



**Havering**  
LONDON BOROUGH

# REGULATORY SERVICES COMMITTEE

14 November 2013

# REPORT

<b>Subject Heading:</b>	<p>Application for the Stopping Up and diversion (under Section 247 of the Town and Country Planning Act 1990) of Highway at land adjacent to 42 Barberry Close, 1-12 Betony Close, 20-26 Lavender Close &amp; 8, 71,73, 75 Coltsfoot Path shown zebra hatched to the extent of the stopping up and by stipple notation to the extent of the highway as diverted on the plans annexed to this report.</p> <p>(Application received 10<sup>th</sup> October 2013)</p>
<b>Report Author and contact details:</b>	<p>Vincent Healy, 01708 432467 Vincent.Healy@havering.gov.uk</p>
<b>Policy context:</b>	<p>Local Development Framework</p>
<b>Financial summary:</b>	<p>None</p>

**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	[ ]
Providing economic, social and cultural activity in thriving towns and villages	[ ]
Valuing and enhancing the lives of our residents	[ ]
Delivering high customer satisfaction and a stable council tax	[ ]

**SUMMARY**

This report relates to an application received on 10<sup>th</sup> October 2013 for the stopping up and diversion of highway to enable part of the development of land pursuant to a planning permission (planning reference P0364.13). The planning permission (planning reference P0364.13) involves the part of the Briar Estate (Briar Site 6A-1) to provide 5 two-bedroom houses with ancillary car parking and turning areas (“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 and divert the areas of footway (highway) shown zebra hatched to the extent of stopping up of highway on the plan Drawing Reference: 1117\_6A-1\_SO\_003 annexed to this report (“Plan 1”) and to the extent of diversion shown in stipple notation on the plan Drawing Reference: 1117\_6A-1\_SO\_004 annexed to this report (“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 of highway is acceptable subject to the construction of new footway (highway) by way of diversion 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 (the Plan 1) and to the extent of the diverted highway being created to the extent described by stipple notation on Plan 2 as the land is required to enable development for which the Council has granted planning permission under planning reference P0364.13 to be carried out to completion.

- 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 20<sup>th</sup> June 2013 the Council's Regulatory Services Committee resolved to grant Planning Permission under planning reference P0364.13 which involves the part of the Briar Estate (Briar Site 6A-1) to provide 5 two-bedroom houses with ancillary car parking and turning areas. The Planning Permission was issued on 30<sup>th</sup> August 2013.
- 3.2 The stopping up is necessary in order that the development pursuant to planning permission reference P0364.13 can be implemented and it involves the stopping up of three area of highway: (i) between ordnance survey points E:553535513 and N:191495058 to points E:553527159 and N:191491764 on the North East end of Coltsfoot Path a length of existing highway of 12.5 metres and 3.5 metres in width shown zebra hatched on the Plan1 annexed to this report; (ii) between ordnance survey points E:553507602 and N:191509416 to points E:563506813 and N:191491720 on the Coltsfoot Path rear of 7&8 Betony Road a length of existing highway of 17 metres and 4.5 metres in width at its widest point (2.5 metres in width at its narrowest point) shown zebra hatched on the Plan1 annexed to this report; and (iii) between ordnance survey points E:553506456, N:191483500, E:553481435 and N:191488963 to points E:553493761, N:191467927, E:553504072 and N:191467878 on central Coltsfoot Path crossing a length of existing highway of 50 metres and 3.5 metres in width shown zebra hatched on the Plan1 annexed to this report.

- 3.3 As part of the proposed order proposed new highway would be created as shown by stipple notation on Plan 2 annexed to this report. The proposed highway forming the diverted highway comprises: (i) North of 8, 73 and 75 Coltsfoot Path and south of the new terrace of 5 houses a new area of highway around proposed landscaped areas measuring 36 m long east-west and 25 m wide north-south, including a strip of highway 2 m wide to the rear of the new houses and a central area of highway 5.75 m wide between the landscaped areas (ii) a new stretch of highway 4.25 m wide and 20.5 m long north-south to the east of the new terrace of houses between OS points E 553510429, N191489374 and E553510568, N191467917 (iii) a new area of highway to the south of the new proposed area of parking and landscaping measuring 65 m long east-west and 2.5 m wide, ending at OS point E553546299, N191489470 and (iv) a new area of highway measuring 55 m long east-west from the new parking area to the existing highway at Coltsfoot Path to the east, 6.75 m wide at its narrowest point and 14 m wide at the point nearing the new car park area to the west (between OS points E553539447, N191504821 and E553594965, N191510961).
- 3.4 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 and the diverted highway created as shown in stipple notation on Plan 2 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 the diverted highway is created and the Order it is confirmed.
- 3.5 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.
- 3.6 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 1<sup>st</sup> 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 highway will not lead to a materially adverse impact.

## CONCLUSION

The proposed stopping up and diversion of highway relates to an area of highway the extent of which in terms of proposed stopping up is shown zebra hatched on Plan 1 annexed to this report and the creation of proposed new highway by way of diversion, shown in stipple notation on Plan 2 annexed to this report which is necessary to enable the development of land pursuant to a planning permission (planning

reference P0364.13) which involves the part of the Briar Estate (Briar Site 6A-1) to provide 5 two-bedroom houses with ancillary car parking and turning areas ("the Planning Permission"). It is therefore recommended that the necessary Order is made and confirmed to stop up the highway zebra hatched and diversion of highway shown in stipple notation on the attached plans.

### **Background Papers List**

1. Report of Regulatory Services Committee of 20<sup>th</sup> June 2013 which resolved to grant planning permission under planning reference P0364.13.