



REGULATORY SERVICES COMMITTEE

REPORT

4 September 2014

Subject Heading:	Application for the Stopping Up (under Section 247 of the Town and Country Planning Act 1990) of Highway footway on the western side of Hilldene Close, Harold Hill, shown zebra hatched on the plan annexed to this report. (Application received 14^h August 2013 and amended August 2014)
Report Author and contact details:	Vincent Healy, 01708 432467 Vincent.Healy@havering.gov.uk
Policy context:	Local Development Framework
Financial summary:	None

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

- Ensuring a clean, safe and green borough [X]
- Championing education and learning for all [X]
- Providing economic, social and cultural activity in thriving towns and villages [X]
- Valuing and enhancing the lives of our residents [X]
- Delivering high customer satisfaction and a stable council tax [X]

SUMMARY

This report relates to a planning application received on 9th July 2014 and a related application for the stopping up of highway footway to enable part of the development of land pursuant to a planning permission (planning reference P0819.14). The planning permission (planning reference P0819.14) involves the construction of 12 terraced dwellings and 9 self-contained flats with associated amenity and car parking (“the Planning Permission”). It is the specific implementation of the parking element that requires this additional stopping up of highway.

The developer has applied to the Council under S.247 of the Town and Country Planning Act 1990 (as amended) (“the Act”) to stop up the area of footway (highway) shown zebra hatched on the plan 10966/PARCEL A/SU/01 annexed to this report so that the development can be carried out. The Council’s highway officers have considered the application and consider that the stopping up and diversion is acceptable to enable the Planning Permission to be carried out.

RECOMMENDATIONS

2. Subject to the payment of legal costs in respect of the disbursements costs pursuant to advertising notices that:-
 - 2.1 The Council commence the process of making a Stopping Up Order to stop up highway under the provisions of s.247 Town and Country Planning Act (as amended) in respect of the footway (highway) zebra hatched black on the attached plan 10966/PARCEL A/SU/01 as the land is required to enable development for which the Council has Resolved to grant planning permission subject to prior completion of a Section 106 Agreement under planning reference P0819.14 to be carried out to completion, specifically the construction of a parking area.
 - 2.2 In the event that no relevant objections are made to the proposal or that any relevant objections that are made are withdrawn and the Council has issued planning permission under planning reference P0819.14 following satisfactory completion of the Section 106 agreement then the Order be confirmed without further reference to the Committee.

- 2.3 Following the issue of planning permission under planning reference P0819.14 and in the event that relevant objections are made, other than by a Statutory Undertaker or Transport Undertaker and not withdrawn, that the application be referred to the Mayor for London to determine whether or not the Council can proceed to confirm the Order. In the event that relevant objections are raised by a Statutory Undertaker or Transport Undertaker and are not withdrawn the matter may be referred to the Secretary of State for their determination unless the application is withdrawn.

REPORT DETAILS

- 3.1 On the agenda of 4th September 2014 a recommendation is presented to members that subject to conditions and the prior completion of a Section 106 Agreement that Planning Permission be granted under planning reference P0819.14 for the construction of 12 terraced dwellings and 9 self-contained flats with associated amenity and car parking (“the Planning Permission”). The Planning Permission has not been granted and subject to the resolution of members to grant and completion of a Section 106 agreement a planning permission would be issued. Following amendment to Section 253 of the Town and Country Planning Act 1990 by Section 11 of the Growth and Infrastructure Act 2013, the issue of a planning permission is no longer a prerequisite to commencing the stopping up process. Notwithstanding this statutory amendment a stopping up Order will only be confirmed as made when:-
- The planning permission decision notice is issued; and
 - All objections have been withdrawn; or
 - If written representations have been considered; or
 - An inquiry has been held and the Inspector’s report considered.
- 3.2 The stopping up is necessary in order that the development pursuant to planning permission reference P0819.14 can be carried out.
- 3.3 The dimensions of the area to be stopped up are approximately 58.36 metres in length by 7.96 metres in width.
- 3.4 Section 247 (2A) of the Town and Country Planning Act 1990 allows a London Borough to make an Order authorising the stopping up and 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 objections that have been made are withdrawn and the planning permission under planning reference P0819.14 has been issued the Council may proceed to confirm the Order, thereby bringing it into legal effect. If relevant objections are made and not withdrawn then the Council must notify the Mayor of London of the objections and the Mayor may determine that a local inquiry should be held. However under Section 252(5A) of the 1990 Act the Mayor of London may decide that an inquiry is not necessary if the objection/s are not made by a local authority, statutory undertaker or transport undertaker and may remit the matter to the Council for confirmation of the Order. If however a Statutory Undertaker of Transport Undertaker makes a relevant objection which is not withdrawn then the matter may be referred to the Secretary of State for determination.

IMPLICATIONS AND RISKS

4.1 **Financial Implications and Risks:**

The costs of advertising will be borne by the developer.

4.2 **Legal Implications and Risks:**

Legal Services will be required to draft the Stopping Up Order and Notices as well as amongst other matters carrying out the Consultation process and mediate any negotiation with objectors.

4.3 **Human Resources Implications and Risks:**

None that are directly attributable to the proposals.

4.4 **Equalities and Social Inclusion Implications:**

Section 149 of the Equality Act 2010 (EA) came in to force on 1st April 2011 and broadly consolidates and incorporates the 'positive equalities duties' found in Section 71 of the Race Relations Act 1976 (RRA), Section 49 of the Disability Discrimination Act 1995 (DDA) and section 76(A)(1) of the Sexual Discrimination Act 1975 (SDA) so that due regard must be had by the decision maker to specified equality issues. The old duties under the RRA, DDA and SDA remain in force.

The duties under Section 149 of the EA do not require a particular outcome and what the decision making body decides to do once it has had the required regard to the duty is for the decision making body subject to the ordinary constraints of public and discrimination law including the Human Rights Act 1998.

Having considered the above duty and the Human Rights Act 1998 the stopping up of the footway should not lead to a protracted period of pedestrian access being denied over the footway on the western side of Hilldene Close. Under the planning application reference P0819.14 condition 22 and 23 require immediate replacement of the footway on the western side of Hilldene Close and the dedication as highway and adoption of part of the area stopped up to ensure continuity of pedestrian access over the footway on the western side of Hilldene Close.

CONCLUSION

The proposed stopping up relates to an area of footway the stopping up of which is necessary to enable the development of land pursuant to a planning permission (planning reference P0819.14), which involves the construction of 12 terraced dwellings and 9 self-contained flats with associated amenity and car parking (“the Planning Permission”). It is therefore recommended that the process is commenced to make the draft Order and the Order confirmed subject to the issue of planning permission and the other provisos set out in paragraph 3.1 above to stop up the highway zebra hatched as shown on the attached plan.

Background Papers List

1. None