish and District Councils.

The Parish Council and Councillor Brazil objected, suggesting that the proposal would be to the detriment of the community and should outweigh the interest of one landowner. As background to this objection, Mr Fairweather has previously refused to agree to local requests for an off-road footpath link across his land between East and West Charleton. Mr Fairweather then offered some land to the north side of the A379 to accommodate the footpath link if this objection was withdrawn. Councillor Brazil and the Parish Council have since withdrawn their objections.

The British Horse Society (BHS) initially objected, suggesting that the Road should have been recorded to run all the way to Frogmore Creek. However, the BHS has since withdrawn its objection.

5. Financial Considerations

Mr Fairweather has agreed to pay the cost of making an application to the magistrates' court and the cost of advertising the Order.

6. Environmental Impact Considerations

There are no implications.

7. Equality Considerations

There are no implications.

8. Legal Considerations

Under Section 116 of the Highways Act 1980 a highway authority can apply to a magistrates' court to stop up this type of Road 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

No impacts have been identified.

11. Discussion

No consultee responses stated that the route was necessary.

12. Options/Alternatives

Other than retaining the land as highway there are no alternative options.

13. Reason for Recommendation/Conclusion

It would appear from the consultation responses and subsequent correspondence that the Road is not needed for public use and therefore an application should be made to the magistrates' court for its stopping up.

David Whitton
Head of Highways, Capital Development and Waste

Electoral Division: Kingsbridge & Stokenham

Local Government Act 1972: List of Background Papers

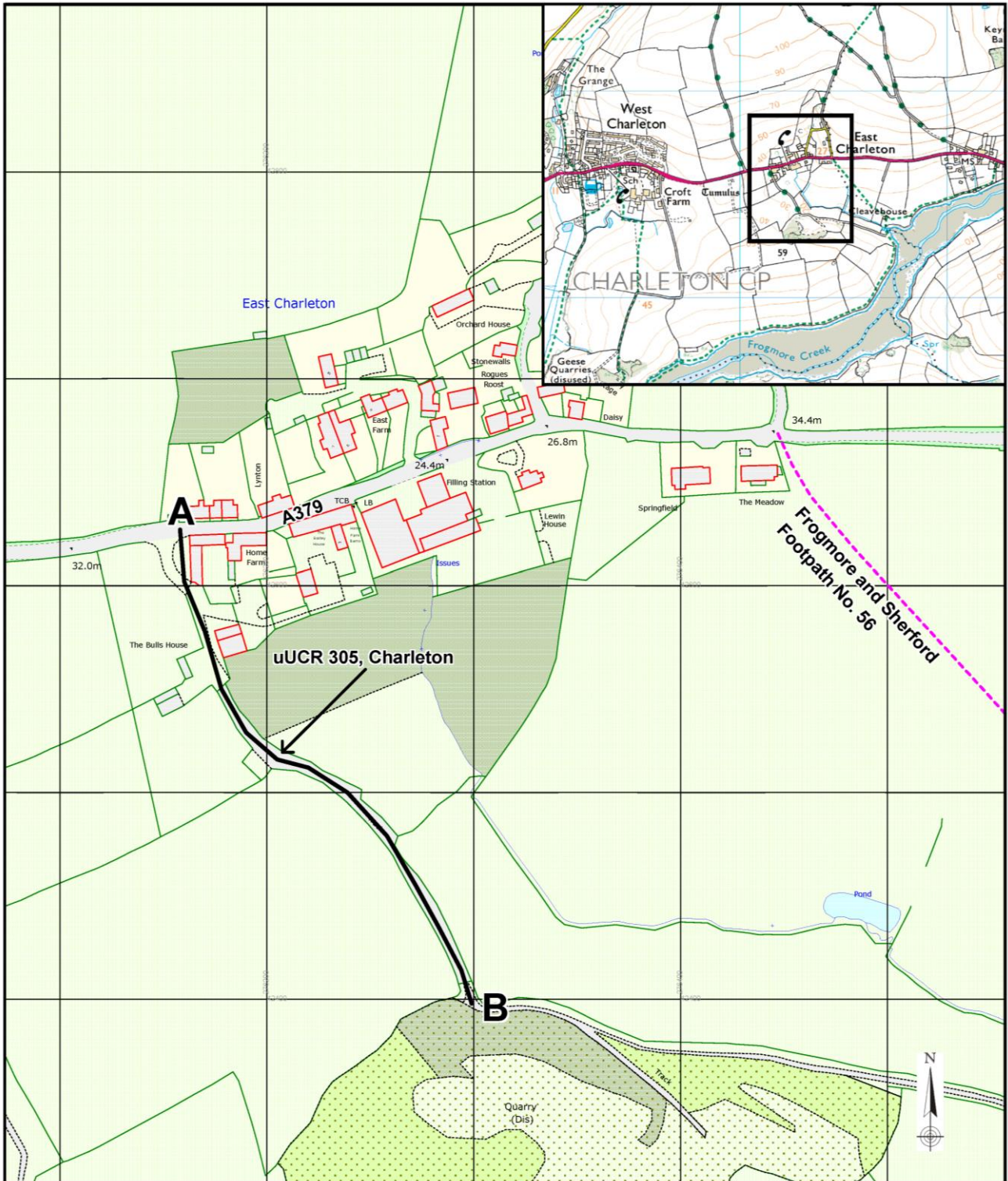
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Background Paper	Date	File Reference
1. Consultation documents	November 2014 to June 2015	Filed electronically

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sc/cr/stopping up charleton ucr 305 home farm east charleton
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**DEVON COUNTY COUNCIL
 (uUCR 305, CHARLETON)
 STOPPING UP ORDER 2014
 S116 HIGHWAYS ACT 1980**

Drawing number HCW/PROW/14/108
 Date 01 10 2014
 Scale 1:2500 (at A4)
 Drawn by SCG / PMcF

- Existing public footpath
- uUCR 305, Charleton (to be stopped up)
A-B 280 metres

David Whitton

HEAD OF HIGHWAYS, CAPITAL DEVELOPMENT AND WASTE

