

REPORT TO: CABINET MEMBER – TECHNICAL SERVICES

DATE: 23 FEBRUARY 2011

SUBJECT: SECTION 116 HIGHWAYS ACT 1980. – PART OF THE REAR OF FOOTWAY ADJACENT TO THE NEW DEVELOPMENT KNOWN AS THE TANNERY, HARRIS DRIVE, BOOTLE.

WARDS AFFECTED: LITHERLAND

REPORT OF: A WALLIS PLANNING & ECONOMIC DEVELOPMENT DIRECTOR

CONTACT OFFICER: D. MARRIN – TRAFFIC SERVICES MANAGER – Ext. 4295
M. HUNTER – HIGHWAYS DEVELOPMENT CONTROL – Ext. 4240

EXEMPT/ CONFIDENTIAL: No

PURPOSE/SUMMARY:

To seek approval for the Legal Director in conjunction with the Director of Planning and Economic Development to make a stopping up application as detailed in the report to the Magistrates Court under provisions of section 116 of the Highways Act 1980 following the respective application under section 117 of the Highways Act 1980.

REASON WHY DECISION REQUIRED:

Cabinet Member authorisation is required before seeking an order from the Magistrates Court. The application will enable the connected passageway to be extinguished as it is considered unnecessary.

RECOMMENDATION(S):

That : -

The Cabinet Member authorises the Director of Planning and Economic Development and the Legal Director to request the Magistrates Court to extinguish/stop-up the following area of highway under Section 116 of the Highways Act 1980, as detailed within the report and shown upon the attached plan numbered DC0718, subject to the applicant bearing all costs associated with the application: -

- Part of rear of footway adjacent to new development, Harris Drive, Bootle – Plan number DC0718

KEY DECISION: No

FORWARD PLAN: No

IMPLEMENTATION DATE: Following the expiry of the 'call in 'period for the minutes of the meeting.

ALTERNATIVE OPTIONS:

There are no alternative options

IMPLICATIONS:

Budget/Policy Framework: None

Financial: The applicant will meet the legal and administrative costs of the proposals.

<u>CAPITAL EXPENDITURE</u>	2010 2011 £	2011/ 2012 £	2012/ 2013 £	2013/ 2014 £
Gross Increase in Capital Expenditure	N/A			
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources	No			
Funded from External Resources	Yes			
Does the External Funding have an expiry date? No	When?			
How will the service be funded post expiry?				

Legal: Yes

Risk Assessment: None

Asset Management: None

CONSULTATION UNDERTAKEN/VIEWS

The Interim Head of Corporate Finance & Information Services has been consulted and has no comments on this report. **FD653 /2011**

Ward Councillors, Statutory Undertakers

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Creating Safe Communities	✓		
3	Jobs and Prosperity	✓		
4	Improving Health and Well-Being		✓	
5	Environmental Sustainability		✓	
6	Creating Inclusive Communities		✓	
7	Improving the Quality of Council Services and Strengthening local Democracy		✓	
8	Children and Young People		✓	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

