

PLANNING COMMITTEE REPORT

Development Management Service
Planning and Development Division
Environment and Regeneration
Department
PO Box 333
222 Upper Street

PLANNING SUB-COMMITTEE A		
Date:	7 June 2016	Non-exempt
Application number	P2016/1703	
Application type	Stopping Up Highway	
Ward	Bunhill Ward	
Listed building	No Listing.	
Conservation area	None.	
Development Plan Context	Bunhill & Clerkenwell Core Strategy Key Area Central Activities Zone Bunhill & Clerkenwell Finsbury Local Plan Area Site within 100m of a TLRN Road Within 50 metres of Duncan Terrace/Colebrooke Row Conservation Area Rail Land Ownership – TfL Surface Rail Land Ownership – TfL Tunnels	
Licensing Implications	None	
Site Address	Moreland Street and Central Street (North of Macclesfield Road), Adjacent to Kestrel House, Islington, London, N1.	
Proposal	Stopping Up Order under Section 247 of the Planning Act 1990 to un-adopt part of the existing pavement on Moreland Street and Central Street.	
Case Officer	Thomas Broomhall	
Applicant	London Borough of Islington.	
Agent	Huw Blackwell, Decentralised Energy Project Officer	

RECOMMENDATION

The Committee is asked to resolve to APPROVE the Stopping Up Order.

Site plan (site outlined in Black with area to be stopped up hatched)

