



General Purposes Committee

Tuesday, 7 September 2010 at 6.30 pm

Committee Room 3, Brent Town Hall, Forty Lane,
Wembley, HA9 9HD

Membership:

Members

Councillors:

John (Chair)
Butt (Vice-Chair)
Beswick
Brown
Long
Lorber
Matthews
J Moher
HB Patel
Thomas

first alternates

Councillors:

McLennan
Jones
Arnold
Beck
Adeyeye
Leaman
Sneddon
Chohan
Colwill
Van Kalwala

Second alternates

Councillors:

Mistry
Kabir
Mrs Bacchus
Sneddon
Al-Ebadi
Castle
Allie
S Choudhary
BM Patel
Aden

For further information contact: Elly Cook, Democratic Services Officer
020 8937 1358, elly.cook@brent.gov.uk

For electronic copies of minutes, reports and agendas, and to be alerted when the minutes of this meeting have been published visit:

www.brent.gov.uk/committees

The press and public are welcome to attend this meeting

Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members

| Item | Page |
|---|-----------|
| 1 Declarations of personal and prejudicial interests | |
| Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda. | |
| 2 Minutes of the previous meeting | To follow |
| 3 Matters arising (if any) | |
| 4 Deputations (if any) | |
| 5 Pension arrangement for staff transferred between contractors | 1 - 4 |
| On 27th September 2007 the General Purposes Committee agreed the council's policy in respect of pension arrangements for staff transferred to provide contracted services to the council. This report proposes an amendment to that policy to bring about cost savings and clarity for bidders. | |
| Wards Affected: All Wards; Contact Officer: Duncan McLeod, Director of Finance and Corporate Resources Tel: 020 8937 1424 duncan.mcleod@brent.gov.uk | |
| 6 Stopping Up Order, South Kilburn Site 3C, Carlton Vale/Kilburn Park Road | 5 - 18 |
| This report seeks authorisation to make a stopping-up order for areas of public highway at the junction of Carlton Vale/Kilburn Park Road under Section 247 Town and Country Planning Act 1990, in order to carry out the development of 133 dwellings at site 3C of the South Kilburn Regeneration area. | |
| Wards Affected: Kilburn; Contact Officer: Richard Saunders, Director of Environment and Culture Tel: 020 8937 5002 richard.saunders@brent.gov.uk | |

7 Appointments to Sub-Committees / Outside Bodies

8 Any Other Urgent Business

Notice of items to be raised under this heading must be given in writing to the Democratic Services Manager or his representative before the meeting in accordance with Standing Order 64

9 Date of next meeting

The next scheduled meeting of the General Purposes Committee is Tuesday 25 January 2011. However, additional meetings of the Committee will be convened if business requires this.



Please remember to **SWITCH OFF** your mobile phone during the meeting.

- The meeting room is accessible by lift and seats will be provided for members of the public.
- Toilets are available on the second floor.
- Catering facilities can be found on the first floor near The Paul Daisley Hall.
- A public telephone is located in the foyer on the ground floor, opposite the Porters' Lodge

This page is intentionally left blank



General Purposes Committee 7 September 2010

Report to the Director of Finance and Corporate Resources

For Action

Wards Affected: All

Pension arrangement for staff transferred between contractors

1.0 Summary

- 1.1 On 27th September 2007 the General Purposes Committee agreed the Council's policy in respect of pension arrangements for staff transferred to provide contracted services to the council. This report proposes an amendment to that policy to bring about cost savings and clarity for bidders.

2.0 Recommendations

- 2.1 That members agree the amendment to the council's policy as set out in paragraph 3.6 concerning the pension arrangements for former council staff who transfer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 from an existing contractor providing services to the Council to a successor contractor.

3.0 Detail

- 3.1 On the 27th June 2007 the Secretary of State for Communities and Local Government issued a direction under section 101 of the Local Government Act 2003. That direction entitled The Best Value Authorities Staff Transfers (Pension) Direction 2007 (the "2007 Direction") placed a legal obligation on the council to secure pension protection for employees. The protection applies where the whole or part of a service is outsourced on or after 1st October 2007 and that protection applies to:

- (i) staff who are transferred under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) from the council to a contractor as a result of the outsourcing (a "first generation outsourcing"); and
- (ii) former council staff who are transferred under TUPE from an incumbent contractor to a successor contractor as a result of a retender of a council service (a "second or subsequent generation outsourcing").

