

**North Yorkshire County Council**

**Business and Environmental Services**

**Executive Members**

**26 January 2018**

**Mayfield Road, Brayton - Proposed Stopping Up Of Highway Rights**

**Report of the Assistant Director – Highways and Transportation**

**1.0 Purpose of Report**

- 1.1 The purpose of the report is to advise the Corporate Director, Business and Environmental Services (BES) and the BES Executive Members of the outcome following public consultation in regard to this proposal to apply to the Magistrates' Court under Section 116 of the Highways Act 1980 to extinguish highway rights, known as "stopping up", on a section of land adjacent to 17 Mayfield Road, Brayton and to determine whether the proposed application should be taken forward to the Magistrates' Court.
- 1.2 A decision is sought regarding the recommended option.

**2.0 BACKGROUND**

- 2.1 The resident of 17 Mayfield Road, Brayton has requested the County Council to apply to the Magistrates' Court for an Order to be made removing (stopping up) the highway rights over a section of land adjacent to their property as shown on Plan 1 and in Appendix A. The reason for this request is to stop dogs fouling the land, so that they can continue to maintain this section of land without hindrance.
- 2.2 The section of land in question forms part of an emergency access, linking Mayfield Road and Mayfield Drive and was created as part of a planning application in the early 90's. At that time current guidance required that emergency accesses were built to a certain length for estates over 50 dwellings or above and the Mayfield Road estate fell into that criteria. The emergency access was adopted as highway maintainable at the public expense on 9 June 1992.
- 2.3 Paragraph 6.7 of the Current Government guidance from the Manual for Streets refers to fire service response time targets. Authorities have often argued that the larger the site, the more likely it is that a single access could be blocked for whatever reason. The fire services adopt a less numbers-driven approach and consider each application based on a risk assessment for the site, and response time requirements. Since the introduction of the Fire and Rescue Services Act 2004, all regions have had to produce an Integrated Management Plan setting out response time targets.
- 2.7 With the above in mind, the local fire service was consulted and did not object to the proposal stating that the loss of part of the emergency access will have no effect on their response times, this was also the view of the Ambulance Service. No response was received from the Police.

### **3.0 Consultation**

- 3.1 One letter of objection has been received. The objection and comments are summarised in Appendix B, together with your Officers comments.
- 3.2 County Councillor Cliff Lunn (the ward member representing Brayton) was contacted during the consultation on his views to the proposals and is supportive of the proposal.

### **4.0 Officer comments**

- 4.1 In view of the applicants desire to maintain and remove the environmental hazard associated with dog fouling and more importantly, the fact that the loss of part of the emergency access will have no effect on response times (See Paragraph 2.7 above) it is felt that the section of the highway not required should be stopped up under powers contained in Section 116 of the Highways Act 1980, as no longer necessary.
- 4.2 Section 116 of the Highways Act 1980 allows a Highway Authority to apply to the Magistrates' Court for a Stopping Up Order on the grounds that a highway is "unnecessary". This will be a question of fact. The issue before the Magistrates is not whether the way is being used, but rather whether it is unnecessary for public use. Whether the highway is or is not necessary must be decided with regard to the circumstances existing at the time of the making of the Order.

### **5.0 Equalities implications**

- 5.1 Consideration has been given to the potential for any equality impacts arising from the recommendation. It is the view of officers that the recommendation does not have an adverse impact on any of the protected characteristics identified in the Equalities Act 2010. A copy of the Equalities Impact Assessment screening form is attached as Appendix C.

### **6.0 Financial implications**

- 6.1 There is a statutory requirement to give notice of all Stopping Up Order applications in accordance with Part I of Schedule 12 to the Highways Act 1980. The cost of advertising and application to the Court and any other associated costs, should the Order be authorised or otherwise, will be borne by the applicant.

### **7.0 Legal**

- 7.1 Under the Council's Constitution, Area Committees have delegated powers to consider the stopping up or diversion of highways (other than public rights of way) where an objection is received from any person or body entitled under the relevant statute – the Chairman of the Selby Area Committee has agreed that this application may be considered by the Corporate Director, BES and the BES Executive Members. However, the decision to authorise the Stopping Up Order itself rests solely with the Magistrates' Court.

