

SURREY COUNTY COUNCIL**CABINET MEMBER FOR TRANSPORT****DATE: 9 June 2020****LEAD OFFICER:** KATIE STEWART, EXECUTIVE DIRECTOR FOR ENVIRONMENT, TRANSPORT & INFRASTRUCTURE**SUBJECT:** PROPOSED STOPPING UP OF HIGHWAY LAND AT BARONS OF HINDHEAD AND COOPERS COURT, LONDON ROAD, HINDHEAD**COMMUNITY VISION OUTCOME: Place****SUMMARY OF ISSUE:**

The owners of Barons of Hindhead and Coopers Court, Hindhead have requested the County Council to apply to the Magistrates Court for an order to be made removing (stopping up) the highway rights over a piece of land. Their reason for wishing this to be done is to resolve an historic encroachment and to regularise the title of their properties.

The Cabinet Member is asked to decide whether an application for a stopping up order should be made to the Magistrates' Court.

RECOMMENDATIONS:

It is recommended that an application be made to the Magistrates' Court for an order stopping up the land identified on the plan at Annex 1 as highway, in accordance with the provisions of Section 116 and 117 of the Highways Act 1980 and subject to the conditions of the County Council's approved policy on stopping up applications.

REASON FOR RECOMMENDATIONS:

The land in question is deemed surplus to highway requirements as it has been functioning as part of the garage forecourt for more than 20 years and the wider highway margin here is no longer required due to the declassification of London Road after the opening of Hindhead bypass. On completion of a successful application the County Council would be relinquished from any future maintenance liability for the land in question.

DETAILS:

1. When a request is received for the highway rights over highway land to be removed and the Cabinet Member for Transport considers that it is no longer necessary for the land to be part of the highway, the County Council will, subject to the conditions contained in the policy approved by the Cabinet on 21 December 2010, apply to the Magistrate's Court for an order stopping up the land as a highway.

2. The land in question forms part of the highway margin of London Road, Hindhead. London Road used to be the route of the A3, but since the opening of the Hindhead bypass, this section of London Road has been declassified and is now a no-through road, terminating at a National Trust car park.

3. There are 3 specific sites affected by the scope of this proposal:-

a) 35 London Road, Hindhead -'The Golden Hind' site (title number SY282827)

The land in question forms part of the frontage of 2 plots and part of the access road 'Coopers Court' on the redeveloped site. As the freehold of the land is already registered, it will revert to the proprietor upon the successful completion of the proposed order.

b) 1 Coopers Court, Hindhead (title number SY853564)

The land in question forms part of the frontage of Number 1, Coopers Court. As the freehold of the land is already registered, it will revert to the proprietor upon the successful completion of the proposed order.

c) Land on the North side of Portsmouth Road - Barons Garage site (title numbers SY329384/SY332178/SY584985)

The land in question is functioning as part of the Barons Motor Garage site and is currently unregistered. Alongside the application to remove public rights, the proprietor here will liaise with Land Registry in order to register freehold title to the land in question (to coincide with the completion of the proposed order) and formalise the ownership here.

4. Copies of the relevant title plans can be viewed at Annex 2.

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| CONSULTATION: |
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5. Before making an application to the Magistrate's Court for a stopping up order the highway authority must serve notice of their intention to do so on the district/borough council and the parish council if there is one. If either council objects to the making of the application within two months of the date of service of the notice it may not be made

6. At least 28 days before the making of an application for a stopping up order the highway authority must serve notice of their intention to apply for the order on:

- the owners and occupiers of all lands adjoining the highway;
- any utility company having apparatus under, in, upon, over, along or across the highway;
- if the highway is a classified road, the Minister for Transport, district/borough council and parish council if there is one.

Notices must also be displayed on site and published in the London Gazette and at least one local paper 28 days prior to the making of the application.

RISK MANAGEMENT AND IMPLICATIONS:

7. The County Council's policy regarding applying for stopping up orders on behalf of a third party has been drafted to ensure that the Council is indemnified against all risks associated with the making of an application for a stopping up order. Providing the policies are adhered to and correct procedures are followed any risks will lie with those requesting the stopping up.

Financial and value for money implications:

8. The applicants are to pay all costs associated with the application for a stopping up order. There is no financial cost to the County Council.