3.2 A report to the General Purposes Committee dated 27 September 2007 led to Members agreeing the council's policy in connection with the securing of a pension scheme for former Council staff in relation to both first and second and subsequent generation outsourcing. With regard to second generation outsourcing, in summary Members agreed a policy whereby the council would ensure that any contract with a new contractor must:

- (a) require the new contractor to ensure there is made available to employees:-
 - (i) who originally transferred from the Council under TUPE when the service was outsourced; and
 - (ii) who have transferred between contractors and/or subcontractors under TUPE each time the contract for the service has been retendered; and
 - (iii) who transfer under TUPE to the new contractor or a subcontractor as a result of the retendering of the contract

a pension scheme which is either the same as, counts as broadly comparable to or counts as better than the pension scheme made available to them by their current employer. Except in exceptional circumstances, the contract must also require the contractor to ensure there is made available to these employees either access to the Local Government Pension Scheme ("LGPS") or an alternative pension scheme which is at least broadly comparable to the LGPS. If there are exceptional circumstances justifying the Council not requiring an alternative pension scheme to the LGPS being offered by the contractor to be broadly comparable to the LGPS, then the contract must require the alternative pension scheme to be one the Council considers of good quality and the contractor to offer appropriate compensation to any of these employees who will be disadvantaged by the alternative pension scheme.

- (b) allow the transferring former Council employees to enforce these contractual requirements against the new contractor.

Members also agreed that in relation to second generation outsourcing, the Director of Finance and Corporate Resources was authorised to decide, whether there are exceptional circumstances justifying the Council not requiring in the contract either access to the LGPS or an alternative pension scheme which is at least broadly comparable to the LGPS.

3.3 Whilst the policy adopted for second and subsequent generation outsourcings required the contractor to ensure there is made available to former council employees either access to the LGPS or an alternative pension scheme at least broadly comparable to the LGPS, the 2007 Direction requires that the transferred staff will, under the successor organisation, have access to a pension scheme that is broadly comparable to the scheme offered by the incumbent. Current council policy therefore imposes a more stringent requirement than that imposed by the 2007 Direction though there is

discretion for the Director of Finance and Corporate Resources to depart from this in exceptional circumstances.

- 3.4 Officers have encountered the situation that the outgoing contractor's pension scheme is not broadly comparable to the current LGPS and as such the successor contractor is likely to incur more expense in providing a scheme that is better than the outgoing contractor's scheme in order to ensure broad comparability with the current LGPS. The corollary may be that bidders will increase their contract cost to accommodate the enhanced pension protection.
- 3.5 To avoid potential additional cost, ensure that procurement exercises run more smoothly Members are asked to agree an amendment to the council's policy in respect of second and subsequent generation outsourcings as set out in paragraph 3.6. Members are reminded that the proposed amendment is compliant with the 2007 Direction which requires as a minimum that the staff have access to a scheme that is broadly comparable to the pension scheme provided by their current employer.
- 3.6 Members are also asked to agree that where the whole or part of a Council service is transferred by the retendering of a contract and the contract with the new contractor is entered into by the Council after 30th September 2007, the contract must:
- (a) require the new contractor to ensure there is made available to employees:-
 - (i) who originally transferred from the Council under TUPE when the service was outsourced; and
 - (ii) who have transferred between contractors and/or subcontractors under TUPE each time the contract for the service has been retendered; and
 - (iii) who transfer under TUPE to the new contractor or a subcontractor as a result of the retendering of the contract

a pension scheme which is either the same as, counts as broadly comparable to or counts as better than the pension scheme made available to them by their current employer.
 - (b) allow the transferring former Council employees to enforce these contractual requirements against the new contractor.

4.0 Financial Implications

- 4.1 The financial implications are provided in the detail of this report.

5.0 Legal Implications

- 5.1 The legal implications are provided in the detail of this report.

6.0 Diversity Implications

- 6.1 Officers have considered this report and there are no diversity implications arising from it

7. Background Papers

- 7.1 The direction order made by the Secretary of State under regulation 101 of the Local Government Act on 27th June 2007.
- 7.2 The report "Pension Implications for transferred staff" to the General Purposes Committee 27th September 2007.

