

TEAM MANAGER, NEW WORKS AND RECORDS

TO HEAD OF TRANSPORT, TRAFFIC,  
AND PARKING SERVICES

28 February 2013

HIGHWAYS ACT 1980 – SECTION 116

PROPOSED CLOSURE OF PART OF TOWNEND LANE, DEEPCAR, SHEFFIELD

### 1.0 PURPOSE

- 1.1 To seek authority to process the Stopping-Up Order required for closing part of Townend Lane, Deepcar, Sheffield.

### 2.0 BACKGROUND

- 2.1 The applicant is seeking to close the area shown by hatching on the plan attached as Appendix A. The applicant contends that this area is not needed as public highway. A location plan is also included as Appendix B.
- 2.2 The subject area is within land wholly owned by the applicant.
- 2.3 The subject area has been intermittently enclosed by fencing since the construction of Rookery Rise around 1995, leading to a number of complaints being made to the City Council who have in turn taken enforcement action on a number of occasions resulting in the removal of fences. However, after a short period of time the residents of Rookery Rise would place fencing back within the highway. This 'cat and mouse' situation continued for a number of years until a joint application, for closure of the area shown hatched on the plan, was made by the residents of 4, 6, 8 and 10 Rookery Rise.

### 3.0 CONSULTATIONS

- 3.1 Consultations have been carried out with the Statutory Undertakers, the Emergency Services and other relevant bodies.
- 3.2 Not all consultees had responded at the time of writing this report but of those who have replied, none have apparatus in the area.
- 3.3 Conscious of previous issues, relating to the encroachment and the strong objection to the Rookery estate in 1993, the Council have consulted (via letter) residents within the vicinity of the proposal. We have received two letters of objection (see Appendix C) from the occupiers of 28 and 30 Townend Lane respectively. Further negotiations with one of the objectors have failed to remedy the situation and they wish their objection to remain in place. At the time of writing no other objections have been received.

3.4 Some concerns raised by the objectors, regarding safety relating to the use of access gates (from the Rookery Rise gardens to Townend Lane) and the dumping of garden waste at the rear of the gardens, have little or no bearing on the permanent closure of the subject area. These issues were investigated, by a Council Highway Enforcement Officer, at the time of the initial complaint, in October 2011. No evidence of dumping was found and it was considered that the rear accesses did not pose a danger to highway users. The complainants have been made aware of this and advised to report any further incidents of dumping.

#### 4.0 LEGAL IMPLICATIONS

4.1 Legal Services have been consulted and have advised that, assuming the areas of highway are unnecessary, it would be appropriate to process the closure using the powers contained within Section 116 of the Highways Act 1980.

4.2 The Highway Authority agrees with the view of the applicant that the subject area is not needed as public highway. We have a duty to consider the views of all parties (applicants and objectors) and on the whole feel that we have addressed the concerns of the two objecting residents; however they remain unconvinced and ask that their objections stand. With this in mind, and the fact that they do not actually contest that the area is not needed for highway purposes, we intend to present the closure to the Magistrates' Court in due course. Along with the application Magistrates will also be presented with the letters of objection and all concerned parties encouraged to attend Court in order to present their views.

#### 5.0 HIGHWAY IMPLICATIONS

5.1 Townend Lane is an adopted all-purpose highway.

5.2 The area, shown hatched on the plan is not used by general highway users. As such it is considered that the proposed closure will not have a detrimental affect on the surrounding highway network and its users and will not affect the public's enjoyment of the area.

5.3 The applicant is the land owner.

5.4 The applicants contest that the area serves only as a verge (some 5-6 metres wide and covered by thick undergrowth and mature trees) and is not utilised by highway users.

#### 6.0 EQUAL OPPORTUNITY IMPLICATIONS

6.1 There are no particular equal opportunities implications arising from the proposals in this report.

## 7.0 ENVIRONMENTAL IMPLICATIONS

7.1 The trees, shrubs and hedgerows are protected by a condition in the original planning consent (93/0583P) and closure of the highway will not affect their protected status.

## 8.0 FINANCIAL IMPLICATIONS

8.1 There will be no increase in liability on the Highway Maintenance revenue budget as a result of these highway closures. If the application is successful the area will be de-accrued from the Highway Maintenance budget.

8.2 All associated costs will be met by the applicant.

## 9.0 CONCLUSION

9.1 Based on the above information, I have no objections to the proposed closure as shown by hatching on the plan included as Appendix A.

## 10.0 RECOMMENDATIONS

10.1 Raise no objections to the proposed closure of part of Townend Lane, as shown by hatching on the plan included as Appendix A, subject to satisfactory arrangements being made with Statutory Undertakers with regards to their mains and services that may be affected.

10.2 Authorise Legal Services to take all necessary action on the matter under the powers contained within Section 116 of the Highways Act 1980 and to apply to the Magistrates' Court for an Order to stop-up the said area of highway.

Mark Reeder

Senior Technician  
Highway Records  
Highway Maintenance Division

28 February 2013

REPORT APPROVED BY HEAD OF TRANSPORT, TRAFFIC AND PARKING SERVICES

Signed

Date