

HIW/20/25

East Devon Highways and Traffic Orders Committee  
20 July 2020

## **Stopping up of public highway: Land adjacent to Little Slades, Rockbeare**

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 extent of highway land adjacent to Little Slades, Rockbeare, 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 the landowner at Little Slades who 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.

### **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 Little Slades, Rockbeare as shown on the Drawing attached as Appendix I.

The land is not currently registered and, if the stopping up were agreed, it is the responsibility of the applicant to make a claim to the Land Registry.

### **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.

A response is still outstanding from East Devon District Council who have until 7 July 2020 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**

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 adjacent to Little Slades, Rockbeare as 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: Broadclyst**

Local Government Act 1972: List of Background Papers

Contact for enquiries: James Bench

Room No: ABG Lucombe House

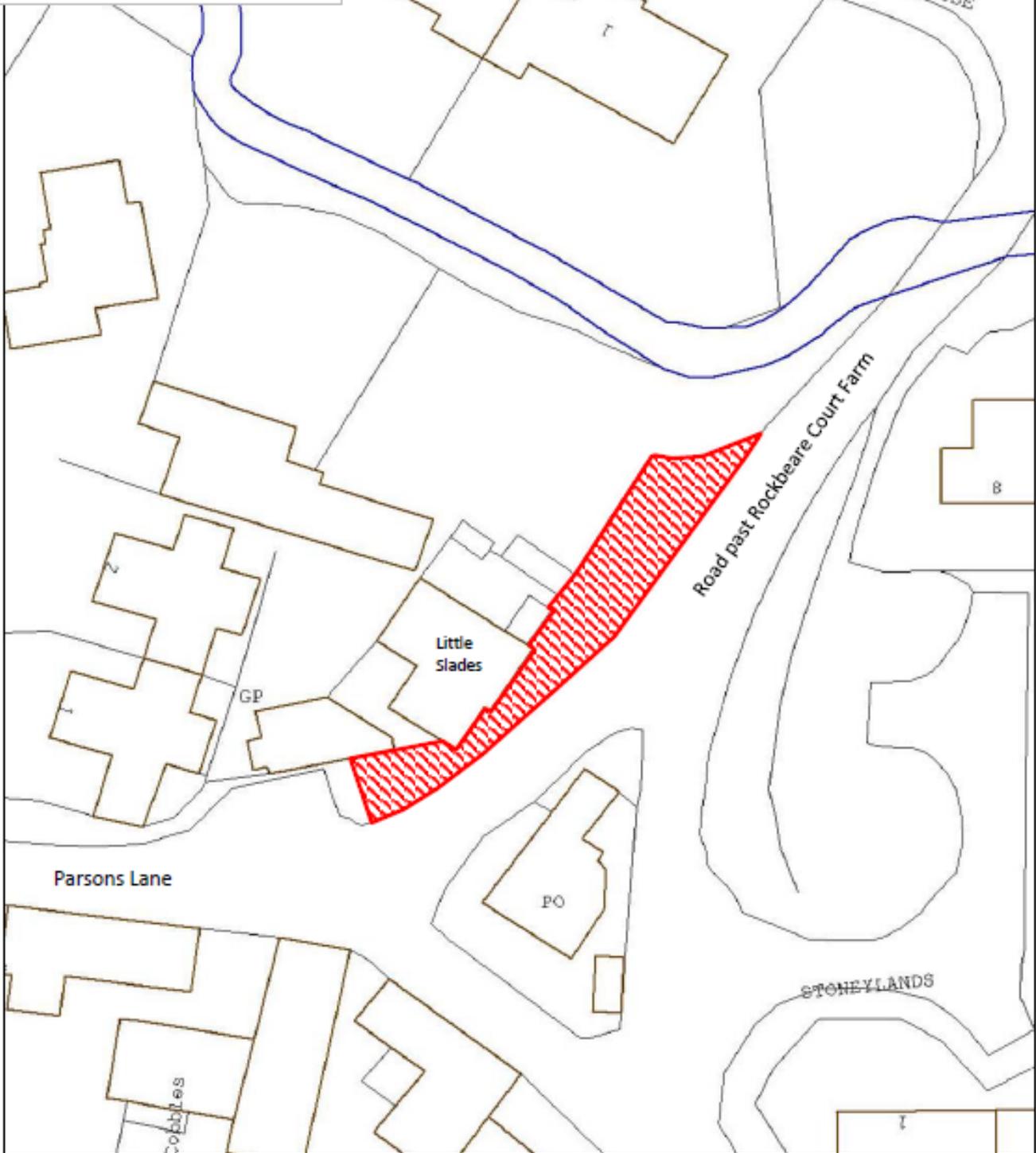
Tel No: 0345 155 1004

Background Paper	Date	File Ref.
None		

pg150620edh  
sc/cr/Stopping up of public highway Land adjacent to Little Slades Rockbeare  
02 300620

Key

Verge to be stopped up



© Crown copyright. All rights reserved. 100012703.  
2019

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.



Mag Booth - Chief Officer for  
Highways, Infrastructure  
Development & Waste  
TRAFFIC ORDERS & POLICY TEAM  
DEVON COUNTY COUNCIL  
HIGHWAY MANAGEMENT, LUCOMBE  
HOUSE, COUNTY HALL, TOPSHAM  
ROAD, EX51 1SR, EX1 4GG  
Telephone 0345 155 1004

SCHEME

LITTLE SLADES, ROCKBEARE

DRAWING

STOPPING UP ORDER

drawn by

JPB

scale

1:500

date

07-Oct-2019

O.S.Ref

301940,095014

drawing number

SU19/02(C)

**Appendix II  
To HIW/20/25**

**Organisations Contacted & Response**

<b>Organisation Contacted</b>	<b>Response</b>
East Devon District Council	None received to date but deadline is 07/07/20
Rockbeare Parish Council	None received to date but deadline is 07/07/20. However, in previous correspondence the parish council state that they have no objections to the proposal.
South West Water PLC	None received
Wales and West Utilities PLC	None received
Western Power Distribution PLC	None received
Auto Cycle Union	None received
British Driving Society	None received
British Horse Society	None received
Cycling UK	None received
Owner - Pound Cottage, Rockbeare	None received
Owner - 1 Little Slade Mews, Rockbeare	None received
Owner - 2 Little Slade Mews, Rockbeare	None received
Owner – 3 Little Slade Mews, Rockbeare	None received
Owner – Hawthorns, Rockbeare	None received