



REGULATORY SERVICES COMMITTEE

REPORT

22 August 2013

Subject Heading:	Application for the Stopping Up and diversion (under Section 247 of the Town and Country Planning Act 1990) of Highway at land to the rear of Garrick House, Adelphi Crescent, Hornchurch shown zebra hatched on the plan annexed to this report with area of diverted path shown by stipple notation on a separate plan attached. (Application received 31st May 2013)
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 an application received on 31st May 2013 for the stopping up of highway to enable part of the development of land pursuant to a planning permission (planning reference P0665.13). The planning permission (planning reference P0665.13) involves the construction of two single storey extensions to create four self-contained sheltered housing flats with associated amenity and car parking (“the Planning Permission”).

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 12040_100 annexed to this report (“the Plan 1”) and the section of diverted highway created shown in stipple notation on the plan 12040_101 annexed to this report (“the Plan 2”) 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

Subject to the payment of legal costs in respect of the disbursements costs pursuant to advertising notices that:-

- 2.1 The Council makes a Stopping Up Order to stop up and divert highway under the provisions of s.247 Town and Country Planning Act (as amended) in respect of the areas of footway (highway) zebra hatched black on the attached plan (Plan 1), with the section of diverted highway created shown in stipple notation on a further plan attached (Plan 2), as the land is required to enable development for which the Council has granted planning permission under planning reference P0665.13 to be carried out to completion and the diversion of the footway between points “A” and “B” as shown 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 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.
- 2.4 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 1st August 2013 the Council's Regulatory Services Committee resolved to grant Planning Permission under planning reference P0665.13 for the construction of two single storey extensions to create four self-contained sheltered housing flats with associated amenity and car parking. The Planning Permission was issued on 9th August 2013. As part of the planning permission the arrangements for the site entrance were submitted and approved as shown on plan 12040_101.
- 3.2 The stopping up is necessary in order that the development pursuant to planning permission reference P0665.13 can be implemented and it involves the stopping up of a length of existing footway between points "A" (552387.194, 186850.778) and "B" (552442.305, 186852.180) of 52.2 metres in length and 2.1 metres in width shown zebra hatched on the Plan annexed to this report.
- 3.3 The diverted footpath/footway as shown 12040_101 on the attached plan and will be constructed as a metalled footway of 2.14 metres in width and 64.41 metres in length and will join with the existing highway at points A (552387.194, 186850.778) and B (552442.305, 186852.180) on the attached plan.
- 3.3 The development involves building on land which includes part of the said area of highway. In order for this to happen, the areas of the highway shown zebra hatched on the attached Plan 1 needs to be formally stopped up in accordance with the procedure set out in the Town and Country Planning Act 1990 (as amended). The Stopping Up Order will not become effective however unless and until it is confirmed and the diverted footway as shown with stipple notation on Plan 2 attached, is constructed and available for public use.
- 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 diversion 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 the Council may 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 the making, advertising and confirmation and any associated costs, should the Order be confirmed or otherwise will be borne by the applicant.

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 Equalities 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 and diversion of the path will not lead to a break in the continuity of access. The standard of the footway as diverted will match the standard of the existing footway and will be light and secure. The location of the section of the footway as diverted should not appreciably inconvenience users and the diverted footway will be accessible to all users.

CONCLUSION

The proposed stopping up and diversion relates to an area of highway the stopping up of which is necessary to enable the development of land pursuant to a planning permission (planning reference P0665.13), which involves the construction of two single storey extensions to create four self-contained sheltered housing flats with associated amenity and car parking (“the Planning Permission”). It is therefore recommended that the necessary Order is made and confirmed to stop up the highway zebra hatched and create a diverted path as shown on the attached plans.

Background Papers List

1. Report of Regulatory Services Committee of 1st August 2013 which resolved to grant planning permission under planning reference P0665.13.