

Frequently Asked Questions Relating to the Purchase/Stopping Up of Cambridgeshire County Council Highway Land.

This is a short guide to help address the most common questions from customers interested in acquiring land from the County Council. This relates to land that forms part of the highway maintainable at public expense. A more detailed guide of the process is available on our website.

http://www.cambridgeshire.gov.uk/info/20081/roads_and_pathways/116/highway_records

I wish to buy the verge/grass area adjacent to my property from the Council, how do I go about this?

With the majority of grass verges/areas, the land will not be owned by Cambridgeshire County Council. However, it is likely that these areas form part of the highway maintainable at public expense. This means that the surface will be subject to highway rights and maintainable by the County Council but the subsoil will be owned by another party. Anyone wishing to acquire the land would need to consider extinguishing (stopping up) the highway rights and will need to agree a transfer of ownership if the subsoil is owned by a third party.

How do I find out if the land is part of the highway maintainable at public expense?

To find out the extent of the highway maintainable at public expense, you will need to request a highway boundary enquiry via our online form. Further information on how to apply is at the end of this guide.

How do I extinguish the highway rights over the land?

Under section 116 of the Highways Act 1980, the Local Highway Authority is able to apply to the Magistrates Court to extinguish highway rights. Anyone interested in extinguishing highway rights over an area of land must therefore apply to the County Council to find out whether the land is still required for highway purposes, and whether an application to stop up the highway could be taken forward. More information on making an application to the County Council can be found below. If the highway rights are successfully extinguished, control of the land reverts to the owner of the subsoil. Further details can be found in our detailed guide.

How do I find out who owns the land/subsoil?

It is up to applicants to investigate land ownership and to locate the owner of the affected land. Land Registry hold details of registered landowners and applicants are advised to check with Land Registry for a possible landowner if they do not know. Land Registry's website contains further information on how to check this: www.landregistry.gov.uk.

What if I can't locate an owner of the land?

If a landowner cannot be found, there is a rebuttable legal presumption that owners of properties own the subsoil beneath the highway to the centre line of the highway. However, this is a matter of evidence and applicants may wish to seek independent legal advice.

The Asset Information Searches team will be able to check if any land is owned by the County Council. If there is, they will advise further.

I've been maintaining this area for a number of years, can I claim ownership of the land anyway?

Although you may have been maintaining the land, if it forms part of the highway it cannot be claimed under Adverse Possession. Instead the highway rights should be extinguished under a stopping up order (provided it is no longer required for highway purposes).

How much will a stopping up application cost?

- The County Council recovers its reasonable costs from the applicant. A non-refundable fee of £73.20 (inc VAT) is payable in the first instance for the highway boundary enquiry. Once it is established that the area of interest forms part of the public highway, customers will need to email Searches@cambridgeshire.gov.uk with a plan to identify the area for stopping up.
- The team will then begin the internal consultations for an agreement in principle to the proposal, including a number of preliminary checks within the Highways Service. There is a non-refundable fee of £135 (inc VAT) for this stage.
- Once the County Council have agreed in principle and the customer has undertaken their pre-application consultations, a non-refundable fee of £875 (inc VAT) must be paid upon the submission of the application.
- Further fees will be payable for Stage 3 of the process, which covers the statutory legal process and Court costs. These fees are generally between £2,500 - £4,500 (plus any additional officer time at £63.60/hr including VAT as required). This may increase if issues arise during the process of the application.

How much land can be stopped up?

This will depend on various factors that affect the highway and whether the land is still required for highway purposes. For example, if the land forms part of a sight line at a junction, then the County Council would not consider any application to stop up the highway, or may only consider stopping up a reduced area in order to retain adequate visibility. Applicants will be advised if this is the case. The Asset Information Searches Officer will liaise with relevant colleagues to confirm a general extent in principle as part of the internal consultations. The exact extent to be stopped up will be determined after an application is made and a site visit undertaken.

I'd like to apply for a stopping up application. What do I need to do next?

If after reading this guide a customer wishes to proceed, they will need to establish the extent of the highway maintainable at public expense by submitting a highway boundary enquiry. This can be done using our online form at: <https://www.cambridgeshire.gov.uk/business/highway-searches>.

Can the County Council guarantee the success of my application?

The stopping up of a highway is a public process in which various bodies are consulted and have the opportunity to comment or object on any application. As such the County Council cannot guarantee the success of any application. It is the County Council who decides whether or not to make an application on behalf of the applicant to the Magistrates Court and it reserves the right to withdraw an application if it becomes apparent that it is unlikely to be successful. Costs incurred to date will still be payable by the applicant if an application is withdrawn or if an application is unsuccessful.