Contact Officers

Andy Gray

Pensions Manager x3900

Duncan Mcleod

Director of Finance and Corporate Resources



General Purposes Committee 7 September 2010

Report from the Director of Environment and Culture

For Action

Wards Affected: Kilburn

Stopping Up Order, South Kilburn Site 3C, Carlton Vale/Kilburn Park Road

1.0 Summary

- 1.1 This report seeks authorisation to make a stopping-up order for areas of public highway at the junction of Carlton Vale/Kilburn Park Road under Section 247 Town and Country Planning Act 1990, in order to carry out the development of 133 dwellings at site 3C of the South Kilburn Regeneration area.

2.0 Recommendations

- 2.1 That Members note that a Stopping-up order was advertised in accordance with the requirements of Section 247, and the one objection received was referred to the Mayor of London, who has resolved that an Inquiry is not required and that Brent Council can proceed with the Order.
- 2.2 That the Stopping-up order under S247 Town and Country Planning Act be approved and duly made and advertised.

3.0 Detail

- 3.1 Planning consent was received for the development of 133 dwellings at site 3C of the South Kilburn Regeneration area following the Planning committee of 24 February 2010. The development was designed to make use of areas of highway which would be redundant upon the construction of a re-configured signal junction at Carlton Vale/Kilburn Park Road
- 3.2 A Stopping-up order was duly prepared and advertised under Section 247 of the Town and Country Planning Act 1990 to enable the redevelopment to take place. A copy of the order is attached at Appendix 1 together with a plan showing the proposed area to be stopped-up, which includes an existing

footbridge and ramps at Carlton Vale.

- 3.3 Currently the junction comprises a signal installation at the intersection of Carlton Vale. Kilburn Park Road with a gyratory system to the south west of the signals. The gyratory, in effect, provides the ability of traffic to approach the junction southbound on Kilburn Park Road, traverse the gyratory and enter Carlton Vale eastbound. This southbound to eastbound manoeuvre cannot take place at the signals due to the restrictive geometry of the site and the consequential prohibition of the left turn. The gyratory also provides a 'slip' for northbound traffic on Kilburn Park Road to enter Carlton Vale westbound without passing through the signal junction.
- 3.4 The Council's consultant engineers have designed a fully signalised junction which provides for all movements except the left turn into Carlton Vale eastbound. This manoeuvre is extremely low volume and can be accommodated by other local routing. The capacity of the junction will support the development of site 3C and a considerable amount of further regeneration in the South Kilburn area. Traffic assessments of future phases will necessarily assess the impact on a signal junction which is now proposed.
- 3.5 Transport for London has assessed the Council's proposals as having no significant impact on the strategic network, and their signals unit has approved the Council's signal junction design.
- 3.6 The Council's advertised Stopping-up order received an objection from the City Commissioner of Transportation on behalf of the City of Westminster and dated 11th May 2010. The salient concerns raised were:
- (a) The Highway Act 1980 required Brent to consult with neighbouring highway authorities.
 - (b) The City of Westminster Highways Planning Team who commented on Brent's planning application did not raise an objection, but concerns remain about the wider regeneration and its impact on the junction.
 - (c) The traffic figures of saturation were very close to being unacceptable.
 - (d) The Transport Assessment had been amended from an earlier version.
 - (e) What were Transport for London's views on the junction?
 - (f) Parking controls for Westminster residents would need to be reviewed by Westminster's officers.
- 3.7 Upon receipt of the objection, a letter dated 25th May 2010 was sent to City of Westminster explaining the rationale of the Council's proposals and fully addressing the concerns raised. Westminster were not willing to withdraw their objection. At expiry of the objection period, and on legal advice, this single letter of objection, together with the Council's response was sent to the Mayor of London for resolution.
- 3.8 The Mayor of London considered the objection and resolved that an Inquiry was not required and that the Council could proceed to make the Stopping-up order. His letter of confirmation is attached at Appendix 2.

3.9 Members are now requested to approve the making of the Stopping-up order in order to proceed with the development.

4.0 Financial Implications

4.1 The project is fully funded from Housing services which are sufficient to meet the costs of Stopping-up the highway, and constructing the new signalised junction in accordance with the planning consent.

5.0 Legal Implications

5.1 Officers have taken the Council's legal advice in all aspects of the promotion of the Stopping-up order. The making of the order is not open to further objection by the public or other authorities.

6.0 Diversity Implications

6.1 The new junction has been designed to provide pedestrians with enhanced at-grade pedestrian crossing facilities, in preference to the footbridge which is not favoured by the disabled, or those with pushchairs or heavy loads. The junction works have been designed to compliment further traffic calming work on Carlton Vale to the west of the site, which will give additional priority to pedestrian and cyclists.

