

AREA COMMITTEE EAST (ACE) DALES, MAPPERLEY AND ST ANN'S
9 FEBRUARY 2016

Title of paper:	REQUEST FOR AUTHORISATION TO STOP UP AN AREA OF FOOTWAY (PAVEMENT) AT POULTON DRIVE, SNEINTON	
Director(s)/ Corporate Director(s):	David Bishop, Corporate Director for Development and Growth 0115 8762758 Email:david.bishop@nottinghamcity.gov.uk	Wards affected: Dales
Report author(s) and contact details:	John Lee, Rights of Way Officer Development and Growth Tel: 0115 8765246 Email: john.lee@nottinghamcity.gov.uk	
Other colleagues who have provided input:	Ann Barrett, Team Leader Legal Services Resources Tel: 0115 8764411 Email: ann.barrett@nottinghamcity.gov.uk Jeremy Bryce, Estates Surveyor Property Development Team Strategic Assets and Property Tel: 0115 8763132 Email: jeremy.bryce@nottinghamcity.gov.uk	
Date of consultation with Portfolio Holder(s) (if relevant)	N/A	
Relevant Council Plan Key Theme:		
Strategic Regeneration and Development		<input checked="" type="checkbox"/>
Schools		<input type="checkbox"/>
Planning and Housing		<input type="checkbox"/>
Community Services		<input type="checkbox"/>
Energy, Sustainability and Customer		<input type="checkbox"/>
Jobs, Growth and Transport		<input checked="" type="checkbox"/>
Adults, Health and Community Sector		<input type="checkbox"/>
Children, Early Intervention and Early Years		<input type="checkbox"/>
Leisure and Culture		<input type="checkbox"/>
Resources and Neighbourhood Regeneration		<input checked="" type="checkbox"/>
Summary of issues (including benefits to citizens/service users):		
This report seeks authority to make an application to the Magistrates Court for an order to stop up (close permanently) part of the footway (pavement) on Poulton Drive, off Daleside Road Sneinton.		
Recommendation(s):		
1	That Area Committee authorise the making of an application to the Magistrates Court pursuant to section 116 of the Highways Act 1980 to stop up the area of footway shown at Appendix 1 and 2.	

1 REASONS FOR RECOMMENDATIONS

- 1.1 Following a request from the City Councils Strategic Asset and Property Services, it is recommended that the area of footway is stopped up under Section 116 of the Highways Act 1980 on the grounds that it is unnecessary for public use. There is no other available highway legislation to close a footway on these grounds.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 During 2015 the City Councils Strategic Assets and Property Services requested that the City Councils Traffic and Safety Service Area investigate whether the area of footway (pavement) adjacent to a Council owned property at 9a Poulton Drive is needed by the public. The footway has a length of 7.5 metres and a variable width of between 2.0 and 4.0 metres. The western end of the footway terminates at the boundary fence to the property which means it is a “cul-de-sac”. The area of footway is shown on the plan at Appendix 1 and on the photographs at Appendix 2.
- 2.2 During July and October 2015 a footfall survey was carried out between the hours of 6.30am and 9.30am and then 15.30pm and 18.30pm over 2 days. During the surveys only eight members of staff used part of the footway to and from 9a Poulton Drive. The footway was not used by other members of the public. Stopping up the area of footway would not affect pedestrians walking north – south along Poulton Drive between Daleside Road and Freeth Street. The case officer is therefore satisfied that this particular area of footway is unnecessary. In order to identify whether any utilities (gas, water, electricity etc) would be affected by stopping up the footway, preliminary consultation has been carried out with utility companies. Additionally, should Area Committee approve the recommendations in this report, full consultation will be carried out as part of the formal stopping up order process.
- 2.3 Following pre-application consultations, Western Power Distribution (WPD) have identified that a Low Voltage cable serving 9a Poulton Drive would be affected by the stopping up of the footway. An agreement has been reached with WPD, and in the event that the Magistrates’ Court approves the application for the stopping up order, the LV cable will be relocated.
- 2.4 Although incidental to the legal grounds for making the application to the Magistrates Court, the stopping up of the area of footway will enable the Council to manage 9a Poulton Drive more efficiently including the operational use of the adjacent forecourt and the adjoining rear yard.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 There is no other highway legislation available to close the area of footway on the ground that it is “unnecessary” for public use. The only other option would be to not make the application to the Magistrates Court and to leave the footway as a cul-de-sac.

