

PRINCIPAL ENGINEER, HIGHWAY RECORDS AND ADDRESS MANAGEMENT

TO HEAD OF
TRANSPORT, TRAFFIC AND PARKING SERVICES

15 December 2014

HIGHWAYS ACT 1980 – SECTION 116

PROPOSED CLOSURE OF PART OF BROCCO LANE, NETHERTHORPE,
SHEFFIELD

1.0 PURPOSE

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

2.0 BACKGROUND

- 2.1 The Geographical Society, a registered charity, has applied to “Stop Up” (i.e. permanently close) the area of highway shown by hatching on the plan attached as Appendix A. The applicant contends that the area is no longer required as public highway. A location plan is also included as Appendix B.
- 2.2 It is believed that the area has been enclosed behind gates for several years, during which time the City Council has not received any public complaints about it. However, the matter was brought to officers’ attention by the Council’s ‘Streets Ahead’ maintenance contractor, who pointed out that the gates are preventing them from undertaking their Highway inspection obligation on that section.
- 2.3 Once the enclosure of Public Highway has been brought to its attention, the Council is duty-bound by law to consider action to rectify the situation. Normally, this would culminate, if necessary, in enforcement action to remove the gates. However, in this case, because it appears to the Council that the enclosed highway is actually not necessary for public use, the perpetrator of the gating has instead been offered the chance to apply for the subject highway to be Stopped Up as an alternative to enforcement action. Assuming that the Council is successful in obtaining a Highway Closure Order, that will then legally regularise the situation, such that the gates can remain in place, which the applicant believes is important for the security of the rear of their building.

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 objected, and none have apparatus within the area proposed for closure.

4.0 LEGAL IMPLICATIONS

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

5.0 HIGHWAY IMPLICATIONS

5.1 Brocco Lane is an adopted all-purpose highway and terminates at a cul-de-sac.

5.2 The area as shown hatched on the plan, which is at the cul-de-sac end of Brocco Lane, is not used by general highway users, as the only site which it provides access to is that of the applicant. 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 ownership of the subsoil of the subject piece of Highway is unregistered at the Land Registry, and unknown by any of the parties involved in the Highway Closure application. Normally, if a Highway is Stopped Up in such circumstances, ownership of the subsoil defaults to the abutting landowners, each getting the land on their own side, as far as the half-width of the former highway. (This is known as the '*Ad Medium Filum*' rule).

5.4 In this case, the ownership of the abutting land to the south is with the applicant, The Geographical Society. The land to the north is owned by Aviva Investors. However, it is at a level approximately 4 metres lower than the subject highway, separated by a retaining wall, with no physical access possible between the two pieces of land. On that basis, Aviva's managing agents, Dorchester Ground Rent Management Ltd, have put in writing that, having liaised with their client, they have no objection to the proposed Stopping Up. Furthermore, the applicant is satisfied that Aviva have no intention of enforcing the *Ad Medium Filum* rule, and so have asked for the highway closure to go ahead on this basis. It is understood that it is the applicant's intention to then register ownership of all the subsoil of the former Highway, in which action they expect to be unopposed.

5.5 Sheffield City Council has no ownership interest in any of the land under, or served by, the subject piece of highway.

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 There are no environmental implications.

8.0 FINANCIAL IMPLICATIONS

8.1 There will be no increase in liability on Highway Maintenance revenue as a result of this highway closure. If the application is successful the area will be de-accrued from the 'Streets Ahead' Highway Maintenance contract.

8.2 All costs relating to the proposals 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 permanent closure of part of Brocco 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.

Richard Day
Principal Engineer
Highway Records and Address Management
Highway Maintenance Division

15 December 2014

REPORT APPROVED BY
HEAD OF TRANSPORT, TRAFFIC AND PARKING SERVICES

Signed..... 


Date..... 16-12-14



HIGHWAYS ACT 1980 SECTION 116

**PROPOSED CLOSURE OF PART OF BROCCO LANE
IN THE NETHERTHORPE AREA OF SHEFFIELD**

Key:

Area of Highway to be Closed 

APPENDIX A

