

HIW/19/26

East Devon Highways and Traffic Orders Committee
12 March 2019

Stopping up of public highway; Land at North Street, Exmouth

Report of the Chief Officer for Highways, Infrastructure 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 extent of highway land at North Street, Exmouth, 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 Michelmores solicitors that their client, Devon & Cornwall Police, 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 unregistered with the Land Registry and would revert to Devon & Cornwall Police Authority as the adjacent land owner.

2. Proposal

It is recommended that an application is made to the Magistrates' Court under Section 116 of the Highways Act 1980 for the stopping-up of part of the public highway in North Street, Exmouth as shown on the Drawing attached as Appendix I.

3. Alternatives

Devon County Council could refuse the application but would have no specific reasons for doing so.

4. Consultations

A number of organisations have been contacted on the proposal and a summary of the consultees and their response can be found in Appendix II.

Responses are still outstanding for Exmouth Town Council and East Devon District Council who have until 25 March 2019 to respond. If a response is received prior to the deadline then it will be discussed with the local County Council member and chair before a final decision is made whether to proceed with the application to the Magistrates Court.

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 North Street, Exmouth 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: Exmouth

Local Government Act 1972: List of Background Papers


Contact for enquiries: James Bench

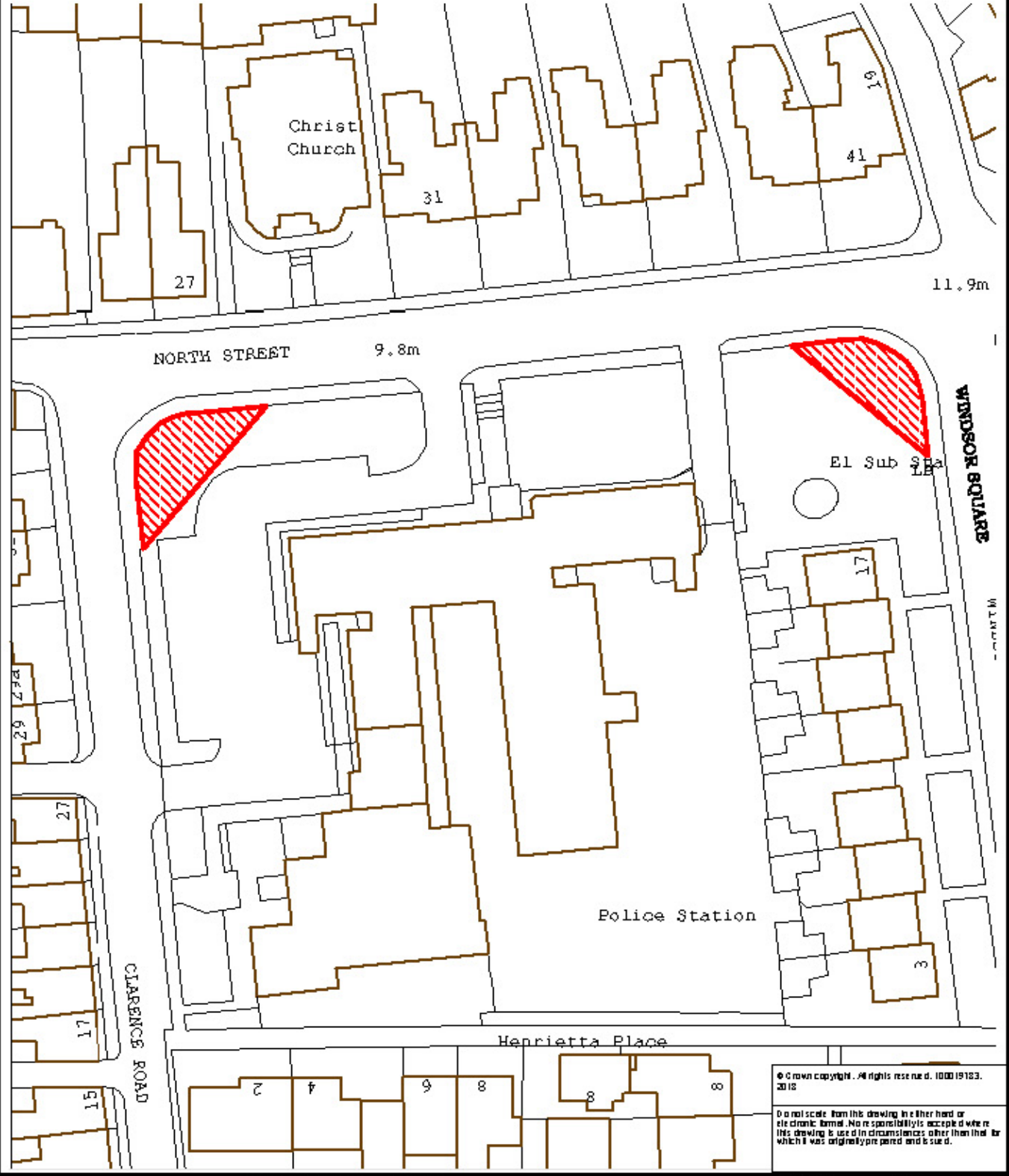
Room No: ABG Lucombe House

Tel No: 0345 155 1004

Background Paper	Date	File Ref.
None		

jb220219edh
sc/cr/Stopping up of public highway North Street, Exmouth
02 040319

 Area of highway to be stopped up
Area approx. **214** sq. metres



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2018
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Highways - Chief Officer for Highways, in the role of Design Element & Waste
TRAFFIC ORDERS & POLICY TEAM
DEVON COUNTY COUNCIL
HIGHWAY MANAGEMENT, BRIDGE HOUSE, COUNTY HALL, TOPSHAM ROAD, EXETER, EX2 400
Telephone 01392 150 266

SCHEME
NORTH STREET, EXMOUTH

DRAWING
STOPPING-UP ORDER

drawn by
CMHP

scale
1 : 625

date
14-Jan-2019

O.S.Ref
300421, 81190

drawing number
SU19-001/1 (A)

Organisations Contacted & Response

Organisation Contacted	Response
East Devon District Council	None received to date but deadline is 25/3/19
Exmouth Town Council	None received to date but deadline is 25/3/19
Western Power Distribution	None received