7.0 Staffing/Accommodation Implications (if appropriate)

7.1 None specific. The Stopping-up order, and the proposed junction works will be delivered by the Transportation Service Unit.

Background Papers

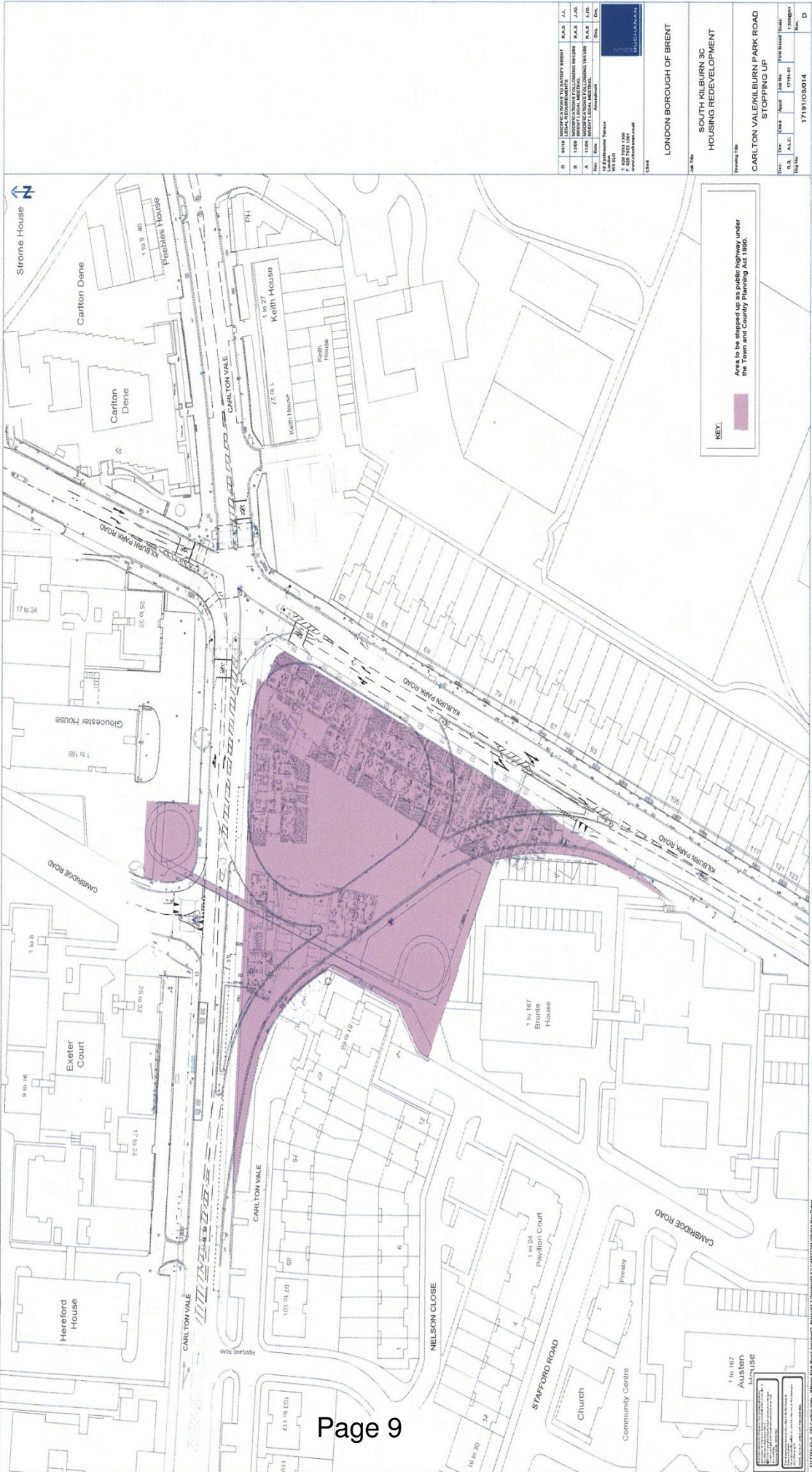
Correspondence on Transportation File, TSU96109
Planning Committee, 24 February 2010, Agenda item No.13,Case No.09/2500