4 FINANCE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)

- 4.1 The cost of the investigations and preparing the application to the Magistrates Court is £8,000. This cost will be met by the Councils Strategic Asset and Property management budget. There will be no financial implications for Area Committee. The

principles of value for money will be followed throughout the application and stopping up order processes.

5 LEGAL AND PROCUREMENT COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)

5.1 LEGAL IMPLICATIONS

5.1.1 Under Section 116 of the Highways Act 1980, if it appears to a Magistrates' Court, that the highway (in this case the area of footway shown at Appendix 1 and 2) is "unnecessary" the court may by order, authorise the highway to be stopped up. The reasons for believing that this part of the highway is unnecessary are indicated in paragraph 2.2 above and it is considered that an application for a stopping up order can be justified.

5.1.2 Notice must be served on statutory undertakers with apparatus under, in, upon, over, along or across the highway and on all the owners and occupiers of land adjacent to the highway at least 28 days prior to the date on which the application for the stopping up order is considered by the Magistrates' Court. Notice of the application must also be placed in the London Gazette and a local newspaper and also displayed on site. Consultation will also be carried out with relevant user groups including the Ramblers and the Nottingham Local Access Forum.

5.1.3 On the hearing of the application to the Magistrates' Court, the applicant authority, any person to whom notice is required to be given, any person who uses the area of footway and any other person who may be aggrieved by the making of the order applied for may be heard and may object to the order on the ground that the highway is used by them (and / or the public at large) and is therefore necessary. Should this be the case, there is no guarantee that the Magistrates Court will approve the application to stop up the area of footway.

5.1.4 The approval to make applications to the Magistrates Court for the stopping up of carriageways and footways on grounds of necessity falls within the terms of reference of Area Committees in the Council's current Constitution. Should Area Committee be satisfied that the area of footway on Poulton Drive is unnecessary for public use, authorisation will also be required from the Corporate Director for Development and Growth.

5.2 CRIME AND DISORDER ACT IMPLICATIONS

This report is seeking authority to apply to the Magistrates Court for an order to stop up an area of footway. There are no crime and disorder implications from the recommendations within this report.

5.3 PROCUREMENT IMPLICATIONS

This report is seeking authority to apply to the Magistrates Court for an order to stop up an area of footway. There are no procurement implications from the recommendations within this report.

6 STRATEGIC ASSETS & PROPERTY COMMENTS (FOR DECISION RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE) (AREA COMMITTEE REPORTS ONLY)

- 6.1 The application to the Magistrates Court for the order to stop up the area of footway adjacent to 9a Poulton Drive follows a request by the City Councils Strategic Assets and Property Services to investigate whether the footway is used by the public.

7 EQUALITY IMPACT ASSESSMENT

- 7.1 Has the equality impact of the proposals in this report been assessed?

The equality impact of these proposals has been assessed and an Equality Impact Assessment is not required for the following reasons. The area of footway terminates at the boundary fence of 9a Poulton Drive. The area of footway does not provide access to local amenities and is not the only or principle means of access to and from any properties including 9a and/or the local highway network. These characteristics mean the area of footway is not used by the public and is unlikely to be used by the public in the future. Stopping up and removing the footway will not affect public access.