Section 151 Officer commentary:

9. This S151 Officer confirms that all material financial and business issues and risks have been considered in this report. On completion of a successful application the County Council would be relinquished from any future maintenance liability for the land in question.

Legal implications – Monitoring Officer:

10. The County Council's policy on applying for stopping up orders was drafted to meet the requirements of the Highways Act 1980 ("the Act"). Section 116 of the Act provides the power for a highway authority to apply to the Magistrates' Court for an order stopping up a highway, or part of a highway. Section 117 enables a highway authority to apply for a stopping up order on behalf of a third party. Schedule 12 to the Act determines the form of notices that must be given in connection with an application for a stopping up order.

Equalities and diversity:

11. The equalities impact assessment that was carried out when the County Council's policy on stopping up was approved by the Cabinet in December 2010 identified potential positive and negative impacts on the age, disability, gender and belief/faith strands, as well as potential social exclusion issues. As the process for applying for a stopping up order includes opportunities for anyone who feels they may be disadvantaged to object and, if they wish, be heard in court, the assessment did not identify any actions necessary to address the potential negative impacts.

Other implications:

12. The potential implications for the following Council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

| Area assessed: | Direct Implications: |
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| Corporate Parenting/Looked After Children | No significant implications arising from this report. |
| Safeguarding responsibilities for vulnerable children and adults | No significant implications arising from this report. |
| Environmental sustainability | No significant implications arising from this report. |
| Public Health | No significant implications arising from this report. |

WHAT HAPPENS NEXT:

13. When the applicant has deposited sufficient monies with the County Council to cover the cost of making an application for a stopping up order, the process of making the application will commence.
14. Before making an application to the Magistrates' Court for a stopping up order to be made the highway authority must serve notice of their intention to do so on the district/borough council and the parish council if there is one. If either council objects to the making of the application within two months of the date of service of the notice it may not be made.
15. At least 28 days before the making of an application for a stopping up order the highway authority must serve notice of their intention to apply for the order on:
 - the owners and occupiers of all lands adjoining the highway;
 - any utility company having apparatus under, in, upon, over, along or across the highway;
 - the Minister for Transport, district/borough council and parish council if there is one, if the highway is a classified road
16. Notices must also be displayed on site and published in the London Gazette and at least one local paper 28 days prior to the making of the application.
17. In accordance with clause 3 of the County Council's policy regarding requests for the removal of public rights over roads, any unresolved objections will be reported to the Waverley Local Committee for a decision on whether to continue with the making of an application to the Magistrates' Court for a stopping up order to be made

Contact Officer:

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Consulted:

Katie Stewart, Executive Director for Environment, Transport and Infrastructure
Lucy Monie, Director – Infrastructure and Delivery
Frank Apicella, Area Highways Manager

Nancy El-Shatoury, Principal Highways and Planning Solicitor
Tony Orzieri, Section 151 Officer
David Harmer, County Councillor
Jerome Davidson, Borough Councillor
Peter Irishwood, Borough Councillor
Haslemere Town Council
Zac Elwood, Head of Planning, Waverley Borough Council

Annexes:

Annex 1 – Plan: Land subject of proposed application – London Road, Hindhead
Annex 2 – Title plans for adjoining properties

Sources/background papers:

Sections 116 & 117 and Schedule 12, Highways Act 1980:

<http://www.legislation.gov.uk/ukpga/1980/66>

Report to the Cabinet on 21 December 2010 titled “Policy Regarding the Removal of Public Rights Over Roads and Highway Land” (item 12).

[http://mycouncil.surreycc.gov.uk/celestdocuments.aspx?MID=466&DF=21%2f12%2f2010&A=1&R=0&F=embed\\$item%2012%20-%20Policy%20regarding%20the%20removal%20of%20Public%20Rights%20over%20Roads%20and%20Highway%20Land.htm](http://mycouncil.surreycc.gov.uk/celestdocuments.aspx?MID=466&DF=21%2f12%2f2010&A=1&R=0&F=embed$item%2012%20-%20Policy%20regarding%20the%20removal%20of%20Public%20Rights%20over%20Roads%20and%20Highway%20Land.htm)

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