

**Agenda Item No. 4(a)**

**DERBYSHIRE COUNTY COUNCIL**

**MEETING OF THE CABINET MEMBER – HIGHWAY, TRANSPORT AND  
INFRASTRUCTURE**

**16 March 2020**

Report of the Executive Director – Economy, Transport and Environment

**PETITION - BRADWELL – ALLEGED PARTIAL BLOCKAGE OF THE  
HIGHWAY**

(1) **Purpose of Report** To consider a petition requesting consideration be given to activities associated with partial blockage of the highway in Bradwell.

(2) **Information and Analysis**

**Background**

At the meeting on 8 November 2018, the Cabinet Member acknowledged receipt of a petition. It contains 43 signatures and was accompanied by a supporting letter.

**Officer Comment**

The area of highway affected by the obstruction is on a junction of several roads in Bradwell. The area immediately adjacent is sufficient to allow vehicles to park. Parking also takes place adjacent to other properties which have a frontage to the large junction area at this location. Many of these properties and others nearby do not have off-road parking.

In 2018, enquiries were received regarding the highway extents and the initial findings suggested some of this area was not public highway. Construction of a wall along what the adjacent property considered to be the boundary between private property and public highway commenced. Once alerted to this, the County Council wrote to the occupier, requested information of the work proposed, and advised that the work should cease until further investigation has been undertaken to establish the boundary. However, work continued and the wall is now built.

This was the trigger for the letter and this petition from other Bradwell residents expressing their fear that there has been some form of 'land grab' and that the on-street parking facility they have enjoyed for many years would be taken away.

Surveys have been undertaken and the extent of publicly maintainable highway clarified which indicate that encroachment appears to have occurred.

A number of options exist, now that the wall has been built:

### **Option 1**

Require the removal of the obstruction to the highway by serving a notice under Section 143 of the Highways Act 1980. Should the landowner fail to remove the obstruction within the time specified within the notice, the County Council would seek to remove and recover its reasonable costs.

### **Option 2**

Given that the wall has been completed, the landowner cannot apply under the Town and Country Planning Act 1990 to stop-up the highway as the development has been completed but such an application can be made retrospectively under Section 116 of the Highways Act 1980. Therefore, if the Council considered stopping-up to be an option, the occupier would need to request the County Council to make an application to the Court under Section 116 of the Highways Act 1980 and meet Derbyshire County Council's costs in doing so. However, the County Council is required to carry out statutory consultation with the District and Parish Councils for the area and, if they object, the application cannot proceed. Given the history of this matter, it is likely that such an objection would be forthcoming.

### **Option 3**

Use powers under Section 256 of the Highways Act 1980 to exchange land to adjust the boundaries of the highway.

### **Local Member Comment**

Councillor Judith Twigg is aware of the petition and is supportive of the Officer's Recommendation, and this has been communicated to Bradwell Parish Council.

(3) **Financial Considerations** Any costs would be met from the Highways Maintenance Revenue budgets. However, should enforcement action be undertaken, the County Council would seek to recover its reasonable costs.

(4) **Legal Considerations** The County Council, as highway authority, has a duty under section 130 of the Highways Act 1980 to assert and protect the rights of the public to the use and enjoyment of the highway.

### **Other Considerations**

In preparing this report the relevance of the following factors has also been considered: prevention of crime and disorder, equality and diversity, human

resources, environmental, health, property, social value and transport considerations.

(5) **Key Decision** No.

(6) **Call-In** Is it required that call in be waived in respect of the decisions proposed in the report? No.

(7) **Background Papers** Held on file within the Economy, Transport and Environment Department.

(8) **OFFICER'S RECOMMENDATIONS** That:

8.1 The Cabinet Member notes the information contained within this report relating to the obstruction on the highway in Bradwell.

8.2 The Local Member, head petitioner and all interested parties be notified accordingly.

**Mike Ashworth**  
**Executive Director – Economy, Transport and Environment**