



Havering
LONDON BOROUGH

REGULATORY SERVICES COMMITTEE

14 May 2015

REPORT

Subject Heading:

Application for the Stopping Up of and diversion of Public Footpath 198 adjacent to St Mary's Lane Upminster

(Application received 1st September 2014)

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Policy context:

Section 257 Town and Country Planning Act 1990

Financial summary:

None

The subject matter of this report deals with the following Council Objectives

Havering will be clean and its environment will be cared for	<input checked="" type="checkbox"/>
People will be safe, in their homes and in the community	<input checked="" type="checkbox"/>
Residents will be proud to live in Havering	<input checked="" type="checkbox"/>

SUMMARY

This report relates to an application received on 1st September 2014 for the stopping up and diversion of part of Public Footpath 198 to facilitate the development of land pursuant to a planning permission (planning reference P1220.14). The planning permission (planning reference P1220.14) dated 2nd April 2015 involves the construction of a three storey building comprising 22 retirement living apartments with communal facilities, landscaping and parking (“the Planning Permission”).

The developer has applied to the Council under S.257 of the Town and Country Planning Act 1990 (as amended) (“the Act”) to stop up part of Public Footpath 198 shown by continuous bold line on (Drawing Heading: The Former Old Windmill Hall St Mary’s Lane, Upminster, RM14 2QH) annexed to this report (“the Plan”) so that the development can be carried out and the Public Footpath 198 would be diverted as shown on the attached plan by a bold dashed line. The Council’s rights of way officer has considered the application and concluded that the stopping up is acceptable in highways terms to enable the Planning Permission to be carried out.

RECOMMENDATIONS

Subject to the developer paying the Council’s reasonable charges in respect of the making of, consultation for, advertising of, and any inquiry costs associated with and the confirmation of the Stopping Up Order should the application be considered by the Secretary of State:-

- 2.1 The Council makes a Stopping Up Order under the provisions of s.257 Town and Country Planning Act (as amended) in respect of the section of Public Footpath 198 to be stopped up shown by continuous black bold line on the attached Plan as the land is required to enable development to be carried out for which the Council has granted the Planning Permission and the diversion of a new section of Footpath 198 is shown by a dashed bold black line on the attached plan.
- 2.2 In the event that no relevant objections are made to the proposal or that any relevant objections that are made are withdrawn then the Order be confirmed without further reference to the Committee.
- 2.3 In the event that relevant objections are raised and are not withdrawn following an opportunity to negotiate the matter may be referred to the Secretary of State for their determination unless the application is withdrawn.

- 2.4 The proposed stopping up and diversion relates respectively to a section of Public Footpath 198 shown by continuous bold black line on the attached plan and an area of diverted footpath shown by a dashed bold black line on the attached plan. The proposed stopping up and diversion are required to facilitate the implementation of development pursuant to the Planning Permission (reference P1220.14). It is therefore recommended that the necessary Order is made and confirmed.

REPORT DETAILS

- 3.1 On 2nd April 2015 the Council granted Planning Permission (planning reference P1220.14) for the construction of a three storey building comprising 22 retirement living apartments with communal facilities, landscaping and parking. The Planning Permission was issued on 2nd April 2015 subject to conditions and a planning agreement under Section 106 of the Town and Country Planning Act 1990.
- 3.2 The stopping up is necessary in order that the development can be implemented and it involves the stopping up of a section of Public Footpath 198 and the diversion over a section of new public footpath.
- 3.3 The section of Public Footpath 198 to be stopped up is approximately 92 metres in length, with an approximate width of 1.8 metres. The precise length and the width of the section of Footpath 198 proposed to be stopped up is difficult to ascertain with any degree of certainty as part of the section runs through an unkempt hard-standing and part is an undefined path that runs through Upminster Park. The Ordnance Survey Grid Co-ordinates of the terminal points of the Public Footpath to be stopped up are set out in the Plan attached. The Ordnance Survey Grid Co-ordinates of the terminal points of the Public Footpath that forms the diverted path are also set out in the Plan attached. The section along which the proposed diverted footpath would run is approximately 87 metres in length and 1.8 metres in width. The proposed diversion runs between the Ordnance Survey Grid Co-ordinates on the attached plan and is shown as a bold black dashed line. This section of the proposed diversion of the Public Footpath exists on the ground and is the permissive route that is taken by those using Footpath 198 because access to the path at its junction with St Mary's Lane (at OS Co-ordinate 555812E 186562N) as shown on the Definitive Map and Statement has not been used.
- 3.3 The development under planning permission P1220.14 involves building on land which comprises part of the public footpath 198 which has not been accessible for use by the public for a significant period. In order to facilitate the implementation of the development, the section of public footpath 198 shown by continuous black bold line on the

attached Plan needs to be formally stopped up in accordance with the procedure set out in the Town and Country Planning Act 1990 (as amended) and the public footpath diverted along the route that is already being used by the public on the ground along the permissive path shown on the attached plan as a bold black dashed line. The Stopping Up Order will not become effective however unless and until it is confirmed either by the Council, if there are no relevant objections following negotiation or otherwise by the Secretary of State.

- 3.4 Section 257 of the Town and Country Planning Act 1990 allows a local Planning Authority as “competent authority” to make an Order authorising the stopping up of any highway if it is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with a planning permission.
- 3.5 The Council makes the necessary Order, advertises it, posts Notices on site and sends copies to the statutory undertakers. There is then a 28 day period for objections to be lodged. If there are no objections or any relevant objections that have been made are withdrawn following negotiation the Council may confirm the Order, thereby bringing it into legal effect. If objections are made and not withdrawn then the Council may refer the application to the Secretary of State for determination.

IMPLICATIONS AND RISKS

4.1 **Financial Implications and Risks:**

The costs of the making, advertising and where relevant confirmation (should there be no objections or objections are withdrawn) and any associated costs will be borne by the developer/applicant. Should the draft Order be remitted to the Secretary of State following relevant objection which are not withdrawn and thereafter subject to public inquiry the Secretary of State the Council’s associated costs will be borne by the developer/applicant.

4.2 **Legal Implications and Risks:**

Legal Services will be required to draft the Stopping Up Order and Notices as well as carry out the Consultation process and facilitate the mediation and negotiation with objectors. Should relevant objection be made and not withdrawn the application may be remitted to the secretary of state who will then determine the application.

4.3 **Human Resources Implications and Risks:**

None directly attributable to the application.

4.4 **Equalities and Social Inclusion Implications:**

None directly attributable to the application.

Background Papers List

1. Report to Regulatory Services Committee of 12th March 2015 and the resolution to grant planning permission under planning reference P1220.14 subject to completion of a section 106 agreement.
2. Plan (Drawing Heading:- The Former Old Windmill Hall St Mary's Lane, Upminster, RM14 2QH) showing the area to be stopped up and the section of the diverted footpath proposed.