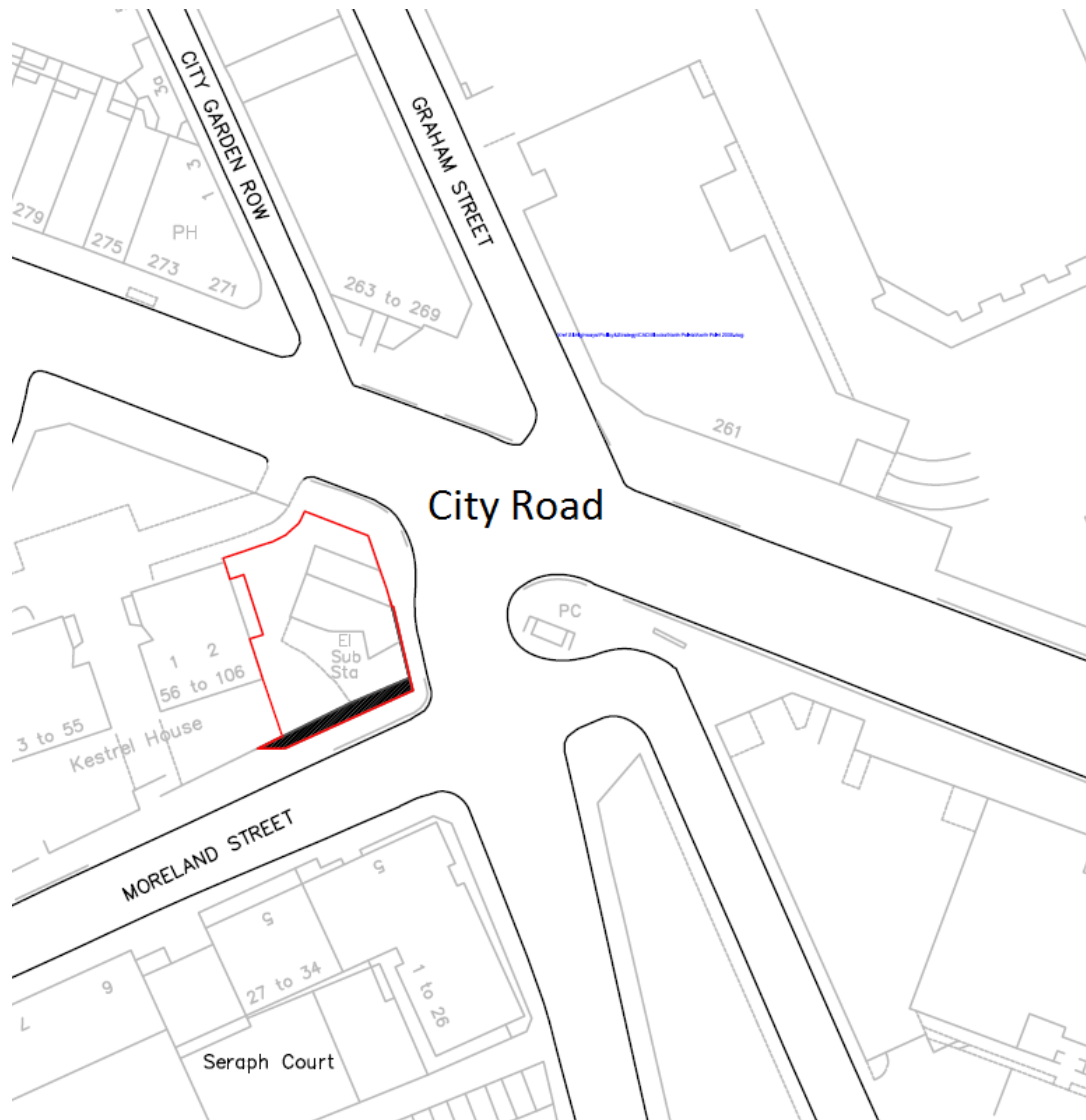


Image 1 - Aerial View of Site



Image 2 – View of the site from the corner of Moreland Street and Central Street

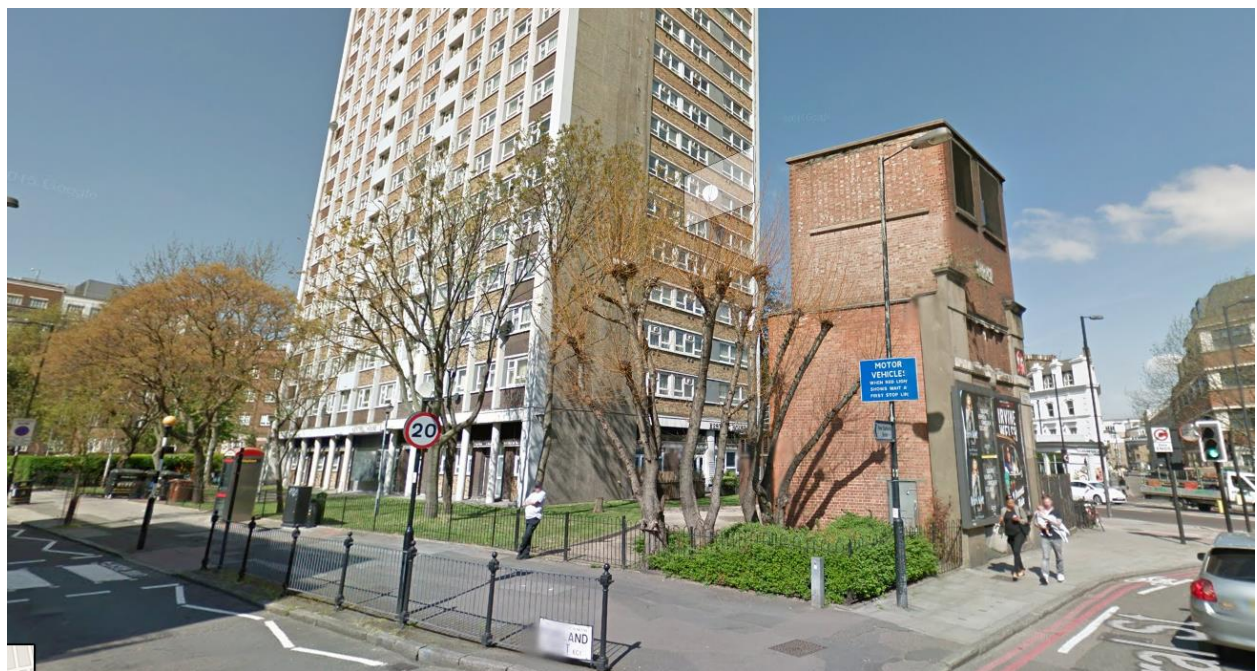
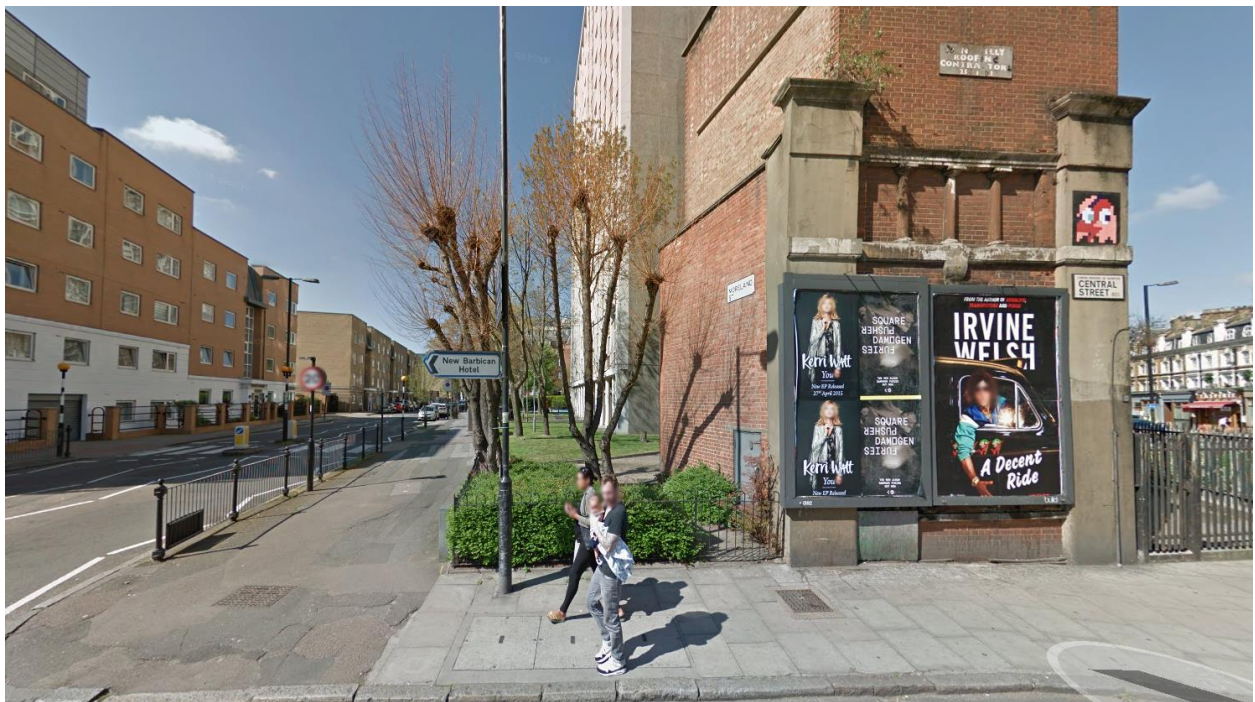


