

Stopping up of public highway: Whithill Farm, Access To Withill, Sampford Spiney Report of the Director of Climate Change, Environment and Transport

Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

1) Recommendation

It is recommended that:

- (a) the extent of highway land Access to Withill, Sampford Spiney, as detailed in Appendix 1, 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.

2) 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 a resident of Sampford Spiney who wishes to apply for a stopping up order so that the land in question (as shown in Appendix 1) no longer forms part of the public highway.

3) 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 public highway known as Access to Withill, Sampford Spiney as shown on the drawing attached as Appendix 1.

4) 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.

5) 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 2.

6) Strategic Plan

The proposal to stop up the highway will reduce the maintenance liability for the Council. This is considered an effective use of the resource that is available and helps the Council be financially resilient and a trusted Council.

7) Financial Considerations

There are no financial implications to this proposal as all costs will be met by the applicant.

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 grounds 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) Environmental Impact Considerations (Including Climate Change, Sustainability and Socio-economic)

There are no environmental impacts in relation to this proposal.

10) Equality Considerations

There are no equality considerations in relation to this proposal.

11) Risk Management Considerations

No risks have been identified.

12) 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 of the public highway known as Access to Withill, Sampford Spiney as described above, as the land is not needed for public use and is unnecessary as public highway.

Meg Booth

Director of Climate Change, Environment and Transport

Electoral Division: Yelverton Rural

Local Government Act 1972: List of background papers

Nil

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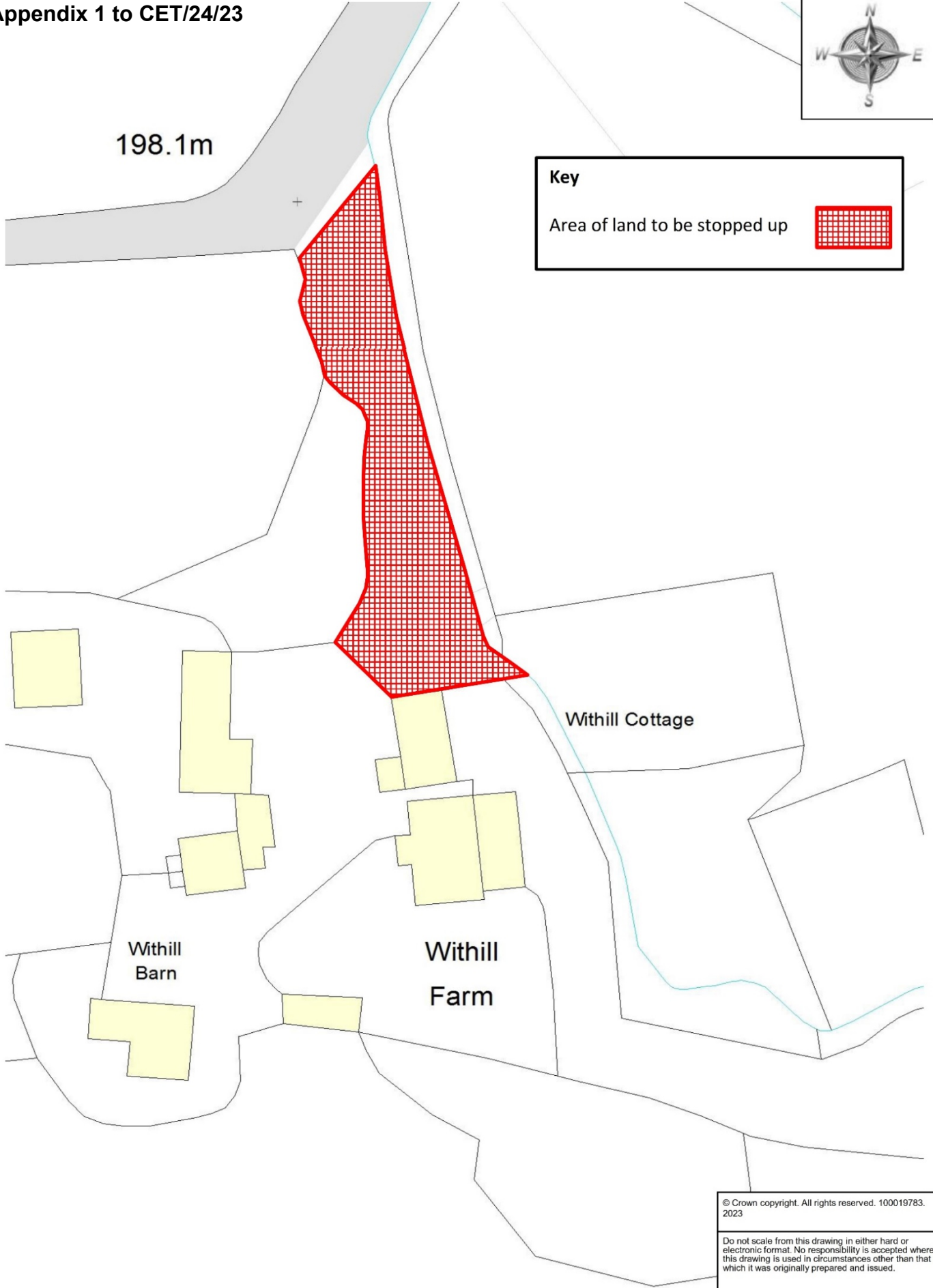
sc/cr/Stopping up of public highway Whithill Farm Access To Withill Sampford Spiney
02 180324



