

**Stopping up of part of Kingswear Unclassified County Road No. H107  
(Galmpton Mill, Kingswear)**

Report of the Head of Highways, Capital 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) a section of the Unclassified County Road (UCR) No. H107, Mill Lane at Galmpton Mill, Kingswear, is considered to be unnecessary for public use with vehicles; and**
- (b) this Committee resolves that Devon County Council submits a formal application to the magistrates' court for an order under Section 116 of the Highways Act 1980 that the said section of highway be stopped up with reservation of public bridleway rights.**

**1. Summary**

This report seeks approval for an application to the magistrates' court for the stopping up of that part of the Unclassified County Road No. H107, Kingswear, leading from its junction with the Unclassified County Road No. 305, Kingswear to Galmpton Mill, with reservation of public bridleway rights.

**2. Background/Introduction**

The road terminates at Galmpton Mill and its junction with public footpath No. 52, Kingswear, and is promoted as part of the Dart Valley Trail walking route. The road no longer serves as a vehicular access to Galmpton Mill, which is now accessed along a private drive northeast of the property. This section of Mill Lane is steep and narrow with no passing bays or a turning space at its terminus, which has resulted in vehicles having to be towed out on a number of occasions. In 2015 a representative of the Dart Area Landscape Access Group (DALAG) approached Devon County Council's Public Rights of Way Section with a proposal to create permissive bridleway rights over Footpath No. 52 with the agreement of the landowners concerned. Following a meeting on site with the landowner of Galmpton Mill, Mr Morris, and the National Trust, which owns land crossed by the remainder of Footpath No. 52, it was proposed that the road be stopped up, from its junction with UCR No. 305, with reservation of bridleway rights to maintain access to the public footpath and proposed permissive bridleway. Devon County Council consulted all parties likely to be affected by the proposal in March 2016.

**3. Proposal**

It is proposed that part of the Mill Lane to be stopped up, from point A (its junction with the Unclassified County Road 305, Kingswear) to point B (the former entrance to Galmpton Mill and the end of the road), as shown on Drawing Number HCW/PROW/16/10.

#### **4. Consultations/Representations/Technical Data**

Consultation was undertaken with all affected parties in March 2016, including County Councillor Hawkins and the Parish and District Councils.

Councillor Hawkins supports the proposal. One other response was received from the South Devon Ramblers, confirming that they have no objection to the proposal.

No objections to the proposal have been received.

#### **5. Financial Considerations**

Devon County Council will cover both the costs of making the formal application to the magistrates' court and advertising the Order. There will be long-term financial savings to the County Council as there will be no longer be the requirement to maintain this section of carriageway to vehicular highway standards.

#### **6. Environmental Impact Considerations**

There are no implications.

#### **7. Equality Considerations**

There are no implications.

#### **8. Legal Considerations**

Under Section 116 of the Highways Act 1980 a highway authority can apply to a magistrates' court to stop up this type of Road 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 making or not making an order.

#### **9. Risk Management Considerations**

No risks have been identified.

#### **10. Public Health Impact**

No impacts have been identified.

#### **11. Discussion**

No consultee responses stated that the route was necessary.

#### **12. Options/Alternatives**

Other than retaining the land as vehicular highway there are no alternative options.

### **13. Reason for Recommendation/Conclusion**

It would appear from the consultation responses and subsequent correspondence that the Road as a public highway is not needed for public use and therefore an application should be made to the magistrates' court for its stopping up with reservation of bridleway rights.

David Whitton  
Head of Highways, Capital Development and Waste

### **Electoral Division: Dartmouth & Kingswear**

#### Local Government Act 1972: List of Background Papers

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Background Paper	Date	File Reference
1. Consultation documents	March 2016	Filed electronically

hc230616shh  
sc/cr/stopping up UCR H107 Galmpton Mill Kingswear  
02 060716




map ref: **SX8755**

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# **DEVON COUNTY COUNCIL** **PROPOSED STOPPING UP WITH RESERVATION OF BRIDLEWAY RIGHTS** **U/C COUNTY ROAD MILL LANE, GALMPTON**

drawing number	HCW/PROW/16/10
date	Mar 2016
scale	1:2500
drawn by	HFC

## Notation

A - B  U/C County Road to be stopped up with reservation of bridleway rights (approx 93 m)



**David Whitton**

HEAD OF HIGHWAYS, CAPITAL DEVELOPMENT & WASTE