

30 April 2018

Lensbury Way, Thamesmead

in the London Borough of Bexley

planning application no.BPW/H37/8/25

Stopping up order

Section 247 of the Town and Country Planning Act 1990 (as amended) by Schedule 22 of the Greater London Authority Act 1999.

The proposal

The stopping up of the Highway at Lensbury Way, Thamesmead.

Recommendation

That Bexley Council be advised that the Mayor of London consents to the stopping up of the highway at Lensbury Way.

Context

1 On 22 December 2016 Bexley Council ("the Council") granted planning permission 16/01288/OUTM (GLA: D&P/3717/01) for the: *"outline application for demolition of existing buildings and hardstanding, residential development of upto 549 units and upto 3225 sq. metres of commercial floorspace (with flexible uses across Classes A1 - A4 (Retail, financial and professional services, cafe and restaurants) and B1a (office) and D1 (community uses) and associated works including informal and formal open space; internal road network; landscaping; car and cycle parking and waste storage"*.

2 This planning process assessed the planning merits of the development described at paragraph 1 and concluded, taking the development plan and all material considerations into account, that planning permission should be granted for application 16/01288/OUTM subject to Section 106 Agreement. As set out above, the permitted scheme requires the stopping up of Lensbury Way, which would be subject to a Section 247 Notice of the Town and Country Planning Act 1990, in order to enable the development to take place.

3 To allow the above development works to be realised Peabody Land (the applicant) has requested the Council to make an order to stop up areas of Lensbury Way. On 25 January 2017, the Council's planning officer presented to the General Purpose Committee recommending that an order be drafted.

4 At this juncture the Local Authority should notify the Mayor of any extant objections. Following this notification, the Mayor should issue a recommendation directing whether or not an inquiry is necessary, or whether the special circumstances of the case make the holding of an inquiry unnecessary. In this instance the inquiry was held prior to the Mayor issuing a recommendation.

5 The local Inquiry was held between 31 October 2017 and 3 November 2017 which considered matters relating to the proposed Stopping Up Order and the parent applications

associated Compulsory Purchase Order. The inquiry Inspector issued their report on 16 January 2018 with the recommendation that the stopping up order be made (as amended).

6 The Council proposes to make a stopping up order pursuant to section 247(2A) of the Town and Country Planning Act 1990 ("the Act") on the basis that it is satisfied that this is necessary in order to enable the development to be carried out.

7 However, four objections to the proposed stopping up order were received, which remain outstanding. In accordance with section 252 of the Act the Council has notified the Mayor of the inquiry and its recommendation and now seeks his consent to make the Stopping Up Order. The Mayor must now confirm the Order can be made.

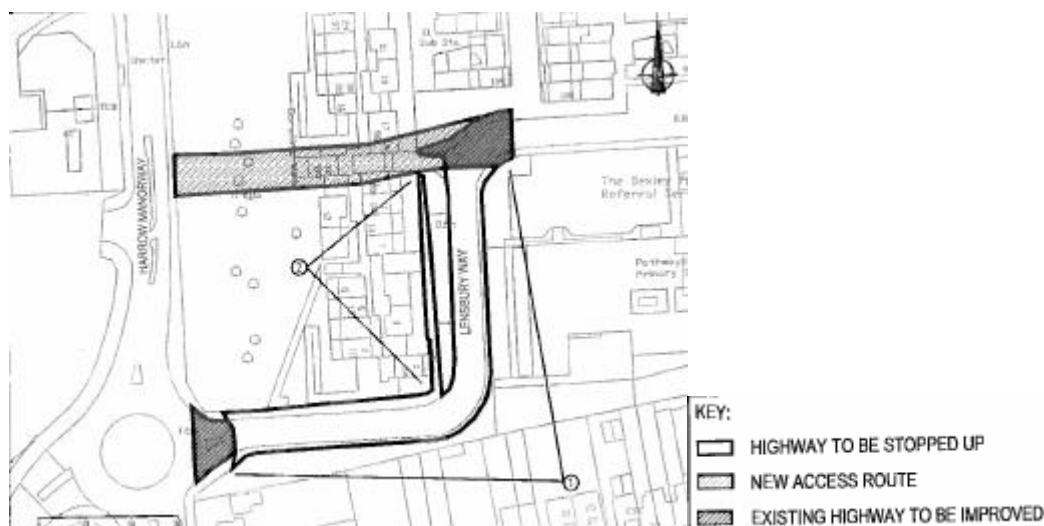
8 The Mayor of London's decision on this case will be made available on the GLA's website www.london.gov.uk.

The proposed Stopping Up Order

9 As set out above, the area to be stopped up, described in the Council's stopping up proposal is outlined in bold in Figure 1 below and encompasses:

- A length of Lensbury Way commencing at the roundabout with Harrow Manorway and extending to the north-east corner of the Bexley Pupil Referral Service for a length of 124.5 metres and a width of 12.4 metres;
- A length of Lensbury Way footway commencing at the southern end of the Coralline Walk building extending northwards to outside no13 for a length of 60 metres and a width of 2.0 metres.

Figure 1: Area to be stopped up. Source: Bexley Council.



The local Inquiry

10 Section 252(4) (b) of the Act provides that if an objection to a proposed stopping up is received from any local authority, National Park Authority or undertaker or public gas transporter, or from any other person appearing to the relevant council to be affected by the order and that objection is not withdrawn the council must notify the Mayor and ordinarily it must cause a local inquiry to be held.