198.1m

Key

Area of land to be stopped up 



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SCHEME

WHITHILL FARM, ACCESS TO WITHILL, SAMPFORD SPINEY, YELVERTON

DRAWING

PROPOSED STOPPING UP OF HIGHWAY

drawn by	scale
JD	1:500
date	O.S.Ref
26-Feb-2024	254868 , 072706
drawing number	
SU23-01 (B)	

Appendix 2 to CET/24/23

Organisations Contacted & Response

Organisation Contacted	Response
West Devon District Council	Letter sent 29/01/24 Acknowledged receipt of letter, no comments received – deadline for response is 29/03/24
Walkhampton Parish Council	Letter sent 29/01/24 Acknowledged receipt of letter, no comments received – deadline for response is 29/03/24
BT	Letter sent 29/01/24. No response received, deadline for response is 29/02/24 (A utility stats search showed that there was apparatus close to the land to be stopped up.)
South West Water PLC	Letter sent 29/01/24. No response received, deadline for response is 29/02/24 (A utility stats search showed that there was no apparatus within the land to be stopped up.)
Wales and West Utilities PLC	Letter sent 29/01/24. No response received, deadline for response is 29/02/24 (A utility stats search showed that there was no apparatus within the land to be stopped up.)
National Grid PLC	Letter sent 29/01/24. Response received (A utility stats search showed there was apparatus within the land to be stopped up). National Grid and applicant are in discussions to arrange a wayleave/easement to maintain access to their equipment).
Auto-Cycle Union Ltd.	Letter sent 29/01/24. No response received, deadline for response is 29/02/24.
British Driving Society	Letter sent 29/01/24. No response received, deadline for response is 29/02/24.
British Horse Society	Letter sent 29/01/24. No response received, deadline for response is 29/02/24.
Byways and Bridleways Trust	Letter sent 29/01/24. No response received, deadline for response is 29/02/24.
CLA South West	Letter sent 29/01/24. No response received, deadline for response is 29/02/24.
Cycling UK	Letter sent 29/01/24. No response received, deadline for response is 29/02/24
National Farmers Union	Letter sent 29/01/24. No response received, deadline for response is 29/02/24.

Natural England Consultation Service	Letter sent 29/01/24. No response received, deadline for response is 29/02/24.
The Open Spaces Society	Letter sent 29/01/24. No response received, deadline for response is 29/02/24.
Rights of Way Officer	Letter sent 29/01/24. No response received, deadline for response is 29/02/24.
Trails Riders Fellowship	Letter sent 29/01/24. No response received, deadline for response is 29/02/24.
4 Wheels Vehicle Users	Letter sent 29/01/24. No response received, deadline for response is 29/02/24.