Image 3 – View of the site from Moreland Street



Image 4 – View of the site from Central Street



1 RECOMMENDATION

The Committee is asked to resolve to APPROVE the Stopping Up Order, subject to the applicant first entering into an indemnity agreement to pay all the council's costs in respect of the stopping up, on the following basis:

- 1.1 The council makes a Stopping Up Order under Section 247 of the Town and Country Planning Act 1990 ("the Act") in accordance with the procedure in Section 252 of the Act in respect of the area of highway shown on Plan No. SUO/1 dated 23/05/16 to enable the development authorised by planning permission ref: P2015/1008/FUL to be carried out.
- 1.2 If no objections are received (or any received are withdrawn), or the Mayor of London decides a local inquiry is unnecessary, then the Stopping Up Order will be confirmed by officers under delegated powers.
- 1.3 If objections are received from a local authority, statutory undertaker or gas transporter (and are not withdrawn), or other objections are received (and not withdrawn) and the Mayor of London decides that an inquiry is necessary, the Council shall cause a local inquiry to be held.

2.0 SITE AND SURROUNDINGS

- 2.1 The site is formed of part of the pavement adjoining the existing Ventilation Shaft site on the corner of Moreland Street and Central Street and adjoins the boundary to the grounds of the adjacent residential tower block at Kestrel House. The Stopping Up Order is to facilitate the construction of a new energy centre on the Ventilation Shaft site which has been granted planning permission under application ref: P2015/1008/FUL and the extent of the protrusion on the pavement is indicated on the approved drawings for the application.
- 2.2 The area of land to which the application to stop up the highway relates is an L-shaped site. The site covers part of the width of the existing pavement on Moreland Street, spanning the boundary of the Ventilation shaft site and partial boundary with the grounds of Kestrel House. The application also extends around the corner of the ventilation shaft site, along a narrow part of the pavement on Central Street.
- 2.3 Moreland Street and Central Street are highway maintained by the council and are included in the council's List of Streets as highway maintained at the council's expense.
- 2.4 Officers consider that these areas comprise land over which the public have been able to pass and repass without hindrance for over 20 years, and over which public rights have accrued.