## **8.0 Recommendations**

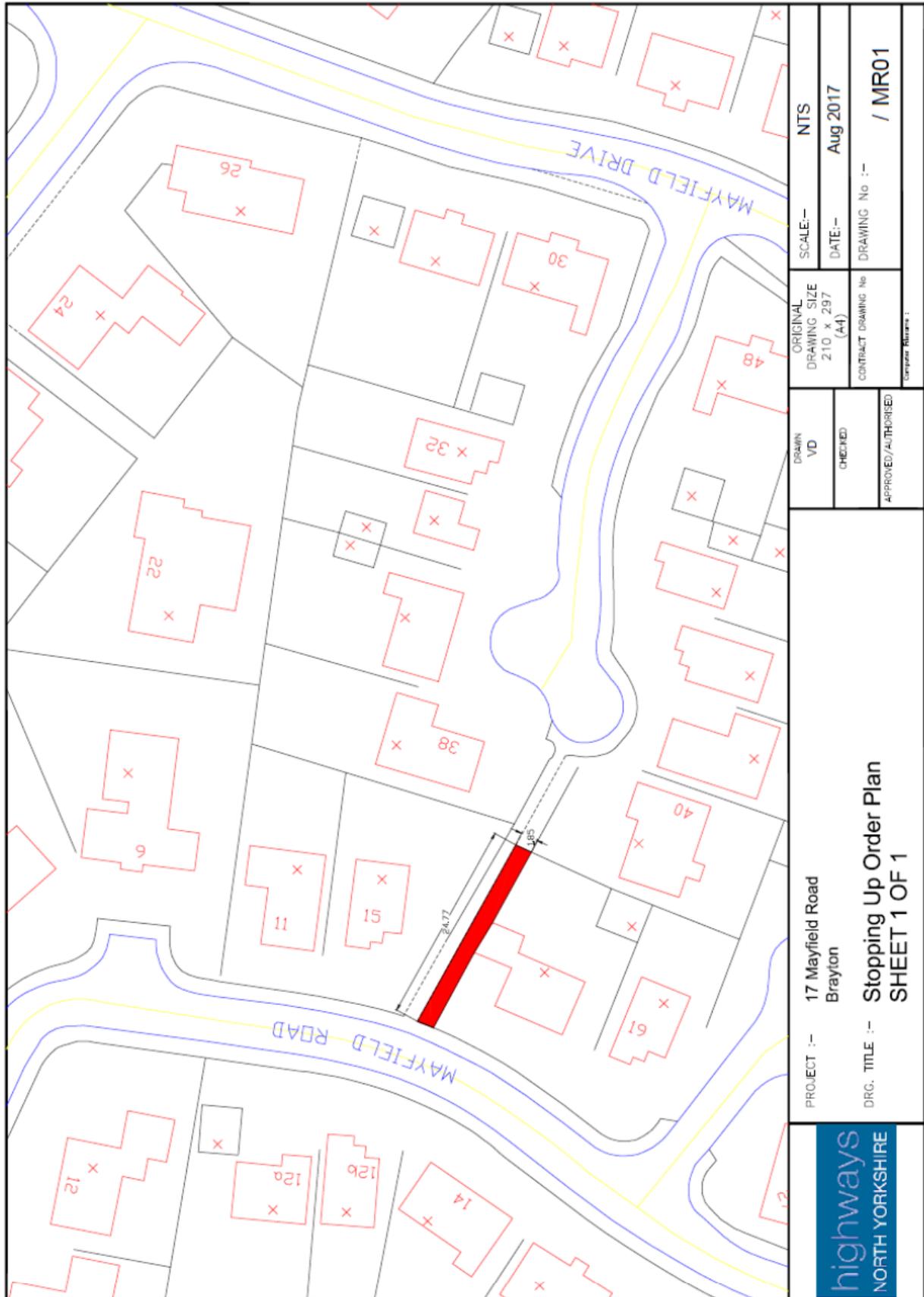
8.1 It is recommended that: -

- a) The Corporate Director, BES and the BES Executive Members authorise officers to continue to proceed with the proposal to stop up a section of land adjacent to 17 Mayfield Road, Brayton: and
- b) The applicant and objector are informed accordingly.

BARRIE MASON  
Assistant Director, Highways and Transportation

Author of Report: Gary Lumb

Background Documents: Letters of objections received are held in the scheme file held by the Selby Area 7 Highways Office.



Area highlighted is the proposed stopping up.