Contact Officers

Phil Rankmore, Transportation Service Unit
Richard Saunders, Director of Environment and Culture

APPENDIX 1

The advertised stopping-up order



KEY:

Area to be stepped up as public highway under the Town and County Planning Act 1990.

| Rev | Date | By | Check | Scale | Drawn | Project |
|-----|------------|--------|--------|--------|--------|--------------|
| D | 04/19/2023 | J.A.S. | J.A.S. | 1:1000 | J.A.S. | 17191/08/014 |
| B | 15/09/2022 | J.A.S. | J.A.S. | 1:1000 | J.A.S. | 17191/08/014 |
| A | 15/09/2022 | J.A.S. | J.A.S. | 1:1000 | J.A.S. | 17191/08/014 |

LONDON BOROUGH OF BRENT

SOUTH KILBURN 3C HOUSING REDEVELOPMENT

CARLTON VALE/KILBURN PARK ROAD STOPPING UP

Client: **BUCHANAN**

Job No: **17191/08/014**

Date: **04/19/2023**

Scale: **1:1000**

Drawn: **J.A.S.**

Checked: **J.A.S.**

Project: **17191/08/014**

Rev: **D**

LONDON BOROUGH OF BRENT

TOWN AND COUNTRY PLANNING ACT 1990

THE LONDON BOROUGH OF BRENT (STOPPING UP OF HIGHWAYS)(NO.) ORDER 201

1. **NOTICE IS HEREBY GIVEN** that the Council of the London Borough of Brent propose to make an Order under Section 247 of the above Act, as amended by Section 270 and Schedule 22 of the Greater London Authority Act 1999 to authorise the stopping up of an area of public highway described in Schedule 1 to this notice.
2. If the Order is made, the stopping up will be authorised only in order to enable the development described in Schedule 2 to this notice to be carried out in accordance with the planning permission granted to South Kilburn Partnership by the London Borough of Brent on 26th February 2010 under Reference No. 09/2500.
3. A copy of the draft Order and of a plan of the relevant area can be inspected and a copy requested free of charge during normal office hours on Mondays to Fridays inclusive until the expiration of a period of 28 days commencing on the 15th April 2010 at:-
 - (a) The One Stop Shop, Brent Town Hall, Forty Lane, Wembley, Middx, HA9 9HD; and
 - (b) The One Stop Shop, Brent House, 349-357 High Road, Wembley, Middx, HA9 6BZ.
4. Persons desiring to object to the making of the proposed Order should send a statement in writing of their objection and the grounds thereof, to the Head of Transportation, Transportation Service Unit, 2nd Floor (east) Brent House, 349-357 High Road, Wembley, Middx, HA9 6BZ, quoting the reference TO/23/010/EAM, within the period of 28 days commencing on the 15th April 2010.
5. In preparing an objection it should be borne in mind that the substance of it may be imparted to other persons who may be affected by it and that those persons may wish to communicate with the objector about it.

Dated 15 April 2010.

Richard Saunders
Director of Environment and Culture

SCHEDULE 1

The area of public highway to be stopped up comprises of two parts. The major part is of irregular shape to the south of Carlton Vale and to the west of Kilburn Park Road comprising the roundabout and circulation roads to the south and west, hard and soft verge and land supporting the southern ramp of the existing pedestrian footbridge together with the footbridge. The second part is to the north side of Carlton Vale, abutting the east of Cambridge Road and supporting the northern ramp to the existing pedestrian footbridge.

SCHEDULE 2

Demolition of garages adjacent to Bronte House and erection of two single to seven-storey blocks of 133 dwellings (comprising flats and maisonettes, including 75 affordable units) with associated landscaping and amenity space on roundabout adjoining Kilburn Park Road and Carlton Vale, NW6, including the removal of pedestrian footbridge and the stopping up of western side of existing roundabout.