3.0 PROPOSAL

- 3.1 The proposal relates to the permanent Stopping Up of part of the pavement on Moreland Street extending 21.7 metres in length and between 1.66 and 1.8 metres in width. The proposal also relates to the permanent Stopping Up of part of the

pavement on Central Street extending 12.2 metres in length and 0.3 metres in width. The pavement to be Stopped Up under Section 247 of the Town and Country Planning Act 1990 is adopted highway. The works are proposed to reintroduce the historic building line along Moreland Street in connection with planning permission ref: P2015/1008/FUL approved on 14/07/2015, which was for:

'Part demolition of the existing building and construction of a new energy Centre comprising a part three/part four storey extension including heat exchanger coil, 4 storey stack of containerized plant to the corner of Moreland and Central Street, new thermal store and flue on eastern elevation of Kestrel House. The new building will be metal clad; new vehicle access off Moreland Street, raised planter beds and boundary walls.'

4.0 CONSULTATION

- 4.1 The council's Highway Officer has not raised an objection to the proposed partial Stopping Up of the pavement on Moreland Street and Central Street. It is considered that sufficient footway width is retained for the free flow of pedestrians, whilst it is noted that statutory apparatus may need to be diverted as part of the Stopping Up Order.
- 4.2 No public or external consultation has been carried out by the council in respect of the current stopping up application; however, should the Committee resolve to approve the Stopping Up before making the Orders, the council would carry out consultation as required by Section 252 of the Act. This would involve consulting statutory undertakers, posting site notices and publishing the proposed orders in a local newspaper and the London Gazette. A 28-day consultation period would allow interested parties to respond.
- 4.3 Under Section 252(4)(b) of the Act if an objection is received from any local authority, undertaker or gas transporter on whom a notice is required to be served, or from any other person appearing to the council to be affected by the order and that objection is not withdrawn (through negotiation between the objector and the applicant) the council must:
 - (i) notify the Mayor; and
 - (ii) cause a local inquiry to be held.
- 4.4 If however, none of the objections received were made by a local authority or undertaker or gas transporter then, under Section 252(5A) of the Act, the Mayor 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.
- 4.5 If there are no objections, or all the objections are withdrawn, then the council may confirm the Stopping Up Order without an inquiry.

5.0 EVALUATION

- 5.1 Section 247(2A) of the Act provides that the council of a London borough may by order authorise the stopping up or diversion of any highway within the borough if it

is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted under Part III of the Act.

