



**SCC LOCAL COMMITTEE IN
SPELTHORNE**

**52 WESTERN DRIVE, SHEPPERTON
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 52 Western Drive, Shepperton.

OFFICER RECOMMENDATIONS:

The Committee is asked to agree that:

- (i) should the owner of No.52 Western Drive wish to 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 application are borne by the applicant.

1. INTRODUCTION & BACKGROUND

- 1.1 Western Drive is part of a development constructed around 1960. No.52 Western Drive is located at the junction with Green Lane and adjacent to it is a wide grass verge provided as a sight line. See plan at Annex A.
- 1.2 At some time during the intervening period of around 40 years between the adoption of the road as public highway and the ending 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. Additionally a fence was erected by a previous owner around the perimeter enclosing the land into the rest of No.52 Western Drive.
- 1.3 A cursory view of the location now would indicate that the limit of the public highway is the back edge of the footway and the owner of No.52 Western Drive states that on two occasions he has been asked to carry out works on the land, cutting back the vegetation and repair to a fence, where the footway was affected and the passage of pedestrians hindered.
- 1.4 In 2005 the owner applied for planning permission to construct a house on the land adjacent to his property. At that time an anonymous report was made verbally to the LTS that permission was being sought to construct a house on land that formed part of the public highway.
- 1.5 The report was investigated and from archive records the allegation was found to be true. Spelthorne Borough Council's planning department was made aware that the land was highway and the owner of the property was notified. Planning permission was subsequently granted. While the verge may be within the title to the property it must be appreciated that ownership is irrelevant where the surface of the land has become vested in the highway authority, as is this case.
- 1.6 The owner of No.52 Western Drive contacted the LTS offices concerned to hear that the land he believed he had full control of was partly within the public highway and wanted to know how the matter could be resolved. He also pointed out that very recently he had paid for a vehicle crossover to be constructed to serve the new property and no mention of the land being public highway had been mentioned at that time.
- 1.7 Subsequently the owner has discussed the matter with Legal Services and the LTS to try to resolve the matter. Legal Services have advised there are two ways of approaching this issue. An application may be made under S116 of the Highways Act 1980 that is dealt with locally and ends with the Magistrates Court making the final decision. Alternatively, the applicant can pursue the matter under S247 of the Town & Country Planning Act 1990 by applying directly to the Secretary of State who will decide the result. The owner has been advised that the S247 route is likely to be more straightforward and may be quicker but he has asked that the Local Committee consider the matter.

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. The head of Transportation would be 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.
- 2.2 A series of circumstances attributable to operational failings of the local authorities over a long time has occurred that has led the owner of No.52 Western Drive to believe he has full control of the verge adjacent to his property. It has only recently been brought to his attention this is not the case.
- 2.3 The original sight line is in excess of current standards being set back around 20m from the channel line of Green Lane rather than the minimum 4.5m that is required now. Therefore it would not be to the detriment of highway safety if the area within the sight window was reduced to current standards.
- 2.4 A letter has been sent to the owner from the LTS office that in the opinion of the Officer writing the letter the major part of the land in question is surplus to highway requirements. This remains to be ratified by members of this Committee.
- 2.5 It was also stated in the letter that should the owner's application be successful it would be expected that the section of verge retained to facilitate a sight line meeting current standards would be hardened to match the existing footway.

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 The land in question has not been accessible to the public for many years and the view of officers is that it is not necessary as highway. The reduction of the sight line is not considered detrimental to road safety. It is considered that in this instance a stopping up application is appropriate.If the Committee are mindful to support the report recommendations the Head of Transportation would be willing to declare the land surplus to highways requirement.

Reported by: Annette Williamson, Local Transportation Manager

LEAD/CONTACT OFFICER: Annette Williamson

TELEPHONE NUMBER: 020 8541 7328

BACKGROUND PAPERS: Letter to the owner of No.52 Western Drive dated 20-04-06.