8 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

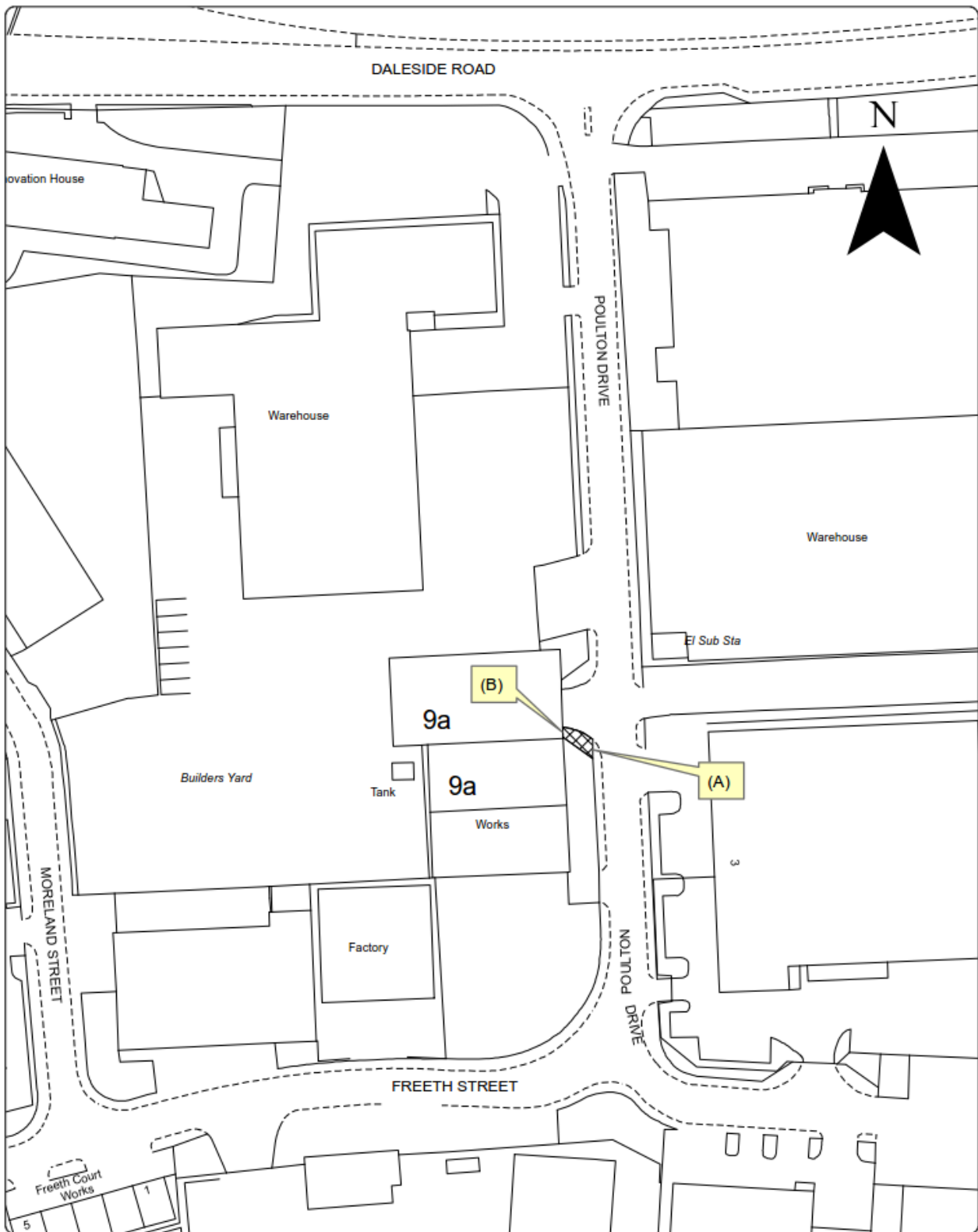
- 8.1 None

9 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT


- 9.1 Highways Act 1980

APPENDIX 1:

Area of footway to be stopped up at Poulton Drive



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 AB area of highway (footway) to be stopped up



1:1,000

APPENDIX 2

Area of footway to be stopped up at Poulton Drive



Access gates to rear yard of 9a Poulton Drive

Area of footway to be stopped up within red line boundary



Forecourt

Area of footway



Forecourt

Area of footway