

Stopping up of public highway; Land adjacent to the A379, Slapton

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 adjacent to the A379, Slapton, 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.

Following the realignment of the A379 due to the storm damage, it is proposed that the original length of road (as shown in Appendix I) is stopped up and no longer forms part of the public highway.

The land in question is unregistered with the Land Registry and would revert to Whitley Wildlife Conservation Trust as the adjacent land owner as part of the arrangement for the construction of the new length of road.

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 adjacent to the A379, Slapton as shown on the Drawing attached as Appendix I.

3. Alternatives

Devon County Council has entered into an agreement with the landowners to seek a stopping up order as part of the agreement to construct the new road.

The alternative to retain the area as highway would place an unnecessary burden on the authority to maintain the area when the adjacent landowner is willing to take responsibility.

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 Slapton Parish Council and South Hams District Council who have until 27 April 2019 to respond. If a response is received prior to the deadline then it will be discussed with the local member and chair before a final decision is made whether to proceed with the application to the Magistrates Court.

5. Financial Considerations

Devon County Council has been provided £2.5m capital funding by the Department of Transport following the damage caused by Storm Emma in March 2018. This sum of money has been used for the realignment of the road and all other aspects necessary for the works along the A379 at Slapton.

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 adjacent to the A379, Slapton 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: Kingsbridge

Local Government Act 1972: List of Background Papers

Contact for enquiries: James Bench

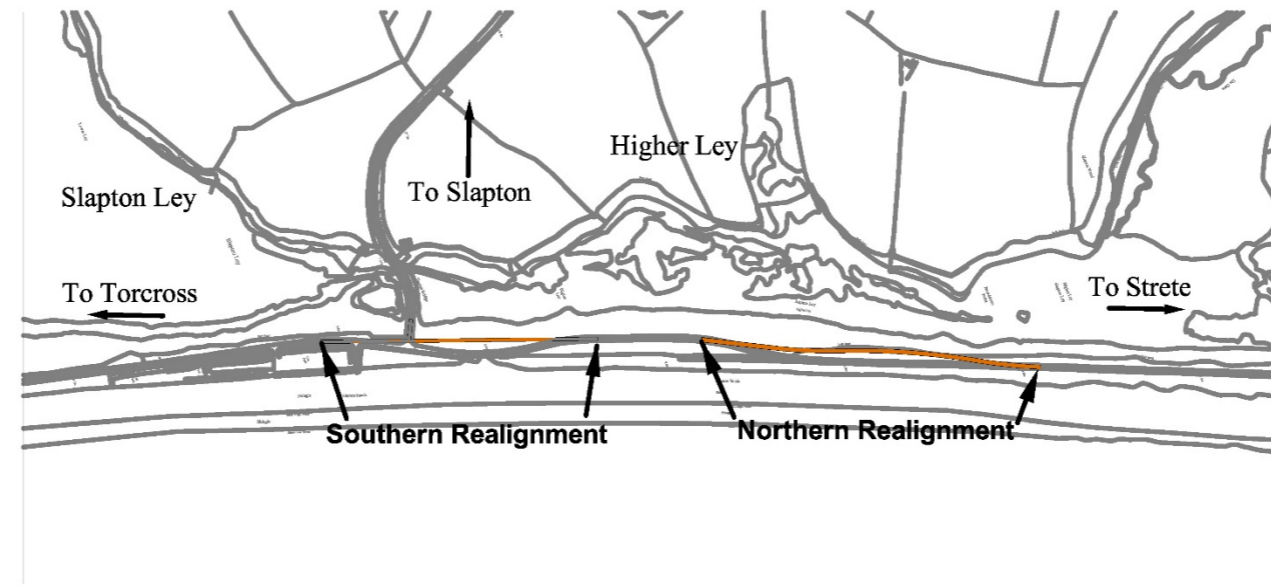
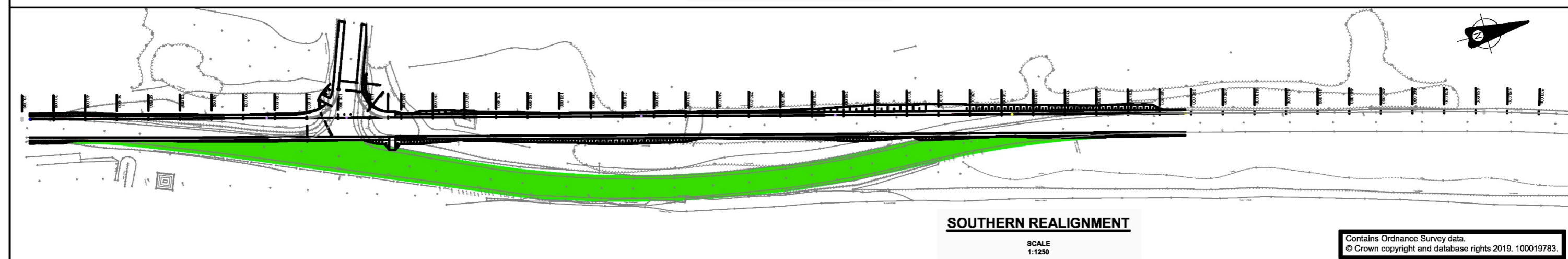
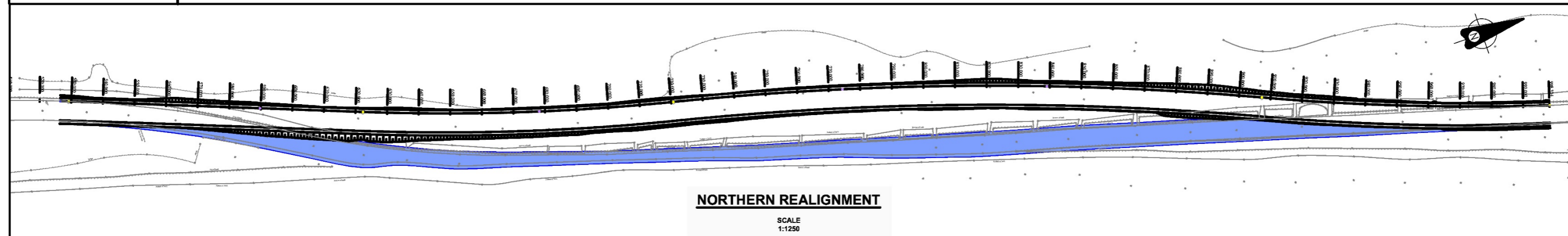
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Background Paper	Date	File Ref.
None		