11 The only exception to the usual requirement to hold a local inquiry arises under section 252(5A) of the Act whereby, provided that none of the outstanding objections is from a local authority or undertaker or transporter, the Mayor shall decide whether, in the special circumstances of the case, the holding of such an inquiry is unnecessary. The Mayor did not provide a position in this regard and an inquiry was held considering the objections outlined below alongside the CPO necessitated by the parent application.

12 When the Council carried out the necessary consultation required under section 247 of the Act on 16 August 2016, it received seven letters of objection and a petition from 'Homeowners group for a better deal'. However, one objection was from a statutory undertaker which was withdrawn when the developer agreed to enter into the necessary legal agreements to protect any apparatus should the stopping up proceed, another statutory undertaker had their query satisfactorily answered and withdrew their comment and a local resident from Overton Road withdrew her objection following modifications to the proposal. The remaining objectors are not, for the purposes of S252 of the Act, a local authority, undertaker or transporter. The grounds for objection are as follows:

- Increased traffic/vehicular movements on Overton Road;
- Damage to properties on Overton Road arising from increased use of Overton Road;
- Objections to the opening of Overton Road;
- Increased noise and disturbance through the increased vehicular use by virtue of the opening of Overton Road;
- The parties do not think their properties should be included in the Compulsory Purchase Order;
- If the CPO is not granted the stopping up will be disadvantageous to their properties and the proposed new public highway will be less commodious;
- The CPO and proposed stopping up order should be considered by the Inspector at the CPO inquiry;
- Concerns regarding consultation (of a consented application);
- Financial hardship (resulting from consented application).

13 In addition to the objections outlined above, 6 members of the public stated at the Inquiry that they were opposed to the SUO.

14 Subsequent to the Inquiry, further representations were received to the Planning Inspector opposing the SUO from 5 members of the public including a representative of Abbey Wood Homeowners and Residents Association and a petition.

15 The nature of all the subsequent objections was primarily opposition to the principle of development.

16 Guidance for Inspectors published by the Planning Inspectorate states that, when considering objections to a stopping up order, there is a need to weigh the disadvantages or loss likely to arise as a result of the stopping up, whether to members of the public generally or to persons whose properties adjoin or are near the existing highway, against the advantages to be conferred by the proposed order.

17 The objections have been acknowledged by the Council, and the Council has written to the objectors to address the concerns raised that are related the Stopping up Order in their representation and considered at local inquiry. However, the objections have not been withdrawn and remain extant.

18 In respect of the representations received relating to the increase in use of Overton Road by virtue of the fact the original draft order proposed to open a point closure on Overton Road.

This proposal has since been updated and the 'improvement' works proposed which would have led to the opening of the point closure on Overton road have been removed from the proposal. All of the parties who commented on the draft order received an updated plan which demonstrated this point closure would remain as existing. The Council has made it clear through the inclusion of a written description, and provision of a revised plan within its responses that the point closure on Overton Road is to remain unchanged as a result of the proposed order. Other highway issues raised through the consultation included objections to the new public highway being less "commodious". The Planning Inspector has considered all relevant highway matters at inquiry and recommended the Order be made. On this basis it is concluded that the associated objections have been addressed or previously considered.

19 Many of the objections centred on the compulsory purchase order necessitated by the existing permission and requested that the CPO and stopping up order be processed in unison at inquiry. In its response, the Council concurred with the objection and requested that the Planning Inspectorate consider objections to the stopping up order alongside the CPO. Officers note that matters relating to the CPO fall outside the remit of the Mayor's powers under S.247, matters relating to the CPO were resolved by way of inquiry.

20 The objection on behalf of the Abbey Wood Homeowners & Residents Association deals principally with matters which were previously considered as part of the original assessment of the planning consent and are not highways issues (displacement of residents/social cleansing). In its response, the Council noted that the comment did not raise material issues but instead focussed on a development which already benefits from planning consent. As set out in paragraph 3 above, the principle of the redevelopment of the site and its impacts were assessed as part of the planning process and these aspects of the objection are therefore not considered relevant for the purposes of this assessment as they would amount to a re-run of the planning merits of the development.

21 The planning process has already assessed the planning merits of the proposed scheme, weighing up the advantages and disadvantages of the permission and concluded, taking the development plan and all material considerations into account that planning permission should be granted in December 2016. Further, matters relating to both the CPO and SUO have now been considered by way of inquiry with the Planning Inspectorate considering all relevant matters and objections. Having heard the evidence the Inspector has recommended that the SUO be made. Accordingly, if the Mayor were not to consent to the Order being made it would, given the circumstances of this case, be tantamount to apportioning undue weight on the same issues that have already been discussed (or resolved) at the planning application and inquiry where they were not deemed to be of sufficient weight to warrant refusal. GLA officers note matters relating to the CPO do not fall to be considered, are subject to a separate process and in any event have been resolved by way of inquiry.

22 It is therefore considered that the concerns raised by the objectors to the stopping up of the highway at Lensbury Way have previously been addressed as part of the planning process, resolved or adequately considered at inquiry.

Financial Considerations

23 There are no financial considerations at this stage.

Conclusion

24 The planning process assessed the planning merits of the original development and concluded, taking the development plan and all material considerations into account, that planning permission should be granted in December 2016. The stopping up of the highway and

footpaths at Lensbury Way is necessary to enable the development to be carried out and is therefore in accordance with the requirements under section 247 of the Act.

25 Notwithstanding the above, an Inquiry has been held with the Inspector considering all representations received and all other relevant matters after which it was recommended that the SUO should be made. The Mayor, following the local inquiry is now required to consent to the Order. Given the considerations outlined above there is no reason not to consent to the proposed order being made.

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