

HIW/20/27

North Devon Highways and Traffic Orders Committee  
17 July 2020

## **Stopping up of public highway: Lane past Blakewell Mill Farm, Muddiford**

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 the highway known as Lane past Blakewell Mill Farm, as detailed in Appendix I, is considered unnecessary 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 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 adjacent landowners that wish to take on responsibility for the road to improve the condition beyond the resources available to the highway authority.

### **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 the entire length of the public highway of the Lane past Blakewell Mill Farm, Muddiford as shown on the drawing attached as Appendix I.

Pedestrian access would still be retained to ensure access is still available to the public right of way at the north end of the lane.

### **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.

We have considered an option of stopping up the lower part of the lane but this was not accepted by the adjacent landowners.

### **4. Consultations**

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

## **5. Financial Considerations**

The cost of the legal process is being met by the County Council from the Highways Maintenance budget as the stopping up would remove the cost for ongoing maintenance which is likely to be more expensive.

## **6. Environmental Impact Considerations**

The council is not proposing to change the use of the land before stopping it up and therefore it is considered that this proposal does not have any impact on the environment.

## **7. Equality Considerations**

No new policies are being recommended in this report and therefore an Equality Impact and Needs Assessment are not considered necessary.

## **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**

It is not proposed to change the use of the road and therefore it is considered that this proposal has any public health impacts.

## **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 Blakewell Mill Farm, Muddiford 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: Combe Martin Rural**

