



To: **Planning Reps**
From **Highways Development Management Officer**

Date 7th July 2022

Your Ref 20220732
Location 114 Vigilant Way, Gravesend, Kent, DA12 4PN

The issues associated with this application are complex and need to be resolved. Land ownership does not mean the land is not highway, the highway authority maintain the surface and any equipment associated with it. If the land is highway, it also means public utility services can place their equipment in the land.

Kent County Council are the keeper of the relevant records and need to be approached with the correct question. The KCC web site <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries> is where the applicant needs to start the process.

Highway boundary enquiries

Highway land refers to an area of land, where the public have the right to use to 'Pass and Repass without hindrance'. With very few exceptions highway land that we maintain is not owned by the council. The law assumes, unless there is evidence to the contrary, that highway land is owned by the owners of the land or property each side up to the centre line of the highway.

A highway boundary enquiry defines the area that is maintainable at public expense by the highway authority.

For further information about recorded public rights of way, [check our public rights of way map](#).

Make an enquiry

Please send your application details and payment to:

- Highway Definition Team, Ashford Depot, Javelin Way, Henwood Industrial Estate, Ashford, Kent, TN24 8AD
- or highwaydefinitionsearches@kent.gov.uk.

We aim to reply within 20 working days. This response will include a plan at a scale of 1:1250 showing the extent of the land maintained at public expense by the highway authority in the vicinity of your enquiry.

How we use your information

If you would like to know more about why and how we use your personal information [read our privacy notice](#).

Costs

- standard cost is £90 for up to 4 written questions
- each additional question is £7
- for larger site costs please email highwaydefinitionsearches@kent.gov.uk or write to Highway Definition Team, Ashford Depot, Javelin Way, Henwood Industrial Estate, Ashford, Kent, TN24 8AD.

How to pay

Payments by cheque should be made payable to KENT COUNTY COUNCIL.

Details for payment by direct/credit card, Bacs or CHAPS can be provided on request.

If the land is highway, then it would have to be stopped up and this cannot be done via a planning permission, it has its own legal process and the outcome cannot be guaranteed.

Again referring to the KCC web site <https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>

‘Stopping up’ of part of the public highway

‘Stopping up’ a highway is where part of an existing highway ceases to be highway. This will only be agreed where the land is no longer needed for highway purposes, or where a better alternative is to be provided as part of a new development.

Stopping up can only happen by way of a stopping up order, processed under Section 116 of the Highways Act 1980, which requires final approval at a magistrates’ court. This process can take 12 months and cost the applicant around £5,000.

The first stage in this process is to make a [highway boundary enquiry](#) to check whether there are highway rights over the land. You can also [check whether a road is a public highway](#).

Alternatively, a stopping up order may be possible under Section 247 of the Town and Country Planning Act, this process is the responsibility of the Secretary of State for Transport and not Gravesham Borough Council.

<https://www.gov.uk/government/publications/stopping-up-and-diversion-of-highways/stop>

It is suggested that the applicant needs to consult Kent County Council to determine if the land is highway or not. If it is highway, then legal advice should be sought to determine the best way to

process the stopping up order, but it cannot be done via a planning permission. If it is not highway, then the description of this application is wrong.

Given the situation we have an application for something that cannot be done by Gravesham's Planning Department, or the description is wrong, in that it relates to the relocation of a boundary fence and increasing its height to more than one metre when it is adjacent to the highway.

In terms of the fence alone;

1. 2m x 2m pedestrian visibility splay will be required down the side of the drive and the along the back edge of footway.
2. The applicant needs to submit a vehicular visibility splay diagram (43m x 2.4m x 43m) to ensure the new position for the boundary fence does not compromise the visibility from a vehicle emerging from the driveway. This is a triangle with a height of 2.4 metres down the centre of the drive from the kerb edge and 43m either side of the centre line of the drive measured along the nearside kerb edge. This check is essential because the property is on the inside of a curved carriageway.

Les Seaborn

Highways Development Management Officer

Gravesham Borough Council