

## **Links Court Service Road, Thurlestone: Stopping-up of Highway**

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) this Committee confirms that the part of the public highway in Links Court Service Road, Thurlestone as shown on the accompanying Drawing attached as Appendix I is considered unnecessary for public use;**
- (b) subject to the outcome of the consultation with the Parish and District Council, 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 part of said highway be stopped up;**
- (c) authority be delegated to the local member and chair to resolve any issues following the necessary consultations specified in section 4 of this report;**
- (d) the Committee confirms and resolves that it has no objection to the proposed amendments to the public rights of way network.**

### **1. Background**

Following the storms in 2014 a section of the Links Court Service Road was washed away and is beyond repair. The remaining length of road only serves the Thurlestone Golf Club and provides no purpose to the highway authority.

The South West Coast Path used the Links Court Service Road and it is proposed that the public rights of way are updated to reflect the changes and ensure that the Trail is not severed.

### **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 in Links Service Road, Thurlestone as shown on the Drawing attached as Appendix I.

In light of the storm damage and the proposed stopping up, it is proposed to retain pedestrian rights in the area and create extensions to Thurlestone Footpath 3 from A-B and C-D-E-F as shown on the attached plan HCDW/PROW/14/095.3.

### **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.

### **4. Consultations**

Thurlestone Parish Council and South Hams District Council have been contacted to identify if they have any comments on the proposals. If any comments are received they will be

discussed at the meeting or with the local member and chair before a final decision is made whether to proceed with the application to the Magistrates Court.

It has been identified that BT and South West Water have utilities under the highway and they will be consulted as part of the statutory consultation process.

## **5. Financial Considerations**

The legal costs for stopping up the highway will be funded from the Public Rights of Way Capital allocation.

## **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 has 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**

The lawful implications/consequences of the proposals/recommendations/proposed course of action have been considered and taken into account in the preparation of this report/formulation of the recommendations set out above.

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 not making an order.

Subject to the necessary consultations, the relevant legal agreement will be made to amend the PROW network as indicated in Appendix I.

The Stopping Up will not be applied for until a Public Path Creation Agreement has been secured from the Golf Club for the new footpaths as shown in Appendix I.

## **9. Risk Management Considerations**

No risks have been identified.

## **10. Public Health Impact**

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

## 11. Reasons for Recommendations

The area in question serves no purpose as public highway and stopping up removes the requirement for the authority to maintain it.

David Whitton  
Chief Officer for Highways, Infrastructure Development and Waste

### **Electoral Division: Thurlestone, Salcombe & Allington**

Local Government Act 1972: List of Background Papers

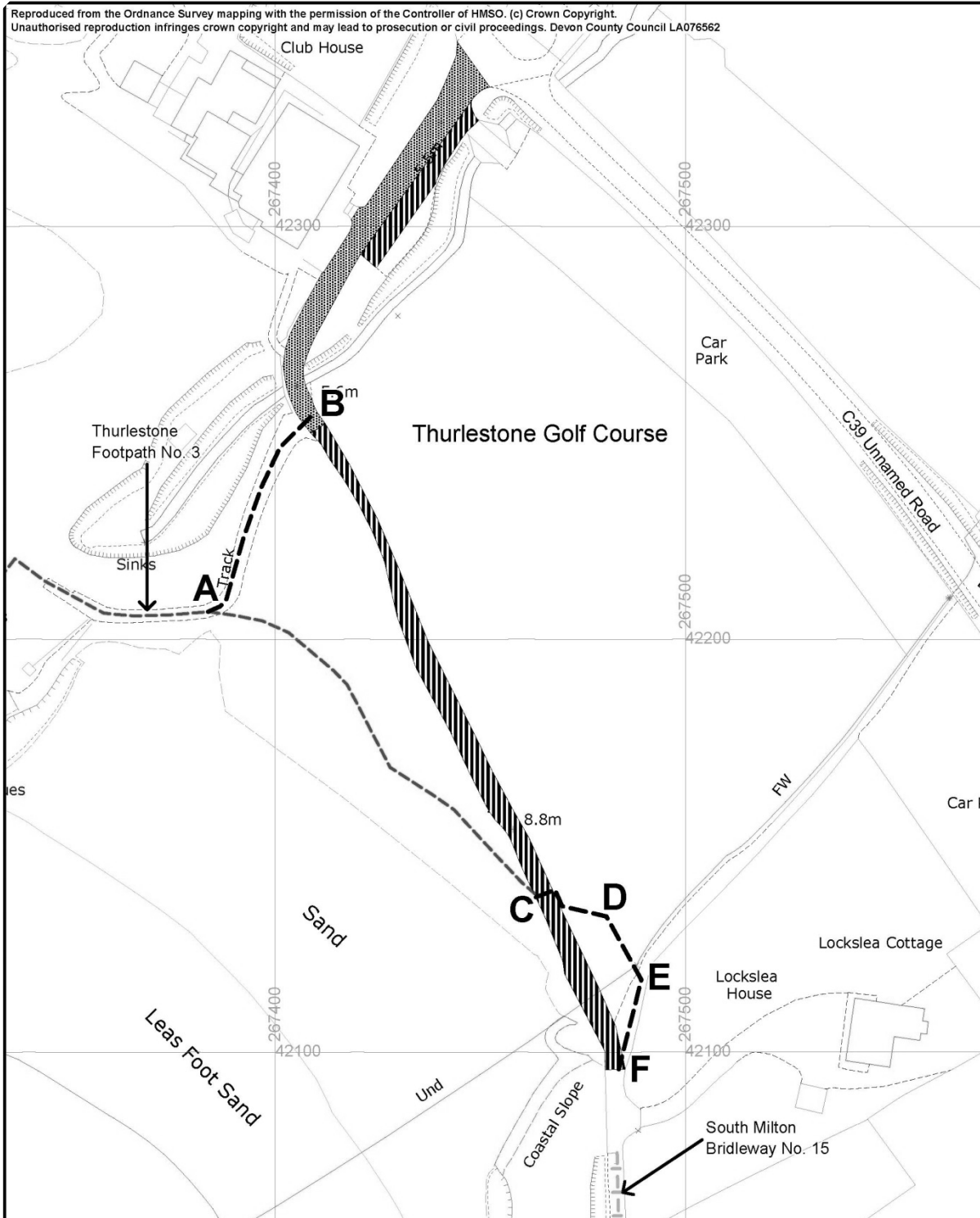
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Background Paper	Date	File Ref.
None		

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sc/cr/links court service road thurlestone stopping up of highway  
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**THURLESTONE GOLF CLUB STOPPINGS UP AND CREATIONS**

- Existing public footpath
- |-|- Existing public bridleway
- - - - Footpath to be created (A-B 55m and C-D-E-F 60m)
- ||||| Road to be stopped up
- ||||| Road to be stopped up with retention of pedestrian rights

**DAVID WHITTON**  
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Scale 1:1,000 (at A4)

**HCDW/PROW/14/095.3**  
**09 10 2016 SCG**

