

Delegated Officer Report **(Non Key and Contracts up to a value of £100k)**

Decision Maker: Director of Environment, Nasir Dad

Date of Decision: 19 January 2024

Subject: Part of Royley Road, Oldham – Proposed Stopping Up of Highway

Report Author: Sarah Robinson, Traffic Engineer

Ward (s): Medlock Vale

Reason for the decision:

The resident of 48 Langham Road, Oldham has applied for a highway stopping up order for a small area of Royley Road, Oldham, which is unadopted highway and runs adjacent to the applicant's property. The highway has been built on, and is therefore, considered no longer necessary to the highway network.

The encroachment was carried out by the previous owner and the current owner bought the property with the encroachment already having taken place, and therefore, thought that they owned the land. The building is an extension to the applicant's property but was constructed by the applicant on land that they thought they owned. The owners have therefore been instructed by the Council's Legal Team to purchase the subsoil under the highway area and apply for a stopping up order to remove the highway status.

Summary:

The purpose of the report is to seek approval to stop up part of the highway under Section 116 of the Highways Act 1980 as it is no longer necessary to the Highway Network.

What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):

Option 1 – stop up the highway to enable the landowner to control the land where the extension has been built

Option 2 – don't stop up the highway and undertake enforcement action under the Highways Act 1980 to secure the removal of the illegal obstruction

Consultation: including any conflict of interest declared by relevant Cabinet Member consulted

The Ward Members have been consulted and no comments have been received.

Recommendation(s):

The preferred option is Option 1

Implications:

*What are the **financial** implications?*

The Councils Stopping Up application fee for the sum of £3,042.60, has been paid by the resident of 48 Langham Road into the Highways revenue budget.

(John Edisbury)

*What are the **legal** implications?*

Section 116 of the Highways Act 1980 enables the Council as highway authority to apply to the magistrates' court for an order stopping up a highway on the grounds that the highway is unnecessary. The magistrates have to be satisfied that the area of highway in question is unnecessary for the sort of purposes which the magistrates would reasonably expect the public to use that particular way.

The area of highway should have been stopped up by the Secretary of State under section 247 of the Town and Country Planning Act when the extension was built but section 247 cannot be used retrospectively. (A Evans)

*What are the **procurement** implications?*

None

*What are the **Human Resources** implications?*

None

Oldham Impact Assessment Completed (Including impact on Children and Young People)

No

*What are the **property** implications*

None

Risks:

The legal and financial risks are documented separately in this report. The introduction of a stopping up order from the unadopted highway transfers the liability risk from the Council

ownership to the resident of the adjacent property. There could be reputation risks if the scheme didn't go ahead these can be mitigated by effective communications with the resident. Any financial risks are mitigated by the adjoining property owner agreeing to pay the costs of the Order.

Vicki Gallacher (Head of Insurance and Information Governance)

Co-operative implications

The Council is working cooperatively with the resident to grant the stopping up order. (James Mulvaney, Policy Manager)

Community cohesion disorder implications in accordance with Section 17 of the Crime and Disorder Act 1998

None

Environmental and Health & Safety Implications

None

IT Implications

None

Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution? Yes

Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget? Yes

Are any of the recommendations within this report contrary to the Policy Framework of the Council? No

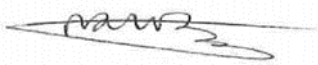
Highway to be Stopped Up
In Accordance with Drawing Number 439 / A4 / 652 / 1

Highway to be Stopped Up	Description
Part of Royley Road, Oldham	Commencing at the back of footway adjacent to 48 Langham Road for a distance of 21.5 m in a south westerly direction and varying in width between 2.3 and 3.7 metres

