

Record of officer decision

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| Decision title: | Section 228 Highway Act 1980 – Adoption of unadopted footways in Commercial Road, Hereford |
| Date of decision: | 5 May 2021 |
| Decision maker: | Acting Assistant Director Highways & Transport / Head of Infrastructure Delivery |
| Authority for delegated decision: | <p>Directorate scheme of delegation: updated 28 April 2021 Directorate: Economy and Place, section 76.</p> <p>To enter into agreements pursuant to Section 38 and Section 278 of the Highways Act 1980, issue permissions under Section 184 and display notices under Section 228, including the power to determine the terms and conditions of the above.</p> |
| Ward: | Central & Widemarsh |
| Consultation: | The Cabinet Member for Infrastructure and Transport, Both Local Members, and Hereford Bid have been consulted, and all support the proposal. |
| Decision made: | To adopt the unadopted sections of footway in Commercial Road, Hereford, as identified of the Hereford City Council drawing no. 14728/2 (appended), under Section 228 of the Highways Act 1980. Notices to be posted on site to facilitate the adoption of the above sections of footway as highways maintainable at public expense. In the event of objections being received, further Governance will be sought. |
| Reasons for decision: | <p>The unadopted areas of footway in Commercial Road are thought to have their origins in historic shop frontage use of these areas. This practice has long since ceased, and the areas are now virtually indistinguishable from the adjoining sections of adopted footway. Members of the public use both adopted and unadopted sections to pass and repass along Commercial Road, and are unaware of any difference in status. The commercial premises which front onto these areas are also thought to be unaware of their potential liability for them, and a check with Land Registry confirms that none of the private premises have registered title to them.</p> <p>Given that these areas are used by the public to pass and repass, and as such are almost certainly subject to public rights, it makes sense to formally adopt them as publicly maintainable for the benefit of the public.</p> |
| Highlight any associated risks/finance/legal/equality considerations: | The areas of footway will be absorbed into the current asset in their existing condition, and any defects will have to be dealt with under the routine reactive maintenance process without additional funding. However, it should be noted that if public rights can be proved to exist, Herefordshire Council as Highway Authority would have a duty to ensure that these areas are inspected and made safe anyway. |
| Details of any alternative options considered and rejected: | We could leave these areas unadopted, and rebut any claims that the area are subject to public highway rights, but this would be difficult given their usage. |
| Details of any declarations of interest made: | N/A |

I am an officer delegated to make the decision

Signed:

Print Name: Mairead Lane

Job Title: Acting Assistant Director Highways & Transport / Head of Infrastructure
Delivery