

REPORT TO: CABINET MEMBER – TECHNICAL SERVICES

DATE: 2nd DECEMBER 2009

SUBJECT: SECTION 116 HIGHWAYS ACT 1980 – PROPOSED STOPPING UP OF PUBLIC HIGHWAY – UN-NAMED AREA OF HIGHWAY LEADING FROM RAFTER AVENUE AND ADJOINING THE PROPERTY NUMBERED 7 RAFTER AVENUE, BOOTLE.

WARDS AFFECTED: NETHERTON & ORRELL

REPORT OF: R S WALDRON – ASSISTANT DIRECTOR
TRANSPORTATION AND DEVELOPMENT

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 Regeneration to make an application to the Magistrates Court for the stopping-up of un-named area of highway leading from Rafter Avenue and adjoining the property numbered 7 Rafter Avenue, Bootle, under the provisions of Section 116 of the Highways Act, 1980 following an application from One Vision Housing Association, 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 area to be closed for use by the general public.

RECOMMENDATION(S):

That : -

The Cabinet Member authorises the Director of Planning & Economic Regeneration and the Legal Director to request the Magistrates Court to make an Order under section 116 of the Highways Act 1980, for the stopping-up of un-named area of highway leading from Rafter Avenue and adjoining the property numbered 7 Rafter Avenue, Bootle, as detailed within the report and shown upon plan number DC0484 subject to the applicant bearing all costs associated with the application.

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, technical and administrative cost of the stopping-up order.

<u>CAPITAL EXPENDITURE</u>	2009/ 2010 £	2010/ 2011 £	2011/ 2012 £	2012/ 2013 £
Gross Increase in Capital Expenditure	N/A			
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE EXPENDITURE</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources	No			
Funded from External Sources	Yes			
Does external funding have an expiry date? Y/N	No			
How will the service be funded post expiry				

Legal:

Risk Assessment: None

Asset Management: None

CONSULTATION UNDERTAKEN/VIEWS

None

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		✓	

SECTION 116 HIGHWAYS ACT 1980 – UN-NAMED AREA OF HIGHWAY LEADING FROM RAFTER AVENUE AND ADJOINING THE PROPERTY NUMBERED 7 RAFTER AVENUE,

BOOTLE

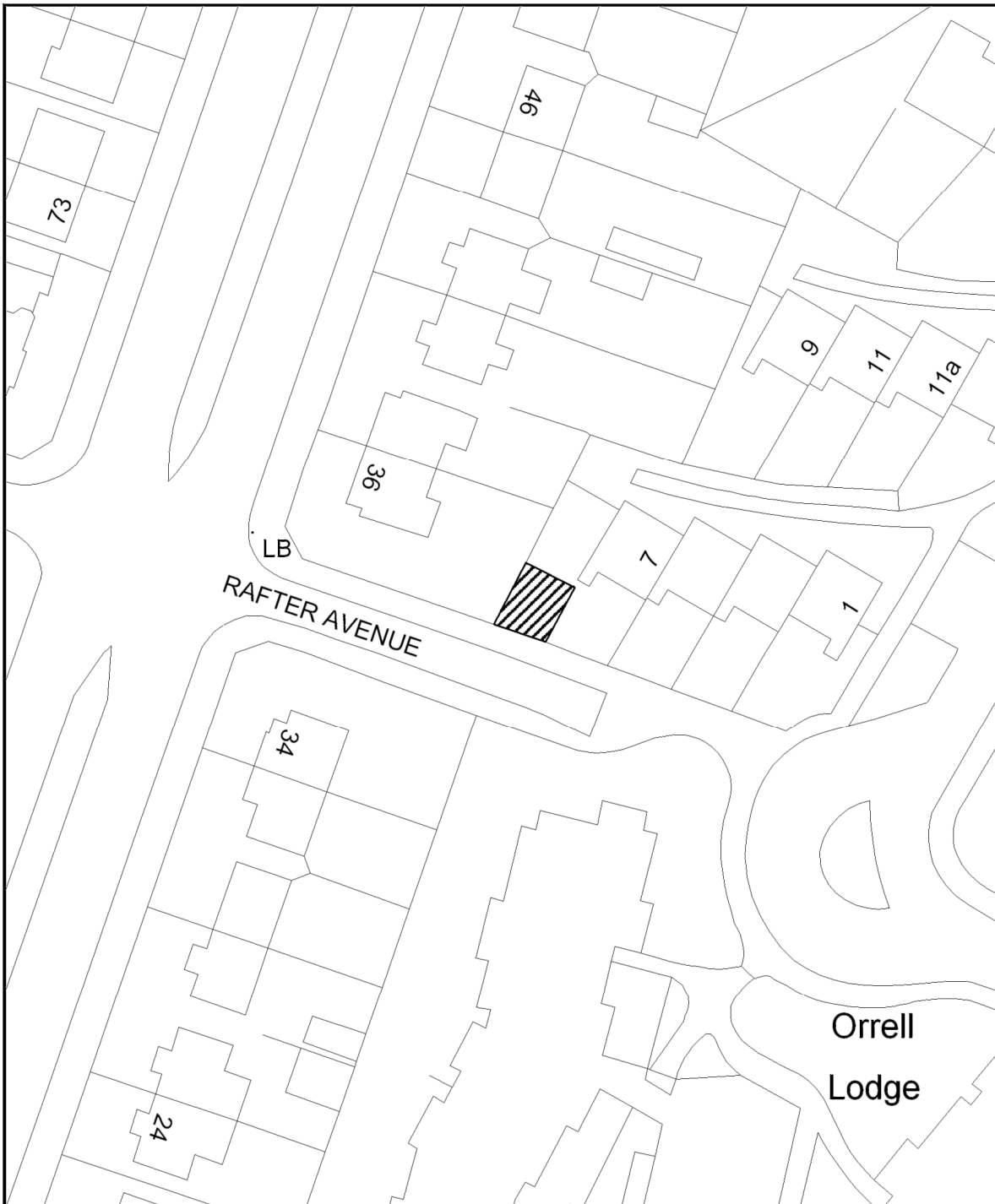
1.0 Information / Background




- 1.1 An application has been received from One Vision Housing Association for the stopping-up of an area of highway within the Borough, as shown upon the attached plan numbered DC0484.
- 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 Magistrate Court on the basis that there are at present or will be, a reasonable suitable alternative in place.
- 1.3 The justification/reasons for making the application to the Magistrates Court is to facilitate the area being enclosed for private garden area. The general public at large will still be able to use the existing public footway.
- 1.4 The Ward Councillors have been notified in respect of the application and have made no comment 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 reason outlined above.

Andy Wallis
Director of Planning and Economic Regeneration



<p>SEFTON M.B.C.</p> 	<p align="center">Stopping-up of Public Highway - Section 116 Highways Act 1980 Un-named area of highway leading from Rafter Avenue and adjoining the property numbered 7, Rafter Avenue, Bootle.</p> <p>Public highways to be stopped-up shown as: </p>			
<p>HIGHWAYS DEVELOPMENT CONTROL Andy Wallis Director of Planning & Economic Regeneration Magdalen House 30 Trimley Road Bootle, L20 3NJ</p>	<p>Drawn By: MAH</p>	<p>Scale: NTS</p>	<p>Date: 02/11/09</p>	<p>Checked: BAM</p>
<p>Ward: Netherton & Orrell</p>		<p>OS: NA</p>	<p>Plan: DC0484</p>	
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