

**DURRINGTON: PROPOSED STOPPING-UP OF
ROAD USED AS A PUBLIC PATH 12**

Purpose of Report

1. To consider an Order being made within the provisions of Section 116 of the Highways Act 1980 to stop-up a section of Road Used as a Public Path (RUPP) 12 Durrington as shown on the plan attached at **Appendix A**.

Background

2. Historically, a public carriage road ran from Milston, along the legally recorded line of Milston RUPP 16, along a ford and through into the village of Durrington.
3. However, an anomaly exists whereby in 1953 at the compilation of the Definitive Map, RUPP 12 was incorrectly recorded; not along the historic route, but transversely across the ford in a south-easterly direction, emerging through the gardens of a property now known as Riverside Cottage to join the B3095 Hackthorne Road.
3. In 1969, the Ministry of Transport made an Order to close that section of the recorded RUPP as shown A-B (**Appendix B**) which crossed the development site earmarked for the build of the property now known as Hackthorne House. The Order only applied to that land for which Planning Permission had been obtained.
4. The Ministry of Transport had no authority to deal with the culs-de-sac which remain from the extinguishment of this section of RUPP 12. One of the culs-de-sac runs through the garden of Riverside Cottage, the other runs from the south to the north bank of the section of the river due north of Hackthorne House.
5. Historically, the course of the river was wider than at present, as shown on the 1920 Ordnance Survey extract at **Appendix C**.
6. The development of Hackthorne House resulted in alterations to the River and the Ford. The development works had the effect of eliminating the ford by filling in its course to enable the construction of the property, and also of reducing the width of the river, 'squeezing' the riverbanks together and deepening the river. The County Council Geographic Information System (GIS) extract at **Appendix D** shows the present course of the river. It can be seen that Hackthorne House is now built over the historic line of the Ford.

Present Position

7. The Definitive Map presently records the two culs-de-sac lengths of the remaining RUPP. These lengths are anomalous in two respects:
 - (i) The northern section from the parish boundary/northern riverbank is unusable due to the deepening of the river, and the southern section runs through the garden of the property known as Riverside Cottage.
 - (ii) The recorded sections do not coincide with the line of the ancient ford, as shown on the plan at **Appendix D**.
8. Riverside Cottage is currently for sale and the vendors are anxious to have the matter rectified as soon as possible.

Policy

9. The current policy of the County Council is not to consider stopping-up orders unless exceptional circumstances pertain to warrant the stopping-up. Committee approval is required to agree proposals for stopping-up.
10. Officers consider that the incorrect recording of the line of RUPP 12 requires rectification.
11. This situation needs to be addressed, both to update the records of public rights of way, but also to remove the burden of the anomalous Public Right of Way from the owners of Riverside Cottage.

Consultations

12. Consultations were carried out on 31st July 2002. The responses are as follows:-
13. **Mr. Bill Riley** - commented that there would be no objection to closure of the section of RUPP within the garden of Riverside Cottage, but he was concerned about the location of the northern section of the RUPP.
14. **Mr. Riley** - subsequently stated that he was satisfied that the length Y-Z does not coincide with the Ford, and confirmed that he had no objection to lengths Y-Z and W-X being stopped up (see **Appendix A**).
15. **Wiltshire Bridleways Association** - stated that the Definitive Map failed to record the historic route of the old road from Milston to Durrington, a part of which encompassed the old Ford. They also stated that they would object to any closure of part of the old road.

Comment

The route of the stopping-up proposals does not coincide with the line of the old Ford. It can be inferred that no objection would be forthcoming to the stopping-up proposals.

16. **British Telecom, NTL and National Grid** - no apparatus affected by the proposals.
17. **Ramblers Association (South Wilts Group)** - no objections to the proposals.
18. **Major DS Entwistle of Rill House, Durrington** - supports the proposals.
19. **Salisbury District Council** - supports the proposals and forwarded signed consent to this effect.
20. **Durrington Parish Council** - supports the proposals and forwarded signed consent form.

Legal Points to Consider

21. Section 116 of the Highways Act 1980 states that a Magistrates' Court has the power to authorise stopping-up or diversion of a highway, where it is considered that the highway is:
 - (a) unnecessary, or
 - (b) can be diverted so as to make it nearer or more commodious to the public
22. Section 116, paragraph 3(b) states that the Highway Authority must give notice of the proposals to the Parish Council in which the highway is situated. Paragraphs 12 and 20 of this report refer.

Financial Implications

23. There are no financial implications.

Conclusion: Options Considered

24. RUPP 12, Durrington, is currently incorrectly recorded on the Definitive Map compiled in 1953. Owners of the property known as Riverside Cottage are affected unnecessarily by the Public Right of Way recorded through their property.
25. The making of an Order under Section 116 of the Highways Act 1980 would rectify the long-standing draughting anomaly on the Definitive Map. It would also serve to remove the anomalous burden from Riverside Cottage.
26. It is not in the public interest to have this way recorded on the Definitive Map.

Recommendation

27. That:-
 - (i) The path be stopped-up;
 - (ii) An Order be made under Section 116 of the Highways Act 1980 to extinguish RUPP 12 Durrington, as shown at **Appendix A**, and the Definitive Map and Statement be amended accordingly.

Reason for Recommendation

28. To remove the encumbrance of a non-available and unnecessary route from the property affected.

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

Correspondence with landowner's solicitors, District and Parish Councils, User Groups and Utility Companies.

Environmental Impact of the Recommendation contained in this Report:

Enhancement of the Rights of Way network.