

Stopping up of public highway: Lane past Stanton Cottage, Loddiswell

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 Stanton Cottage, Loddiswell, 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 Miss Winter and Mr Hurt who wish 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 Miss Winter and Mr Hurt.

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 Lane past Stanton Cottage, Loddiswell as shown on the drawing attached as Appendix I.

3. Options

The option of retaining the land as public highway is not considered appropriate as the land serves no purpose as part of the operational road network.

4. Consultations

A number of organisations have been contacted. A list of organisations and their response can be found in Appendix II.

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 'Lane past Stanton Cottage', Loddiswell 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: Salcombe

Local Government Act 1972: List of Background Papers

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Background Paper

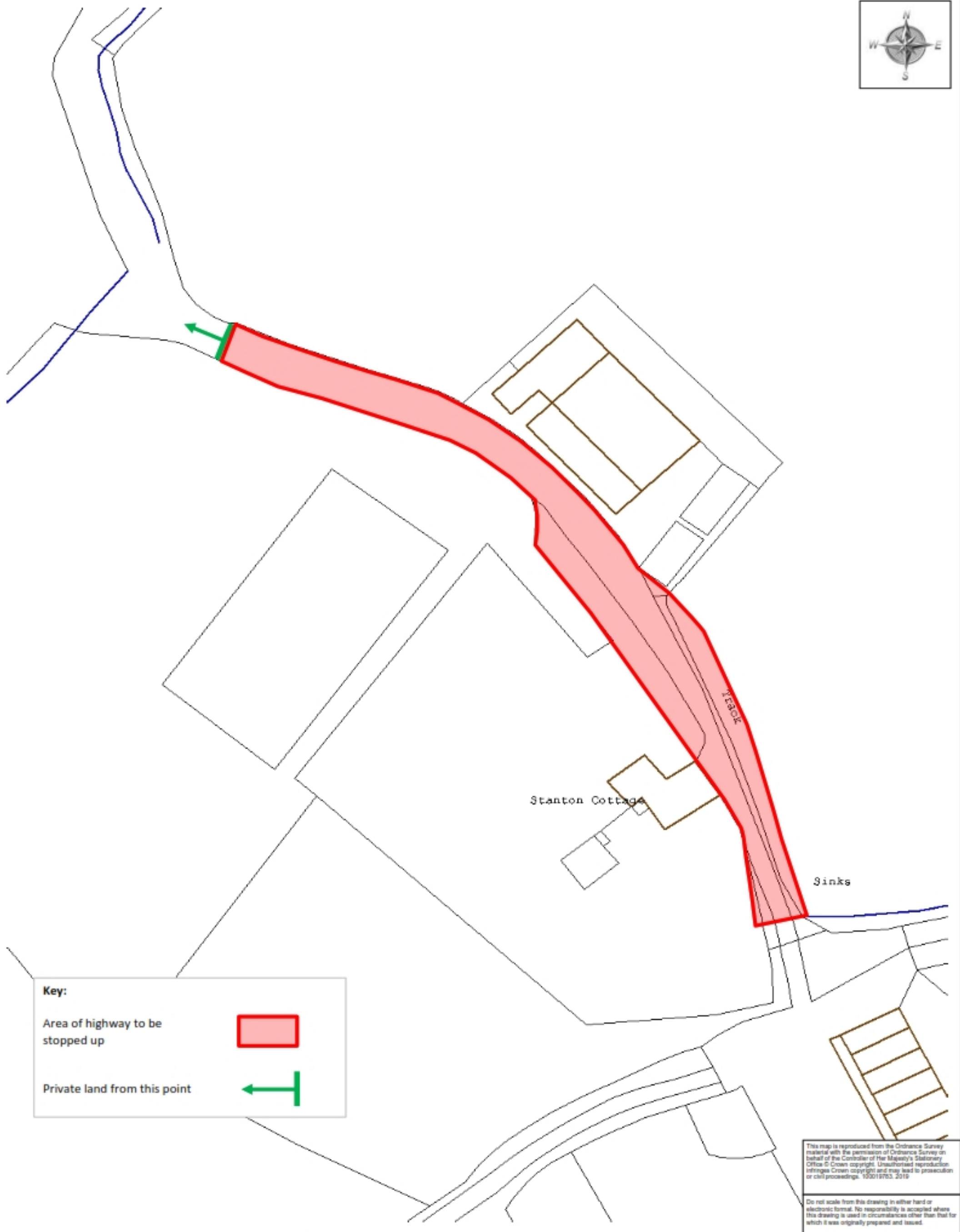
Date

File Ref.

None

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Organisations Contacted & Response

Organisation Contacted	Response
South Hams District Council	No reply received
Loddiswell Parish Council	No objection to proposal
1 adjacent landowner	No reply received
Auto Cycle Union	No reply received
British Driving Society	No reply received
British Horse Society	No objection to proposal
Byways and Bridleways Trust	No reply received
Country Land and Business Association	No reply received
Cyclists Touring Club	No reply received
National Farmers Union	No reply received
Natural England Consultation Service	No reply received
Open Spaces Society	No reply received
Devon Green Lanes Group	No reply received
Ramblers	No objection to proposal
Trail Riders Fellowship	No reply received
4 Wheel Vehicle Users	No reply received