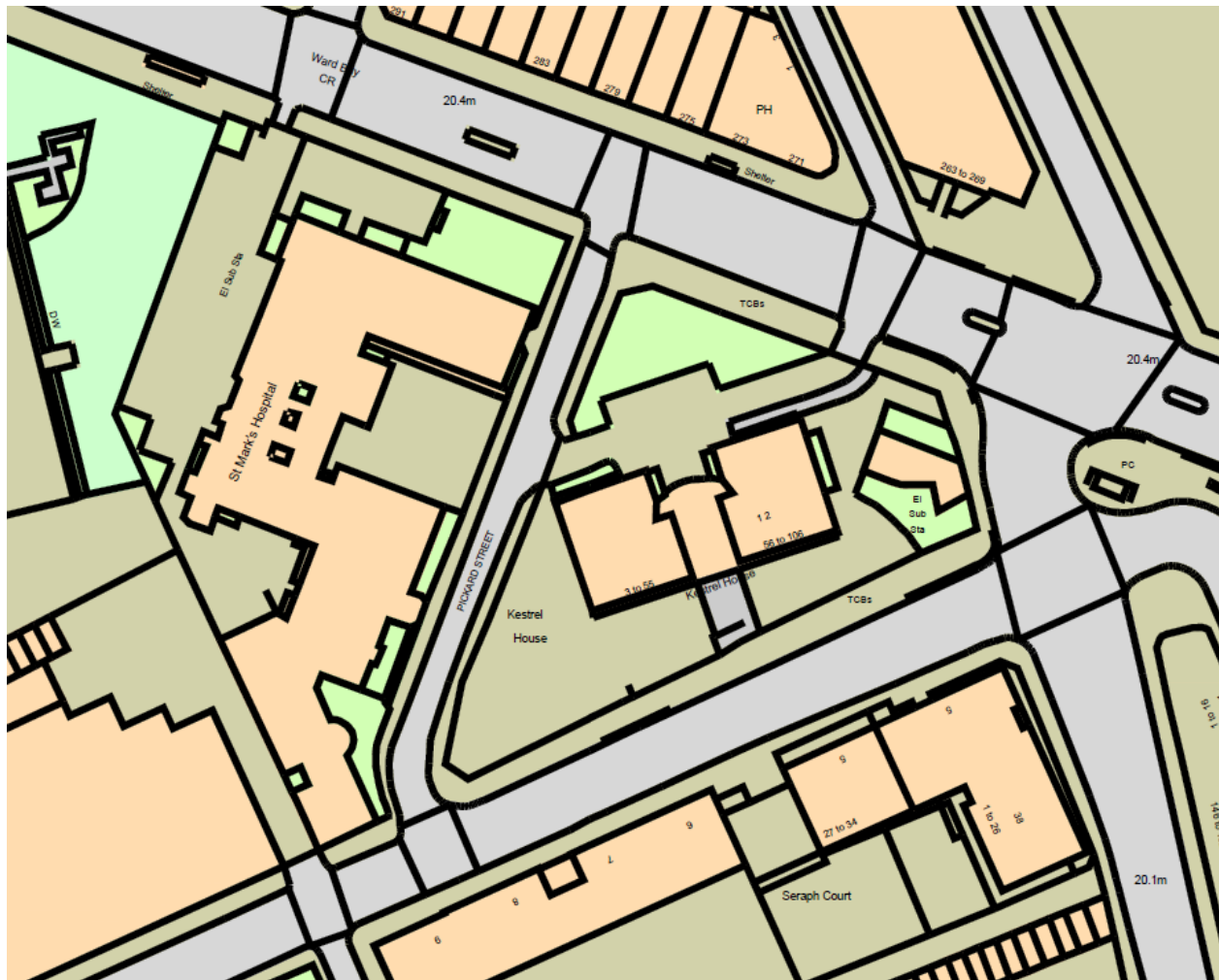
- 5.2 In *K C Holdings Ltd v Secretary of State for Wales* [1990] JPL 353 the Deputy Judge held that “may” implies a discretion to consider the demerits and merits of the particular closure in relation to the particular facts of the case. In *Vasiliou v Secretary of State for Transport* [1991] 2 All ER 77, the Court of Appeal held that when exercising his discretion, the Secretary of State was not only entitled, but required to take into account any directly adverse effect the order would have on all those entitled to the rights which would be extinguished by it, especially as the section contains no provision for compensating those so affected.
- 5.3 The proposed Energy Centre has been granted planning permission under application ref: P2015/1008/FUL following a full statutory public consultation exercise. The approved layout plans would require the stopping up of part of the pavement on Moreland Street and Central Street whilst retaining the majority of the pavement on Moreland Street and Central Street. Access to the adjacent Kestrel House is not affected and therefore there will be no impact upon Kestrel House residents as a result of the proposal.
- 5.4 The proposed Stopping Up Order would not result in a harmful loss of public access. Officers therefore consider that there would be no disadvantages suffered by the public or by those with properties near or adjoining the existing highway.

6.0 CONCLUSION

- 6.1 It is considered that the proposed stopping up of the area of land is necessary to enable the development (P2015/1008/FUL) to proceed and is acceptable in highways terms. It is noted, however, that there remain obligations relating to consultation and a local inquiry may be held, should the stopping up be approved by the Committee.
- 6.2 Officers therefore recommend approval of the stopping up order, subject to the details as set out in the RECOMMENDATION.

APPENDIX 1: PLANS:

Existing Plan:



Proposed Plan (ref: SUO/1):