None

SECTION 116 HIGHWAYS ACT 1980 – PART OF REAR OF FOOTWAY ADJACENT TO NEW DEVELOPMENT AT HARRIS DRIVE, BOOTLE

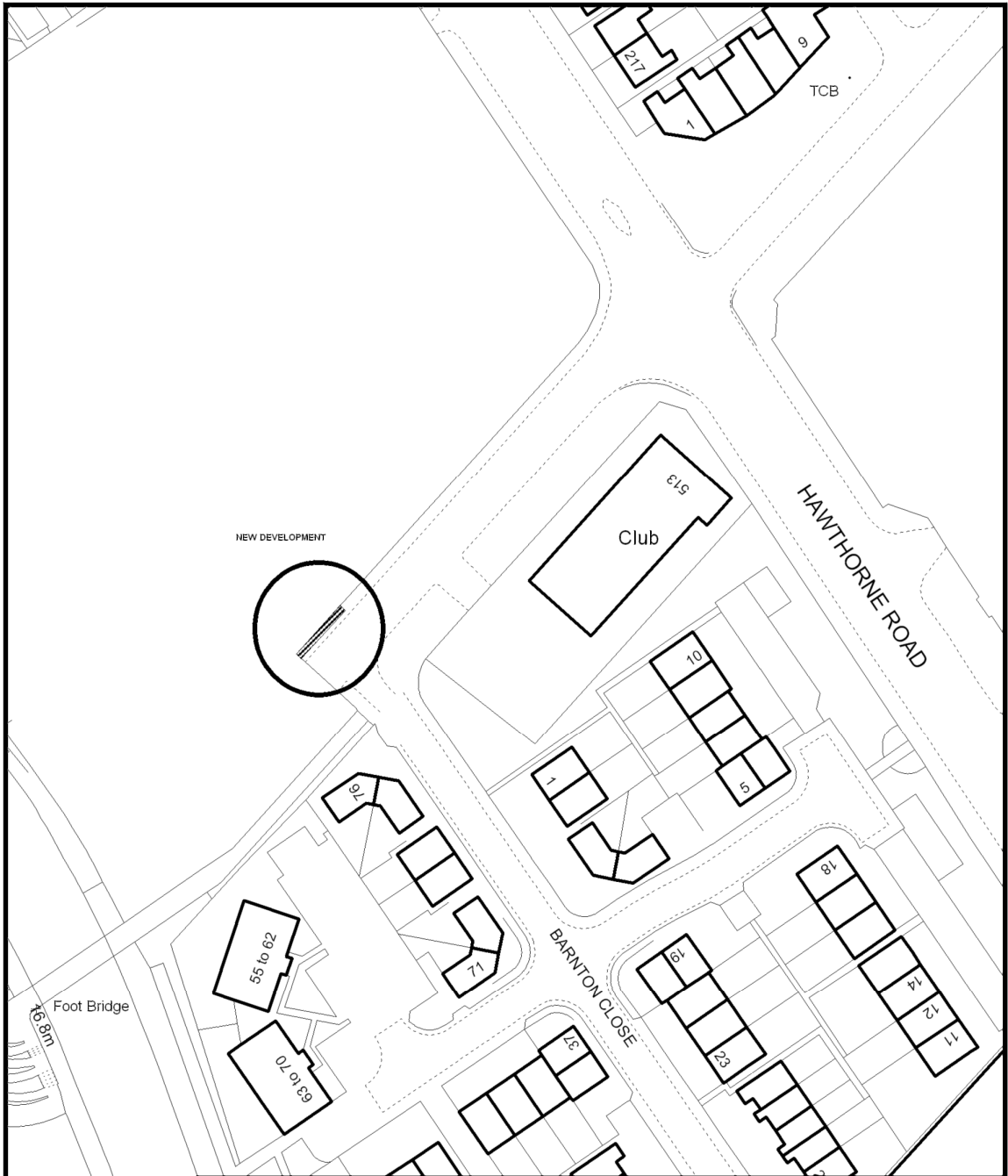
1.0 Information / Background




- 1.1 An application has been received from Bellway Homes northwest for the stopping-up of an area of highway within the Borough, as shown upon the attached plan numbered DC0718.
- 1.2 The stopping-up application relates to an area of highway, which is considered unnecessary and which would be expedient for the Council to make an application to the Magistrates Court on the basis that there are at present or will be, reasonable suitable alternatives in place.
- 1.3 The stopping-up of the part of highway in question will facilitate the redevelopment of the adjoining land, and a new footway will be constructed using an agreement under section 38/278 of the Highways Act 1980.
- 1.4 The Ward Councillors have been notified in respect of the application and have made no comments to-date.

2.0 s116 Highways Act 1980 Procedure and Magistrates Court Hearing

- 2.1 Under Section 117 of the Highways Act 1980, a person desiring a highway to be stopped-up may request the Highway Authority (in this case the Council) to make an application to the Magistrates Court for a stopping-up Order. If the request is granted the Council may as a condition, require the person to pay such costs, as it deems reasonable in connection with the application.
- 2.2 The Council must give 28 days notice of the Court Hearing specifically to adjoining owners/occupiers and statutory undertakers and in addition, must publish notices in a local newspaper, the London Gazette and also display a site notice.
- 2.3 Any person who receives the notice referred to above, or uses the highway or who would be aggrieved by the stopping-up has a right to be heard at the Court Hearing of the application.
- 2.4 The Court may make the stopping-up Order if it appears that the highways are unnecessary for the public for the sort of lawful purposes for which the public could be reasonably expected to use that particular way. If there is evidence of such use, the Court will need to be satisfied that the public are, or are going to be, provided with a reasonably suitable alternative way. If the Court makes the Order, its effect is to end the right of the public to use it as a highway.
- 2.5 It is considered in the case of the application detailed within this report, that it is appropriate for the stopping-Up Order to be requested from the Magistrates Court under s116 of the Highways Act 1980, for the reasons outlined above.

Andy Wallis
Director of Planning and Economic Development



<p>SEFTON M.B.C.</p>  <p>HIGHWAYS DEVELOPMENT CONTROL</p>	<p>Stopping-up of Public Highway - Section 116 Highways Act 1980</p> <p>Part of rear of footway adjacent to new development Harris Drive, Bootle.</p> <p>public highway to be stopped-up shown as </p>									
<p>Andy Walls Director of Planning and Econ Dev Magadalen House Trinity Road Bootle L20 3NJ</p>	<table border="1"> <tr> <td>Drawn By: MAH</td> <td>Scale: NTS</td> <td>Date: 01/02/2011</td> <td>Checked: BAM</td> </tr> <tr> <td>Ward: Litherland</td> <td>Os Sheet Name: NA</td> <td colspan="2">Plan: DC0718</td> </tr> </table> <p><small>This map is reproduced from Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution. Sefton Council Licence number 100018192. (c) 2010.</small></p>	Drawn By: MAH	Scale: NTS	Date: 01/02/2011	Checked: BAM	Ward: Litherland	Os Sheet Name: NA	Plan: DC0718		<p>File:</p>
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