



**SCC LOCAL COMMITTEE IN
SPELTHORNE**

**156 CHURCH STREET, STAINES.
STOPPING UP THE HIGHWAY**

19 JUNE 2006

KEY ISSUE AND SUMMARY:

To discuss a proposal to stop up as public highway a verge adjacent to No.156 Church Street, Staines.

OFFICER RECOMMENDATIONS:

The Committee is asked to agree that:

- (i) should the owner of No.156 Church Street, Staines make a formal application to have the land stopped up as public highway Legal Services are instructed to commence the required procedure; and
- (ii) should a formal application be made, the costs of the stopping up order are borne by the applicant.

1. INTRODUCTION & BACKGROUND

- 1.1 No.156 Church Street, Staines is part of a development constructed around 1980. The major part of the development is Island Close but the development includes a line of houses along Church Street. No.156 Church Street is located at the junction of Island Close and Church Street. A plan of the area is shown at Annex A.
- 1.2 The house at No.156 Church Street has been extended towards Island Close and officers were recently alerted that the extension has been partly constructed on highway land.
- 1.3 The matter was investigated and archive records, while only referring to a block paved area, show encroachment on to the public highway by the owner of No.156 Church Street. Also a building extension to the property was partly constructed on highway land.
- 1.4 The owner of the property was contacted by the LTS office to advise her of the problem. The owner stated that she had bought the land from the original developer and was not told of the highway status. Additionally she has stated that when she enquired with Spelthorne Borough Council she was told that the land did not form part of the public highway.
- 1.5 At some time during the intervening period of around 30 years between the adoption of the road as public highway and the end of the highway agency agreement with Spelthorne Borough Council it was lost to general knowledge that the land in question formed part of the public highway and its maintenance at public expense ceased.
- 1.6 A cursory view of the location now would indicate that the limit of the public highway is the back edge of the footway.
- 1.7 The extension to No.156 Church Street was constructed with all necessary permissions of Spelthorne Borough Council granted and the status of the verge was not questioned.
- 1.8 The owner of No.156 Church Street is very concerned to find that the land she believed she had full control of was partly within the public highway and wants the matter resolved

2. ANALYSIS AND COMMENTARY

- 2.1 In normal circumstances it is not Surrey County Council's policy to agree to the stopping up of the public highway where there is no general public benefit but in this case it may be considered appropriate.
- 2.2 A series of circumstances attributable to operational failings of the local authorities over a long time has occurred that has allowed the owner of No.156 Church Street to believe she had full control of the verge adjacent

to her property, which she had bought from the original developer. It has only recently been brought to her attention that this is not the case.

- 2.3 The verge had no real benefit to the public and has been closed to the public for many years without causing a problem. Officers believe the land is unnecessary as public highway. The Head of Transportation is willing to declare the land surplus to highways requirement in accordance with the scheme of delegation to officers approved by the Executive on 6th June.
- 2.4 There appears little or no benefit in having the verge restored to its original condition and the matter could be resolved by a stopping up application.

3. CONSULTATIONS

- 3.1 Should a stopping up application be undertaken by SCC's Legal Services the application will be advertised. It should be borne in mind that the highway encroachment was raised by a member of the public so there may be objections. The Magistrates will ultimately decide, having heard the County Council and any objectors, whether the land is unnecessary as highway.
- 3.2 Spelthorne Borough Council will be asked for their views on the matter as a necessary part of the stopping up application procedure.
- 3.3 Enquiries will be made to the statutory undertakers as part of the process to check whether services are present within the areas of concern. If plant is present then the statutory undertakers are entitled to ask for it to be diverted at the cost of the County Council and in the event of such a request the application could only progress were the applicant to agree to reimburse the County Council of the cost of the diversion.

4. FINANCIAL IMPLICATIONS

- 4.1 The stopping up order is estimated to cost in the region of £2,000 and it is considered that the applicant should bear the cost.

5. SUSTAINABLE DEVELOPMENT IMPLICATIONS

- 5.1 There are no implications.

6. CRIME & DISORDER IMPLICATIONS

- 6.1 There are no implications.

7. EQUALITIES IMPLICATIONS

7.1 There are no implications

8. CONCLUSION & REASON FOR RECOMMENDATION

8.1 As the land in question has not been accessible to the public for a considerable time without detriment it is considered that in this instance a stopping up application is an appropriate means of resolving the issue. If the Committee are mindful to support the recommendations in this report the Head of Transportation will declare the land surplus to highways requirement.

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BACKGROUND PAPERS: Email dated 23-05-06 with letter dated 22-05-06 from the owner of No.156 Church Street.