	PROJECT :- 17 Mayfield Road Brayton	DRAWN VD	ORIGINAL DRAWING SIZE 210 x 297 (A4)	SCALE:- NTS
	DRG. TITLE :- Stopping Up Order Plan SHEET 1 OF 1	CHECKED	CONTRACT DRAWING No :- DRAWING No :- / MR01	DATE:- Aug 2017
APPROVED/AUTHORISED				



Area highlighted is the proposed stopping up.

**Summary of Comments**

**Officer Comments**

Resident of Mayfield Drive.

1. It is mine and others understanding from many years we have lived on Mayfield Drive that this walkway or passage was provided for safety as a second means of egress to allow emergency vehicles access in the event of a blockage on Mayfield Road to both sides of the estate.
2. To block off or any part this passage would mean that in the event of some problem at the Mayfield Drive entrance where passage was prevented, then emergency vehicles Fire and the ambulance would not be able to attend a resident further round the housing estate. I suggest Risk management should be considered and what to do in the event of an emergency.

1. At that time current guidance required that emergency accesses were built to a certain length for estates over 50 dwellings or above and the Mayfield Road estate fell into that criteria. However Paragraph 6.7 of the Current Government guidance from the Manual for Streets refers to fire service response time targets. The fire services adopt a less numbers-driven approach and consider each application based on a risk assessment for the site, and response time requirements.
2. The local fire service was consulted and did not object to the proposal, stating that the loss of part of the emergency access will have no effect on their response times - this was also the view of the Ambulance Service. In fact the removal of the lockable bollards would hinder their response times.

<b>Initial equality impact assessment screening form</b> (As of October 2015 this form replaces 'Record of decision not to carry out an EIA')			
<b>This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate.</b>			
<b>Directorate</b>	Business and Environmental Services		
<b>Service area</b>	Highways & Transportation		
<b>Proposal being screened</b>	Removing (stopping up) the highway rights of a section of land adjacent to 17 Mayfield Road, Brayton.		
<b>Officer(s) carrying out screening</b>	Gary Lumb		
<b>What are you proposing to do?</b>	Apply to the Magistrates Court under Section 116 of the Highways Act 1980 to extinguish highway rights, known as "stopping up", of a section of land adjacent to 17 Mayfield Road, Brayton.		
<b>Why are you proposing this? What are the desired outcomes?</b>	To remove the environmental hazard associated with dogs fouling the section of land adjacent to 17 Mayfield Road, therefore it is felt that a section of the highway should be stopped up under powers contained in Section 116 of the Highways Act 1980, as no longer necessary. This will allow the resident of 17 Mayfield Road to maintain this section of land without hindrance, without having an adverse effect on the response times of the emergency services.		
<b>Does the proposal involve a significant commitment or removal of resources? Please give details.</b>	NO		
<b>Is there likely to be an adverse impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristics?</b>			
As part of this assessment, please consider the following questions:			
<ul style="list-style-type: none"> <li>• To what extent is this service used by particular groups of people with protected characteristics?</li> <li>• Does the proposal relate to functions that previous consultation has identified as important?</li> <li>• Do different groups have different needs or experiences in the area the proposal relates to?</li> </ul>			
<b>If for any characteristic it is considered that there is likely to be a significant adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your <a href="#">Equality rep</a> for advice if you are in any doubt.</b>			
<b>Protected characteristic</b>	<b>Yes</b>	<b>No</b>	<b>Don't know/No info available</b>
Age		√	
Disability		√	
Sex (Gender)		√	

Race		√	
Sexual orientation		√	
Gender reassignment		√	
Religion or belief		√	
Pregnancy or maternity		√	
Marriage or civil partnership		√	
<b>NYCC additional characteristic</b>			
People in rural areas		√	
People on a low income		√	
Carer (unpaid family or friend)		√	
<b>Does the proposal relate to an area where there are known inequalities/probable impacts</b> (e.g. disabled people's access to public transport)? Please give details.	NO		
<b>Will the proposal have a significant effect on how other organisations operate?</b> (e.g. partners, funding criteria, etc.). <b>Do any of these organisations support people with protected characteristics?</b> Please explain why you have reached this conclusion.	NO		
<b>Decision (Please tick one option)</b>	EIA not relevant or proportionate:	√	Continue to full EIA:
<b>Reason for decision</b>	In view of the applicants desire to maintain and remove the environmental hazard associated with dog fouling and more importantly, the fact that the loss of part of the emergency access will have no effect on response times.		
<b>Signed (Assistant Director or equivalent)</b>	<i>Barrie Mason</i>		
<b>Date</b>	15/01/2018		