DRAFT
THE LONDON BOROUGH OF BRENT

TOWN AND COUNTRY PLANNING ACT 1990

THE LONDON BOROUGH OF BRENT (STOPPING UP OF HIGHWAYS) (NO.) ORDER 201

The Council of the London Borough of Brent, in exercise of their powers conferred by Section 247 of the Town and Country Planning Act 1990, as amended by Section 270 and Schedule 22 of the Greater London Authority Act 1999 and of all other enabling powers hereby make the following Order:-

1. The Council of the London Borough of Brent authorises the stopping up of an area of the highway described in the Schedule to this Order and shown coloured pink on the deposited plan, in order to enable development to be carried out in accordance with the planning permission granted under Part III of the Act to South Kilburn Partnership by the London Borough of Brent on 26th February 2010 under Reference No. 09/2500.
2. Where immediately before the date of this Order there is any apparatus of statutory undertakers under, in, on, over, along or across any area of highway authorised to be stopped up pursuant to this Order then, subject to section 261(4) of the Act, those undertakers shall have the same rights as respects that apparatus after that area of highway is stopped up as they had immediately beforehand.
3. In this Order "the deposited plan" means the plan deposited in the offices of the Transportation Service Unit, London Borough of Brent, Brent House, 349-357 High Road, Wembley, Middlesex, HA9 6BZ under Drawing No. 17191/OS/014 Rev.D.
4. This Order shall come into force on the date on which notice that it has been made is first published in accordance with section 252(10) of the Act, and be cited as The London Borough of Brent (Stopping Up Of Highways) (No.) Order 201 .

Schedule

The highway to be stopped up is in the London Borough of Brent. It is shown in pink on the attached plan Drawing No. 17191/OS/014 Rev.D and comprises of two parts, namely:

- (i) an irregular shaped length of highway to the south of Carlton Vale and to the west of Kilburn Park Road comprising the roundabout and circulation roads to the south and west, hard and soft verge and land supporting the southern ramp of the existing pedestrian footbridge together with the footbridge.
- (ii) a rectangular shaped length of highway to the north of Carlton Vale, abutting the east side of Cambridge Road and supporting the northern ramp to the existing pedestrian footbridge.

Appendix 2

GREATER LONDON AUTHORITY

Development and Environment Directorate

City Hall
The Queen's Walk
London SE1 2AA
Switchboard: 020 7983 4000
Minicom: 020 7983 4458
Web: www.london.gov.uk

Our ref: 2650GC02
Your ref: TSU96/109 PR/TJ
Date: 4 August 2010

Tim Jackson
Head of Transportation Service Unit
Brent Council
Brent House
349-357 High Road
Wembley
London HA9 6BZ



Dear Mr Jackson,

Town & Country Planning Act 1990 (as amended); Greater London Authority Act 1999 & 2007
Stopping up of land at South Kilburn site C3, Carlton Vale / Kilburn Park Road, Brent
Local Planning Authority reference: TSU96/109 PR/TJ

I refer to your letter of 17 June 2010 requesting the Mayor of London to make a decision under section 252 of the above Act as to whether, in the special circumstances of the case, it is necessary to hold an inquiry into the proposed stopping up of highway land in South Kilburn at site C3, Carlton Vale and Kilburn Park Road.

On 4 August 2010 the Mayor considered a report on the proposal, reference PDU/2650/01. A copy of the report is attached, in full.

Having considered the report, the Mayor has concluded that the stopping up order will be in accordance with the statutory requirements under Section 247 of the Act in that the Order is necessary to enable development to be carried out in accordance with planning permission granted under Part III of the Act.

Under Section 252(5A) of the Town and Country Planning Act 1990, the Mayor decided, with regard to the special circumstances of the case, that it is unnecessary to hold an inquiry. This letter is to notify Brent Council of this decision.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Giles Dolphin'.

Giles Dolphin
Assistant Director – Planning

cc Navin Shah, London Assembly Constituency Member
Nicky Gavron, Chair of London Assembly Planning and Housing Committee
Ian McNally & John Pierce, GoL
Colin Lovell, TfL
Javiera Maturana, LDA

Direct telephone: 020 7983 4000 Fax: 020 7983 4706 Email: mayor@london.gov.uk

South Kilburn site 3C, Kilburn

in the London Borough of Brent

reference no. TSU96/109 PR/TJ

| |
|---|
| 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: <ul style="list-style-type: none">• An area of highway land to the south of Carlton Vale and to the west of Kilburn Park Road comprising the roundabout and circulation roads to the south and west, hard and soft verge and land supporting the southern ramp of the existing pedestrian footbridge together with the footbridge itself.• An area of highway land to the north of Carlton Vale, abutting the east side of Cambridge Road and supporting the northern ramp to the existing pedestrian footbridge. |
| Recommendation That Brent Council be advised that there are special circumstances in this case so that the holding of an inquiry is not necessary. |

Context

1 Under Section 247 of the Town and Country Planning Act 1990 ("the Act"), "*the council of a London borough may by Order authorise the stopping up or diversion of any highway if they are satisfied that it is necessary to do so in order to enable development to be carried out*" in accordance with any planning permission granted under Part III of the Act.

