

REGULATORY COMMITTEE

24<sup>th</sup> JULY 2002

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**DEVIZES: DREWS POND LANE - HIGHWAYS ACT**  
**SECTION 124 - STOPPING UP OF PRIVATE ACCESS**  
**TO HIGHWAY**

**Purpose of Report**

1. To obtain authority to exercise powers under Section 124 Highways Act 1980 to remedy a potential road safety issue arising from the granting of planning permission at Drews Pond Lane, Devizes, for Robert Hitchins Ltd.

**Background**

2. Robert Hitchins Ltd was granted outline planning permission (K36957) on appeal for the development of about 60 houses on land at the former Fruit Farm at Drews Pond Lane, in 2000. At the planning Inquiry the Inspector's attention was drawn, inter alia, to the fact that Drews Pond Lane was subject to certain private rights of vehicular access which were not directly under the control of the appellant. In his decision report, the Inspector appears not to have addressed this issue and provision was not made, through condition or otherwise, to deal with a potentially dangerous junction arrangement.
3. Robert Hitchins Ltd. has subsequently been granted full planning permission for the development and is in the process of transferring the site to Wilson Connolly Ltd., who intend to build the houses.
4. The plan attached at **Appendix 1** indicates the road junction on Drews Pond Lane from which the development would take access, together with the length of Drews Pond Lane that needs to be stopped up to vehicular traffic, and an alternative route that would provide safer and reasonably convenient access to the four properties affected.
5. Officers of the County Council, in attempting to redress the situation, have indicated to the developers that the highway authority would be reluctant to enter into a road adoption agreement unless and until a recognised road safety hazard had been properly remedied. The developers have indicated that residents who have a right of access along Drews Pond Lane are unwilling to relinquish their rights over the track.

**Considerations**

6. Highways Act 1980, Section 124, offers a remedy in such situations. It allows the highway authority to make an order to stop up a private means of access. If no objections are received, or if duly made objections are withdrawn, the authority can proceed to confirm the order, otherwise the matter is referred to the Secretary of State to determine. Section 126 of the Act provides for compensation to be paid to parties adversely affected by such stopping up orders.

7. The County Council would expect reimbursement of all costs and Robert Hitchins Ltd. has indicated that the company would be willing to enter into a binding legal agreement with the authority to pay its reasonable costs in making an order, and to reimburse the authority with any compensation that might be payable.
8. Because of the degree of local opposition to the development, it is likely that the objections to any order will not be withdrawn, unless the matter can be dealt with through negotiation by the developer.

### **Conclusions: Options Considered**

9. In the interests of highway safety the private means of access needs to be closed, with users being granted rights to use the alternative route. It would appear that the most straightforward remedy is via a Section 124 order. The option of retaining existing vehicular rights could result in personal injury accidents. If the highway authority denies the developer access to the highway it could be subject to judicial review. The development land is of high value, and Robert Hitchins Ltd, the current owner, is eager to sell the site to a builder, subject to a clear resolution to proceed with advertising an order. Retention of the private rights of access to the highway would frustrate implementation of a properly granted planning permission, or result in an enduring substandard junction arrangement.

### **Recommendation**

10. That the Director of Environmental Services and the Solicitor to the Council make an order and advertise it at the earliest opportunity, subject to the securing of a legal agreement with the developers to provide for acceptable legal rights over the alternative route indicated on the plan at **Appendix 1**.

### **Reason for Recommendation**

11. To secure a safe junction to access the development site, and a safer means of access to the private residents served by Drews Pond Lane.

**RICHARD J. LANDER**

Director of Environmental Services

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**The following unpublished documents have been relied on in the preparation of this Report:**

None

**Environmental impact of the Recommendation contained in this Report:**

None