jb270319shh
sc/cr/ Stopping up of public highway Land adjacent to the A379 Slapton
02 280319

Roads A3 land plan - Version 2.0



KEY

2184m ²	Area of Northern Highway to be stopped up.
2139m ²	Area of Southern Highway to be stopped up.

Engineering Design Group

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job/title

**A379 SLAPTON LINE
CARRIAGEWAY REALIGNMENT
STOPPING UP OF HIGHWAY**

Rev	Date	Drawn	Revisions
A	19.02.2019	JF	Addition of site plan and site locations on map

Do not scale from this drawing in either hard or electronic format. No responsibility is accepted where this drawing is used in circumstances other than that for which it was originally prepared and issued.	
Dwg. No.	Revision
C17025/22	A
scale(s)	size
AS SHOWN	A3

Organisations Contacted & Response

Organisation Contacted	Response
Slapton Parish Council	None received to date but deadline is 27/4/19
South Hams District Council	None received to date but deadline is 27/4/19
Whitley Wildlife Conservation Trust	Responded, no objection
Field Studies Council	No response
4 Wheel Vehicle Users	No response
Auto Cycle Union	No response
British Driving Society	No response
British Horse Association	No response
Byways and Bridleways Trust	Response received – clarification being sought on their response
Country Land and Business Association	No response
Cyclists Touring Club	No response
Devon Green Lanes Group	No response
National Farmers Union	No response
Natural England Consultation Service	No response
Open Spaces Society	No response
The Ramblers Association	No response