2 Where there is an outstanding objection, under Section 252(4)(b) of the Act (as amended by Schedule 22 of the Greater London Authority Act 1999), the council has to notify the Mayor and he must decide, under Section 252(5)(A) of the Act, whether, in the "special circumstances of the case" it is unnecessary to hold an inquiry, and having reached his decision to so notify the Council.

3 On 22 June 2010 Brent Council gave notice to the Mayor of London and requested a decision in respect of a proposed stopping up order in relation to two areas of highway land along Carlton Vale.

4 This report sets out information for the Mayor's consideration in deciding whether an inquiry is unnecessary.

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

Site description

6 The site is located in the south east corner of the London Borough of Brent, adjacent to the borough boundary with City of Westminster which runs north to south past the site along Kilburn Park Road.

7 The areas of public highway to be stopped up comprise the following:

- An irregular shaped length of highway to the south of Carlton Vale and to the west of Kilburn Park Road comprising the roundabout and circulation roads to the south and west, hard and soft verge and land supporting the southern ramp of the existing pedestrian footbridge together with the footbridge itself.
- A rectangular shaped length of highway to the north of Carlton Vale, abutting the east side of Cambridge Road and supporting the northern ramp to the existing pedestrian footbridge.

Details of the proposal

8 The stopping up order is required as the highway land is subject to planning permission to provide 133 dwellings and associated amenity space, as outlined in permission ref: 09/2500: *"Demolition of garages adjacent to Bronte House and erection of two single to seven-storey blocks to provide 133 dwellings (comprising flats & maisonettes, including 75 affordable units) with associated landscaping and amenity space on roundabout adjoining Kilburn Park Road and Carlton Vale, NW6, including removal of pedestrian footbridge and stopping-up of western side of existing roundabout..."*.

9 As part of these proposals the areas of public highway described in paragraph 7 will be incorporated into the new development site and built upon. This will result in the area ceasing to exist as public highway.

10 In such cases the developer must ask the local planning authority to make an appropriate Order under the Act to enable the development to take place.

11 The Order is required to remove (or "stop up") the public's rights to use this area so that the development can be implemented in line with the approved planning permission.

Objections

12 When Brent Council carried out the necessary consultation procedures on the proposed stopping up application, it received one letter of objection from Westminster City Council dated 11 May 2010. Section 252(2)(a) of the Act only requires an inquiry to be held where an objection is received from the borough where the area of highway is to be stopped up, not where an objection is received from an adjoining borough.

13 In summary, the objections raised in relation to highway issues comprised the following:

- While Westminster raised no objection during the consultation process on the 3C site application, it is concerned that the wider masterplan could have a profound effect on the local road network.

page 2

- The roundabout is being replaced with a signalised junction before the full implications of the masterplan are known.
- The transport assessment for the 3C site application indicates saturation figures of 87.5%, 88.6% and 88.1% for the signalised junction with the masterplan as a whole in place. This is very close to being unacceptable.
- Trip generation figures appear to have dropped significantly from those indicated in an earlier version of the transport assessment (from 600 peak hour trips to 433). Concern is raised that the junction saturation figures are based on these new, lower figures.
- Concern that Transport for London (TfL) may have raised issues with the 3C site application or the overall masterplan, in particular with regard to testing of the proposed signalised junction.

14 Westminster City Council also raised a side issue, unrelated to the stopping up, identifying concerns about Westminster residents' ability to park as a result of the 3C site application and overall masterplan in view of differences in parking controls on either side of the borough boundary at Kilburn Park Road.

Response to objections

15 Once an objection is received, the legislation allows the developer or council to consult with objectors to seek to obtain a withdrawal of the objection.

16 In this instance Brent Council responded in a letter of 25 May 2010, addressing each of the objections raised.

17 In relation to the first two points, Brent Council acknowledged that no objections were raised by Westminster City Council as part of the consultation process on the proposed development of the 3C site. Brent stated that further development of the wider masterplan was largely dependant on funding opportunities, and any further applications would be assessed on their own merit and traffic impact at that time. Brent also stated that Westminster City Council would be a consultee for any further such applications.

