

Stopping up of public highway; Land Adjacent to Millbrook Lane, Exeter

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 Millbrook Lane, Exeter, 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 developer of Millbrook Village 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.

The land was previously part of the entrance to a road within the St Loyes estate but this has been removed as part of the new development.

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 Millbrook Lane, Exeter as shown on the drawing attached as Appendix I.

3. Alternatives

Devon County Council could refuse the application but would have no specific reasons for doing so as it is not considered the public highway provides any benefit to the highway network.

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 BT, VirginMedia and WPD who have until 14 October 2021 to respond. If a response is received prior to the deadline then it will be discussed at the HATOC meeting 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. 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.

7. Environmental Impact Considerations (Including Climate Change)

There are no environmental impacts in relation to this proposal.

8. Equality Considerations

There are no equality considerations in relation to this proposal.

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 Millbrook Lane, Exeter 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: Wearside & Topsham

Local Government Act 1972: List of Background Papers

Contact for Enquiries: James Bench

Tel No: 0345 155 1004

Room M8, Great Moor House, Bittern Road, Exeter, EX2 7NL

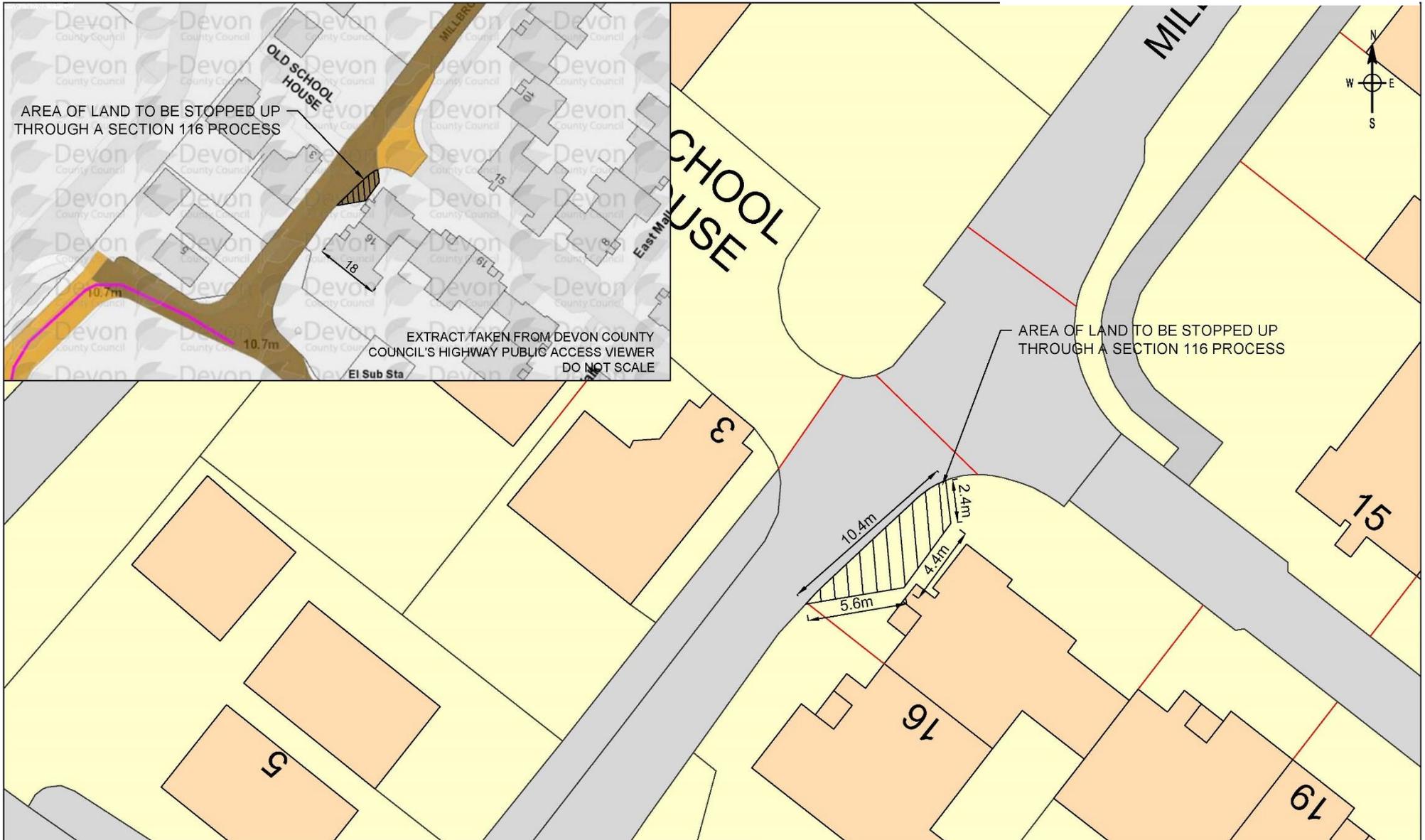
Background Paper	Date	File Reference
-------------------------	-------------	-----------------------

Nil		
-----	--	--

jb071021exh

sc/cr/Stopping up of public highway Land Adjacent to Millbrook Lane Exeter

01 071021



Based upon the Ordnance Survey Map with the permission of the Controller of H.M. Stationary Office @ Crown Copyright Contract No. 100046330

PROJECT
MILLBROOK VILLAGE, EXETER

CLIENT
SENIOR LIVING (EXETER) LIMITED
INSPIRED VILLAGES GROUP

DRAWING TITLE
PROPOSED STOPPING UP (SECTION 116)



DRAWN BY	CHECKED BY	APPROVED BY	DATE	SCALES @ A3 SIZE	ISSUE STATUS
KH	JN	JN	27.05.21	1:200	PLANNING

DRAWING NUMBER	REV.
DV5043PD-001	-

REV	DATE	AP	CH	DR
-	-	-	-	-

Organisations Contacted and Response

Organisation Contacted	Response
Exeter City Council	Letter sent 05/08/21. No response received.
BT	Letter sent 14/09/21. No response received deadline for response is 14/10/21. (A utility stats search showed that they had apparatus in the street that was directly underneath the land to be stopped up.)
Virgin Media	Letter sent 14/09/21. No response received deadline for response is 14/10/21. (A utility stats search showed that they had apparatus in the street that was directly underneath the land to be stopped up.)
Wales and West Utilities PLC	Letter sent 14/09/21. Response received 16/09/21 and they have no objections as they do not have services in the area of land proposed to be stopped up.
Western Power Distribution PLC	Letter sent 14/09/21. No response received deadline for response is 14/10/21. (A utility stats search showed that they had apparatus in the street that was directly underneath the land to be stopped up.)
3 Old School House, Millbrook Lane, Exeter	Letter sent 26/08/21. No response received.
16 Turnerstone Road, Exeter	Letter sent 26/08/21. Response received 01/09/21 with reply sent 20/09/21 to clarify the proposals and reasoning for the stopping up. No further response received.
17 Turnerstone Road, Exeter	Letter sent 03/09/21. No response received.
18 Turnerstone Road, Exeter	Letter sent 26/08/21. No response received.
Natural England Consultation Service	Letter sent 26/08/21. No response received.
The Open Spaces Society	Letter sent 26/08/21. No response received.
The Ramblers Association	Letter sent 26/08/21. Response received 16/09/21 and have no objection.