

Officer Decision Report

Title:	Serving of a Notice under S143 Highways Act 1980 to have structures removed within Highway Extents adjacent to 15 Long Meadow, Bedgrove, Aylesbury
Date decision taken:	4 August 2020
Author:	Dave Roberts, Network Strategy Manager, TfB
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Local Members Affected	Aylesbury East: J Ward, T Hunter-Watts, M Winn, A Harrison, M Stamp

Decision

To instruct Legal Services to issue a S143 Notice under S143 Highways Act 1980 to [REDACTED] requiring the removal of all structures which have been erected on the Highway adjacent to 15 Long Meadow, Aylesbury

Reasons for the decision

1. The householder of 15 Long Meadow, Bedgrove, [REDACTED] has erected fencing and other items enclosing and obstructing highway land and excluding members of the public from having access. No permission has been given for its placement by the Highway Authority.
2. Several Local Members have repeatedly expressed concerns about the activities that are taking place on this site, including parking of commercial vehicles and allegations of operating a business as well as the precedent that this might set locally. They have asked that action be taken as quickly as possible to resolve the issue.
3. The use of this notice also enables the Council to take steps to remove the fence itself if the householder does not do so within the timescale specified in the notice.
4. The householder has been written to prior to this step asking him to remove the fence in a reasonable timescale. This has not been acceded to.

Authority to take this decision

Council scheme of delegation contained within the Councils constitution

Other options available, and their pros and cons

That we do not serve the notice and leave the fence in place. This is not considered appropriate as it would set a precedent for obstructing Highway land. The Highway Authority has a duty to protect and assert highway rights

Conflicts of interest

None

Feedback from Consultation

Not applicable

Background papers

Highway Extents Map.

Other Information

- The householder is making a claim for this land as ownership has not been identified. However, the Buckinghamshire Council does not own the land and we do not assert that we do. Our position is that there are highway rights over it which by definition creates rights and obligations for the public and the owner.
- [REDACTED] is also making a claim against the Council for alleged subsidence caused by trees on this land. This claim has been passed to our insurance section.
- He has also submitted an application for a vehicle access licence to allow him to drive vehicles legally onto the land in question. Whilst it is not an offence in law to park a vehicle, other than an HGV, on a grass verge (unless it causes an obstruction or a Traffic Regulation Order (TRO) or byelaw is in force prohibiting it.) it will however be an offence to drive across the footway to access the verge. [REDACTED] is of the view that under S184 he can be permitted to drop the kerb to authorise access, but legal advice is that that this is not correct. An occupier can only apply under 184 to gain access to the premises which he occupies. [REDACTED] is not the occupier of the highway. He is only entitled to a licence under S184 to allow him to access 15 Long Meadow.
- [REDACTED] claims to have been given permission to erect the fence by Planning. This is unfortunate. The planning officer ought to have checked the status of the land before giving advice to the householder that a fence would be acceptable. The correspondence seen confirmed that the fence should be 1m high and 2metres from the highway but implied that the footway was the highway boundary which we now know was not correct. In fact the whole of that piece of grass is highway which means that it cannot be enclosed at all.

Your questions and views

If you have any questions about the matters contained in this paper please get in touch with the Contact Officer whose email address is given at the head of the paper.

Approval Signature:



Date: 05th August 2020

Richard Barker

Corporate Director Communities