18 With regard to the concerns surrounding junction saturation figures, Brent Council noted Westminster's acknowledgement that the figures are still within acceptable levels. Brent also stated that a sensitivity test was carried out as part of the transport assessment for the 3C site to test the impact on the junction of the further development associated with the wider masterplan. This showed the junction to be within capacity, even with the further development in place, with all degrees of saturation below 90% during peak hours.

19 In respect to the fourth point regarding concern at the downward revision of trip generation figures, Brent stated that the numbers changed in the final version of the transport statement as a result of the reduction in additional private market units that are expected to be provided by the masterplan. Previous figures were based on an assumption of approximately 1,500 new private residential units, a figure developed as part of the Council's Supplementary Planning Document for the South Kilburn Area. Brent stated that further masterplan development had been undertaken since the adoption of the SPD which resulted in the reduction of private units and was reflected in the final version of the transport assessment.

20 In response to Westminster's enquiry as to Transport for London's view on the 3C site application and wider masterplan, Brent Council confirmed that TfL had been fully involved in

page 3

the process of designing the signal junction and were consulted as part of the planning process. TfL raised no objections to the 3C site application stating that it was unlikely to result in an unacceptable impact on the nearby A5 Kilburn High Road which forms part of the Strategic Road Network (SRN), or any of the Transport for London Road Network (TLRN). Brent also stated that on-going consultation with regard to implementation of the proposed junction has continued to be positive.

21 Despite Brent Council's response, Westminster City Council's objection is still outstanding.

Consideration

22 The Act provides that where there is an objection to a stopping up order a public inquiry should be held. However, Section 252(5A) of the Act provides that:

"In a case where – none of the objections is made by a local authority or undertakers or a public gas transporters as are mentioned in subsection 4, the Mayor of London shall decide whether, in the special circumstances of the case, the holding of such an inquiry is unnecessary, and if he decides that it is unnecessary, he shall so notify the council which may dispense with the inquiry."

23 Advice received from the Secretary of State, when he was the order-making authority, is that he only made such a decision if he was satisfied that no objections remained which could benefit from being heard at an inquiry. For instance, that objections had been made on other than highway grounds, or that objections had not been made in good faith. However, if objections remained relating to traffic, the Secretary of State considered that these should be heard at an inquiry, although not to permit a re-run of the essential planning merits of the development. This power has now been conferred on the Mayor by virtue of the amendments to the 1990 Act by Schedule 22 to the Greater London Authority Act 1999.

24 Westminster City Council's objection is made as an adjoining borough, and not as the local authority. In the main, the objections raised by the City Council relate to the potential impact of the wider masterplan on the highway network in light of the stopping up associated with the 3C site application.

25 However, Brent Council appears to have reasonably addressed all concerns raised in Westminster City Council's objection. In addition, TfL have raised no objection to the impact of the proposals on the highways network and have been fully consulted as part of the planning process.

26 The relevant highways issues were considered as part of the planning process and the replacement of the roundabout with a signalised junction was determined to result in acceptable saturation levels, given the lower trip generation levels, which have been adequately justified. With regard to the masterplan, Brent Council has made clear that each phase of development would be progressed under its own separate planning application, with an accompanying transport assessment submitted in each case.

27 Westminster City Council were involved in consultation on the 3C site planning application (raising no objections), and will continue to be consulted on any further such applications within the masterplan area.

Conclusion

28 Westminster City Council have not raised any issues relating to the stopping up order which have not previously been considered as part of the planning process.

29 Brent Council have adequately addressed additional concerns relating to the wider masterplan proposals.

30 The planning process assessed the planning merits of the proposed scheme at South Kilburn site 3C (ref: 09/2500) and concluded, taking the development plan and all material considerations into account, that planning permission should be granted in February 2010.

31 The stopping up of public highway is necessary to enable an acceptable development on the site to be carried out in accordance with the approved planning permission. The Order is therefore in accordance with the statutory requirements under Section 247 of the Act.

32 On this basis, in the special circumstances of the case, the holding of an inquiry is considered to be unnecessary.

for further information, contact Planning Decisions Unit:
Colin Wilson, Senior Manager - Planning Decisions
020 7983 4271 email giles.dolphin@london.gov.uk
Justin Carr, Strategic Planning Manager (Development Decisions)
020 7983 4895 email justin.carr@london.gov.uk
Graham Clements, Strategic Planner (Case Officer)
020 7983 4265 email graham.clements@london.gov.uk

page 5