

Stopping up of public highway: Land adjacent to Swordfish Avenue, Clyst Honiton

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 adjacent to Swordfish Avenue, Clyst Honiton, 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 NPS, acting on behalf of the joint venture partnership between DCC and St Modwens (Skypark Development Partnership LLP), who wish 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 Land adjacent to Swordfish Avenue, Clyst Honiton 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 Land adjacent to Swordfish Avenue, Clyst Honiton 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: Broadclyst

Local Government Act 1972: List of background papers

Nil

Contact for enquiries:

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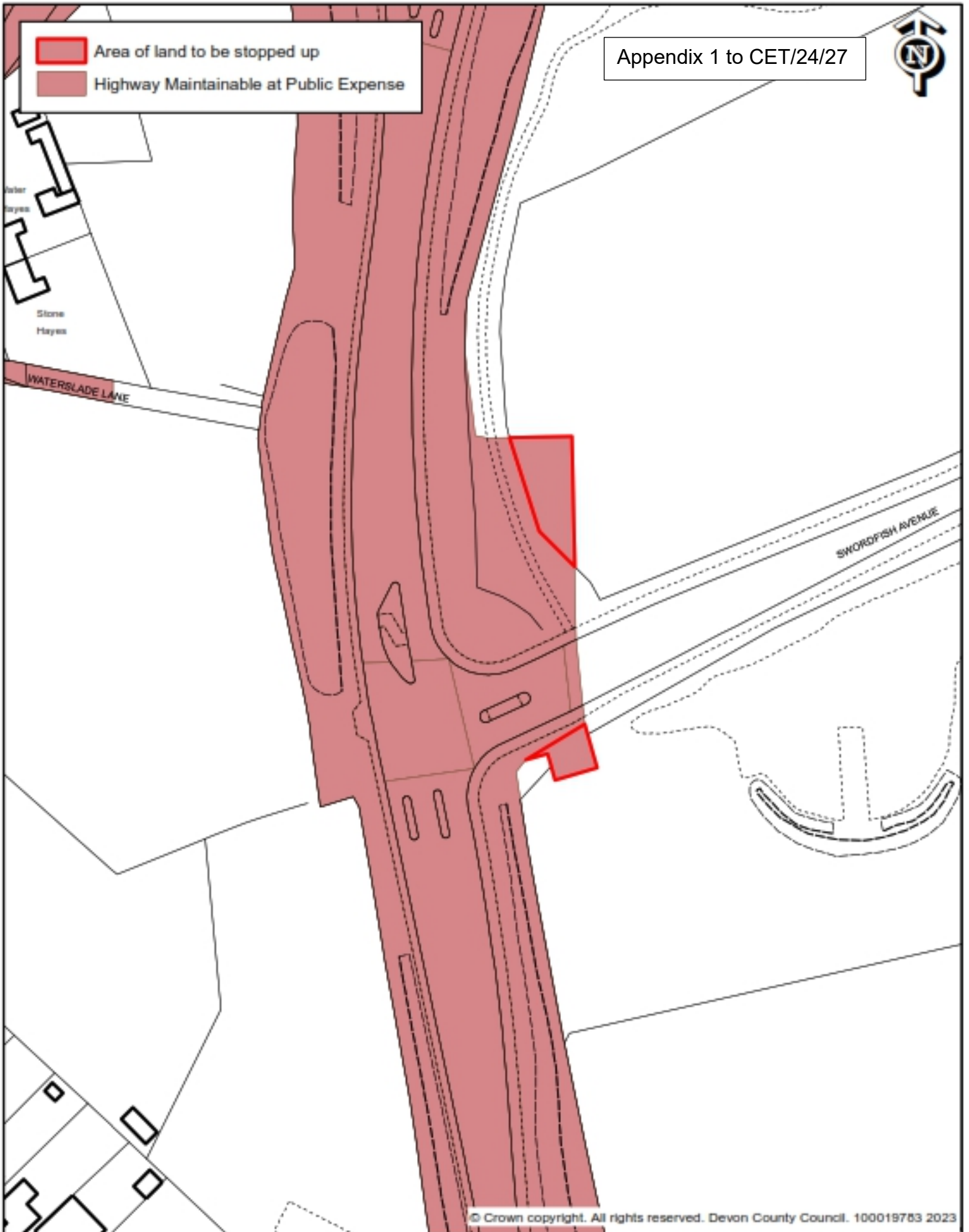
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sc/cr/Stopping up of public highway adjacent Swordfish Avenue Clyst Honiton

02 100424

- Area of land to be stopped up
- Highway Maintainable at Public Expense



Appendix 1 to CET/24/27



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Title: Land at Skypark, Swordfish Avenue, Clyst Honiton

Project: Proposed stopping up of public highway

 	South West Norse Ltd	Scale: 1:1,250	Date: Jan 2024	Contact:	
	<ul style="list-style-type: none"> • Head office: Venture House, 1 Capital Court, Wilton Road, Exeter Ind Est, Exeter, EX2 7PB • South office: The Clay Factory, Redlake Trading Estate, Ivybridge, Devon, PL21 0BZ 	File Desc:	OS Sheet:	Telephone:	
		Prep: CP	Checked:	Office: EXETER	
		SS No:	Project No: 23001	Draw No: SU23/02b	Rev:

Appendix 2 to CET/24/27

Organisation Contacted	Response
East Devon District Council	Letter sent 23/01/2024 No comments received – deadline for response was 23/03/2024
Clyst Honiton Parish Council	Letter sent 23/01/2024 No comments received – deadline for response was 23/03/2024
Auto-Cycle Union Ltd.	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024
British Driving Society	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024
British Horse Society	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024
Byways and Bridleways Trust	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024
CLA South West	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024
Cycling UK	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024
National Farmers Union	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024
Natural England Consultation Service	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024
The Open Spaces Society	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024
The Ramblers Association	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024
Trail Riders Fellowship	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024

4 Wheel Vehicle Users	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024
Devon County Council Estates department	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024
Skypark Development Partnership LLP, Northfield	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024
Skypark Development Partnership LLP, Bristol	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024
Exeter and Devon Airport Ltd	Letter sent 23/01/2024 No comments received – deadline for response was 23/02/2024