There are no background papers for this report

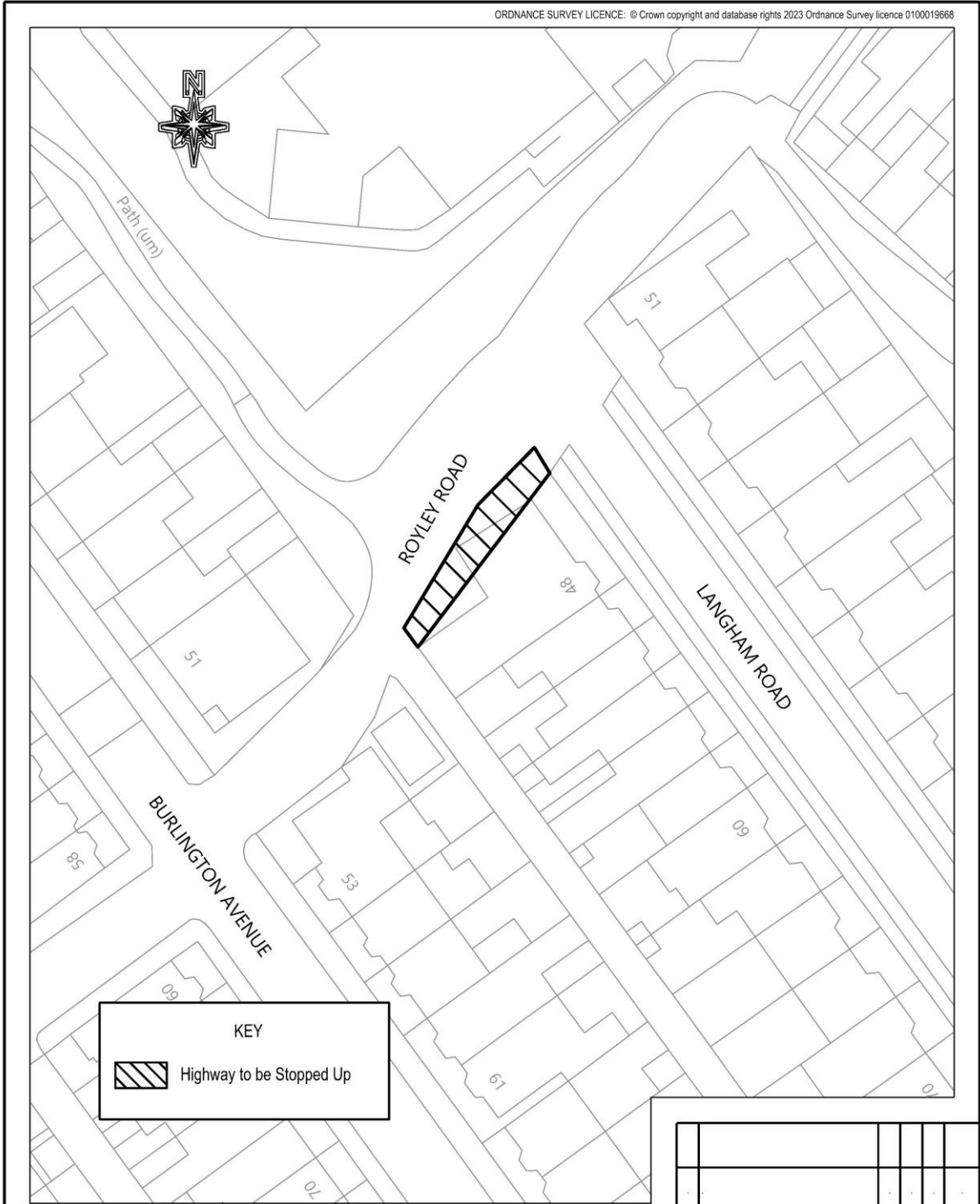
Report Author Sign-off:	
Sarah Robinson	
Date: 11 January 2024	

In consultation with Director of Environment



Signed :

Date: 19.01.2024



KEY

Highway to be Stopped Up

Rev	Revision details	By	Chk	App	Date

 Oldham Council	Client Oldham MBC			Title Part of Royley Road, Oldham Proposed Stopping Up of Highway	
	Project File Reference TM1/ 292				
	Drawn by RW	Date 12/23	Purpose of issue information		
Place and Economic Growth HIGHWAYS & ENGINEERING <small>Henshaw House, Cheapside, Oldham OL1 1NY</small>	Checked by SR	Date 12/23	Scale at A4 size 1:500	Drawing No. 439/A4/652/1	Rev. .
	Approved by	Date			

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