Local Government Act 1972: List of Background Papers

Contact for enquiries: James Bench

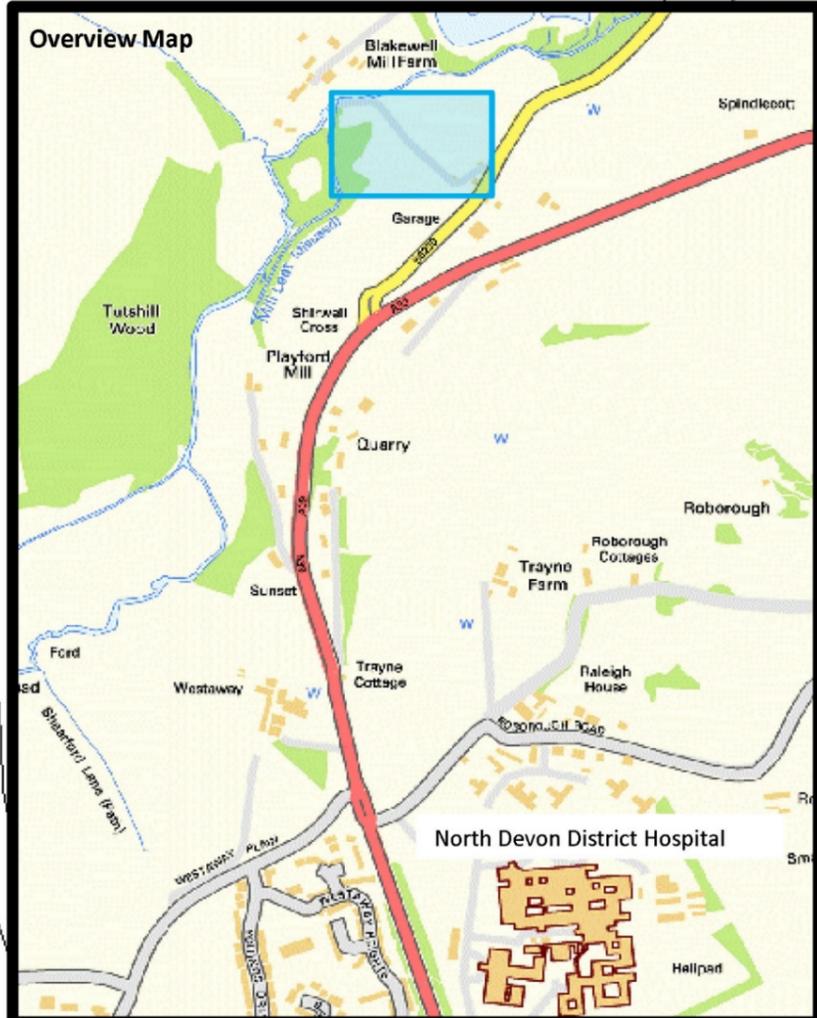
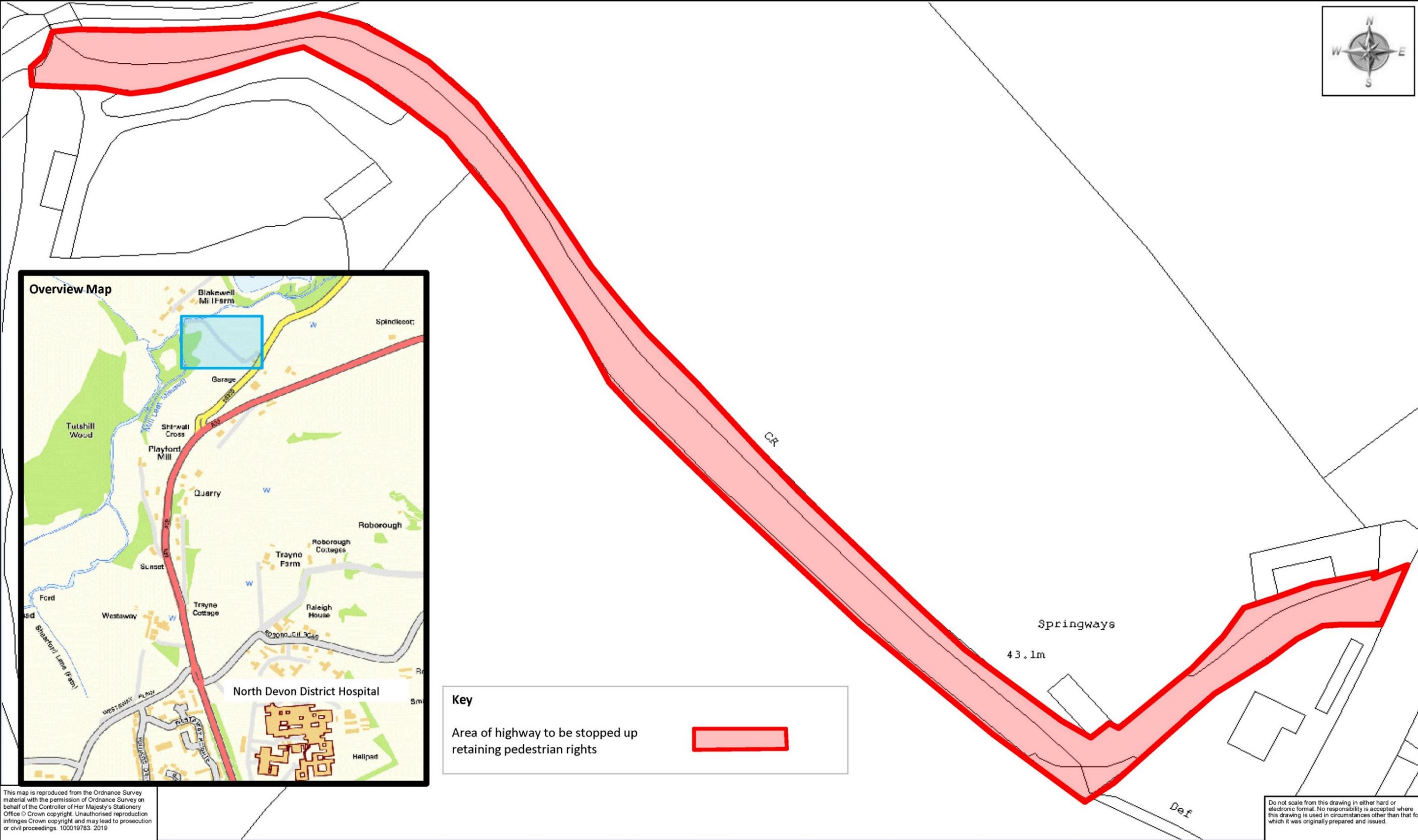
Room No: ABG Lucombe House

Tel No: 0345 155 1004

Background Paper	Date	File Ref.
None		

ag150620ndh

sc/cr/Stopping up of public highway Lane past Blakewell Mill Farm Muddiford  
03 080720



**Key**

Area of highway to be stopped up retaining pedestrian rights 

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Meg Booth - Chief Officer, Highways, Infrastructure Development & Waste

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SCHEME

DRAWING

LANE PAST BLAKEWELL MILL FARM, MUDDIFORD

STOPPING UP ORDER

drawn by	scale
AJG	1:500
date	O.S.Ref
10-Jun-2020	256299,135479
drawing number	
SU19-08/1(C)	

**Organisations Contacted & Response**

<b>Organisation Contacted</b>	<b>Response</b>
North Devon District Council	No reply received.
Shirwell Parish Council	No reply received.
Pilton West Parish Council	No reply received.
1 adjacent landowner	No reply received.
Auto Cycle Union	No reply received.
British Driving Society	No reply received.
British Horse Society	Initial objection received – further correspondence revealed BHS misinterpreted location – objection withdrawn when BHS realised their mistake.
Byways and Bridleways Trust	Initial objection received as unable to locate area in question. Further location maps sent – no further correspondence received.
Country Land and Business Association	No reply received.
Cyclists Touring Club	No objection to proposal.
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 reply received.
Trail Riders Fellowship	No reply received.
4 Wheel Vehicle Users	No reply received.