



Highways Act 1980

1980 CHAPTER 66

PART IV

MAINTENANCE OF HIGHWAYS

Maintenance of highways maintainable at public expense

47 Power of magistrates' court to declare unnecessary highway to be not maintainable at public expense.

- (1) Where a highway authority are of opinion that a highway maintainable at the public expense by them is unnecessary for public use and therefore ought not to be maintained at the public expense, they may, subject to subsections (2) to (4) below, apply to a magistrates' court for an order declaring that the highway shall cease to be so maintained.
- (2) No application shall be made under this section for an order relating to a trunk road, special road, metropolitan road, footpath or bridleway.
- (3) Where a county council, as highway authority, propose to make an application under this section for an order relating to any highway, they shall give notice of the proposal to the council of the district in which the highway is situated, and the application shall not be made if, within 2 months from the date of service of the notice by the county council, notice is given to the county council by the district council that the district council have refused to consent to the making of the application.
- (4) If a highway authority propose to make an application under this section for an order relating to a highway situated in a parish or a community they shall give notice of the proposal—
 - (a) to the council of the parish or community, or
 - (b) in the case of a parish not having a separate parish council, to the chairman of the parish meeting,

and the application shall not be made if, within 2 months from the date of service of the notice by the highway authority, notice is given to the highway authority by the council

Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.

Changes to legislation: Highways Act 1980, Section 47 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- of the parish or community or the chairman of the parish meeting, as the case may be, that the council or meeting have refused to consent to the making of the application.
- (5) Where an application is made to a magistrates' court under this section, 2 or more justices of the peace acting for the petty sessions area for which the court acts shall together view the highway to which the application relates, and no further proceedings shall be taken on the application unless they are of opinion, after viewing the highway, that there was ground for making the application.
- (6) The clerk to the justices who view a highway in accordance with the provisions of subsection (5) above shall, as soon as practicable after the view, notify the highway authority by whom an application under this section relating to the highway was made of the decision of the justices and, if the justices decide that there was ground for making the application, of the time, not being less than 6 weeks from the date of the notice, and place, at which the application is to be heard by a magistrates' court.
- (7) A magistrates' court shall not hear an application under this section unless it is satisfied that the highway authority making the application have—
- (a) not less than one month before the date on which the application is to be heard by the court, given notice to the owners and the occupiers of all lands adjoining the highway to which the application relates of the making of the application, and the purpose of it, and of the time and place at which the application is to be heard by the court, and
 - (b) given public notice in the terms and manner required by subsection (8) below.
- (8) A highway authority making an application under this section shall publish, once at least in each of the 4 weeks immediately preceding the week in which the application is to be heard, in a local newspaper circulating in the area in which the highway to which the application relates is situated, a notice—
- (a) stating that an application has been made to a magistrates' court under this section and the purpose of the application,
 - (b) describing the highway, and
 - (c) specifying the time and place at which the application is to be heard,
- and shall cause a copy of the notice to be fixed, at least 14 days before the date on which the application is to be heard by the court, to the principal doors of every church and chapel in the parish or community in which the highway is situated, or in some conspicuous position near the highway.
- (9) On the hearing of an application for an order under this section, a magistrates' court shall hear any person who objects to the order being made and may either dismiss the application or make an order declaring that the highway to which the application relates shall cease to be maintained at the public expense.
- (10) Where an order is made under this section the highway to which the order relates shall cease to be a highway maintainable at the public expense.
- (11) The highway authority on whose application an order is made under this section shall give notice of the making of the order to any public utility undertakers having apparatus under, in, upon, over, along or across the highway to which the order relates.

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