

DEALING WITH A PROPOSAL TO PERMANENTLY CLOSE A PUBLIC HIGHWAY

Guidance for Blackdown Hills Parish Councils

What does the law say?

The Highways Act 1980, sections 47 and 116 requires a local highways authority such as Devon County Council and Somerset County Council to consult a Parish Council before ending maintenance of a highway, or for closing or diverting a highway. This action is most likely to happen in small and less used roads and lanes. But if the Parish Council objects the local highways authority cannot close the road or stop maintaining it.

This is an example of what can happen.

Clifthayne Lane in Yarcombe Parish runs from Marsh, just off the A303 to the B3170, the Taunton to Honiton road. The lane was neglected for many years and the end nearest the B3170 was in considerable disrepair.

On 3rd May 2017 Devon County Council published a Temporary Restriction Notice (under the Road Traffic Regulation Act 1984, Section 14) closing a section of the road because of the "structural failure of the highway". The Notice was valid for 21 days. Road Closed signs were placed at both ends of the section although the road was never actually blocked. On 24th May 2017 another Notice was issued valid for 18 months. However, a Temporary Restriction Notice is not intended to run indefinitely in order to close the road permanently.

In May 2018 following correspondence between Devon County Council, Yarcombe Parish Council and a local landowner, a solicitor representing a local farm served a Section 56 Notice (Highways Act 1980) on the County Council. This required the Council to confirm that Clifthayne Lane was a publicly maintainable highway for which it was responsible. And this had the desired effect: the road was repaired shortly afterwards and no further legal action was needed.

What should a Parish Council do if confronted like this?

A local highways authority should consult a Parish Council in advance; but it might stop maintaining the road and put up Road Closed signs without any consultation. If so, the BHPN suggests a Parish Council should check with the local highways authority to fully understand their position. It should point out that no decision to close or stop maintaining a public highway should be taken until the Parish Council has been formally consulted and replied.

A Parish Council should also consult local residents and obtain their views.

If the Parish Council does not agree the public highway should be closed it should tell the local highways authority and remind it of the requirements of the Highways Act 1980, sections 47 and 116. Then be prepared to take legal action if necessary.

Before deciding how to address a proposal (passive or active) to permanently close a public highway, Parish Councils should ensure that all necessary statutory and regulatory requirements have been considered and addressed.

Blackdown Hills Parish Network Guidance

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