

Meeting:	Planning Committee
Date:	24 th June 2009
Subject:	Stopping Up of the Highway – Footpath linking Greenhill Way and Greenhill Road, Harrow.
Key Decision: (Executive-side only)	No
Responsible Officer:	Stephen Kelly– Divisional Director of Planning
Portfolio Holder:	Cllr Marilyn Ashton – Portfolio Holder for Planning, Development and Enterprise.
Exempt:	No
Enclosures:	Appendix 1 – Area to be stopped up

SECTION 1 – SUMMARY AND RECOMMENDATIONS

Permission (Ref: P/1721/08/CFU) was granted by the Strategic Planning Committee in July 2008 for the redevelopment of the former Greenhill Road Council car park to provide a block of 37 Flats.

The development footprint of the approved scheme encroaches onto the public footpath that currently crosses the site. A resolution is therefore sought to stop up the footpath as shown at Appendix 1, to enable the development to be carried out in accordance with the permission granted.

RECOMMENDATIONS:

The Committee is recommended to:

1. Authorise the Director of Legal and Governance Services to take the necessary steps to commence the process of stopping up of the areas of highway shown on the plan at Appendix 1 as required under sections 247 and 252 of the Town and Country Planning Act 1990 (the Act).
2. Authorise that any objections made to the proposed order to stop up the highway, and not withdrawn within the prescribed period be referred to the Mayor for London for determination as to whether or not a public inquiry should be held in accordance with section 252 of the Act.
3. Authorise that if there are no objections to the proposed order, or the Mayor of London decides that a public inquiry is unnecessary, officers proceed with the making of the order without further reference to the Committee.

REASON:

To enable the development to be carried out in accordance with the planning permission granted.

SECTION 2 - REPORT**Background**

As Members are aware, Greenhill Road car park was sold as part of the Council's land disposal programme in 2006. The site, as shown at Appendix 1, has been granted planning permission for a block of 37 flats with associated parking.

There is a public footpath/ unadopted public highway shown at Appendix 1 which runs through the site. Although the footpath is unadopted public highway, prescriptive rights of way are established therefore the public can legitimately pass and re-pass over this land.

The footpath is therefore required to be stopped up under S247 of the Town and Country Planning Act 1990 to enable the development to be carried out in accordance with the planning permission granted.

Accordingly, authority is sought from the committee to enable legal officers to proceed with the stopping up process to facilitate the development.

Risk Implications

If the relevant footpath/ unadopted public highway is not stopped up, the planning permission as granted will not be able to proceed without the Developer encroaching onto highway. If the Developer encroaches onto the highway this will have legal implications for the Council as highway authority.

Financial Implications

The London Local Authorities (charges for stopping up) Regulations 2000 gives authority to the Council to recover the costs of making the order from the applicant and therefore there should be no costs incurred by the Council. Legal officers will be obtaining adequate monies on account from the applicant prior to the commencement of the process pertaining to the stopping up order.

Legal Comments

Section 247 of the Town and Country Planning Act 1990 gives power to London Boroughs to make stopping up orders for highways within their Boroughs if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with the planning permission granted.

The process for the making of the order is as follows:

- Notices of the proposed order will be advertised in a local newspaper circulating in the area and in the London Gazette.
- Notices will be served on relevant authorities, principally statutory undertakers having equipment in or under the subject highway, and displayed on each end of the highway to be stopped up.
- If no objections are received after a period of 28 days, the Council may proceed to make the stopping up order.
- If, however, an objection is received which is not withdrawn, the Council must inform the Mayor of London and a public inquiry may be held to determine the objection.
- Where an inquiry has been held, the Council, after considering the inspector's report and subject to the consent of the Mayor for London, may make the order with or without modification.
- On making the order, the Council must publish in the London Gazette and in at least one local newspaper a notice stating that the Order has been made and specifying a place where a copy of the Order can be seen at all reasonable hours.

Performance Issues

Not applicable.

Section 3 - Statutory Officer Clearance

Name: Sheela Thakrar	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 3 June 2009		
Name: Abi Kolawole	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 8 June 2009		

Section 4 - Contact Details and Background Papers

Contact: Richard Michalski, Senior Development Officer, 020 736 6146.

Background Papers:

- Appendix 1 – Plan showing area to be stopped up
- Decision notice

