



PLANNING COMMITTEE REPORT

PLANNING COMMITTEE	AGENDA ITEM NO: B
Date: 8 November 2018	NON-EXEMPT

Application number	P2018/1395/FUL
Application type	Stopping Up of Highway
Ward	St Peter's Ward
Listed building	n/a
Conservation area	Within 50 metres of the Duncan Terrace / Colebrooke Row Conservation Area
Development Plan Context	Local Cycle Route Article 4 Direction A1-A2(Rest of Borough)
Licensing Implications	n/a
Site Address	Packington Estate: Land bounded by Dame Street, Rheidol Terrace, St Paul Street, Packington Square, Prebend Street, Rector Street, Union Square and Bevan Street, London, N1
Proposal	Stopping up of one area of existing highway on Packington Street at junction with St Paul Street under Section 247 of the Planning Act 1990 to enable redevelopment of the Packington Estate (Phase 6)

Case Officer	Tom Broomhall
Applicant	Hyde Housing Association
Agent	Rydon Construction Limited

RECOMMENDATION

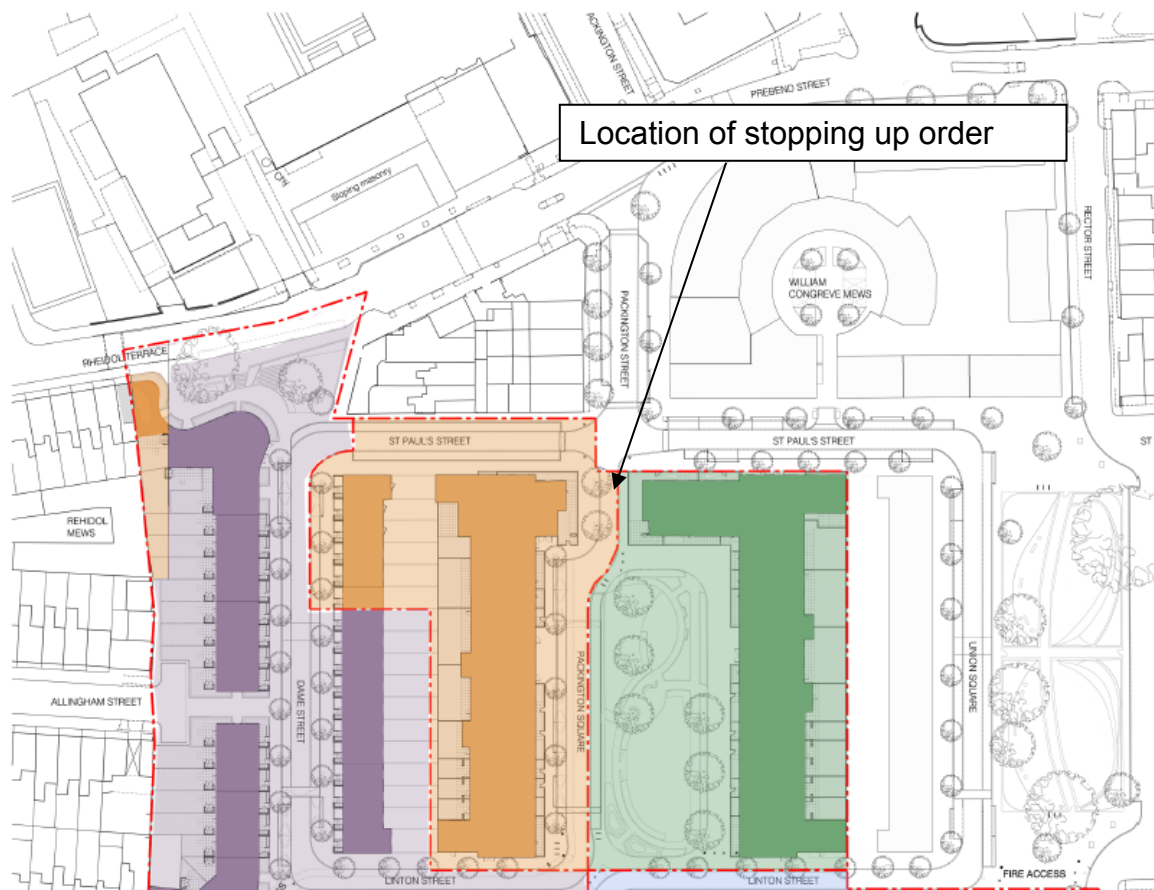
The Committee is asked to resolve to APPROVE the stopping up, subject to the applicant first entering into an indemnity agreement to pay all the council's costs in respect of the stopping up, on the following basis:

1. 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. 153580-RDG-Z06-00-PL-C-305 to enable Phase 6 of the development authorised by planning permission ref: P102754 to be carried out.

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 If no objections are received (or any received are withdrawn), or the Mayor of London decides a local inquiry is unnecessary, then the Stopping Up Order will be confirmed by officers under delegated powers.
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 If objections are received from a local authority, statutory undertaker or gas transporter (and are not withdrawn), or other objections are received (and not withdrawn) and the Mayor of London decides that an inquiry is necessary, the Council shall cause a local inquiry to be held.

1.0 SITE AND SURROUNDINGS

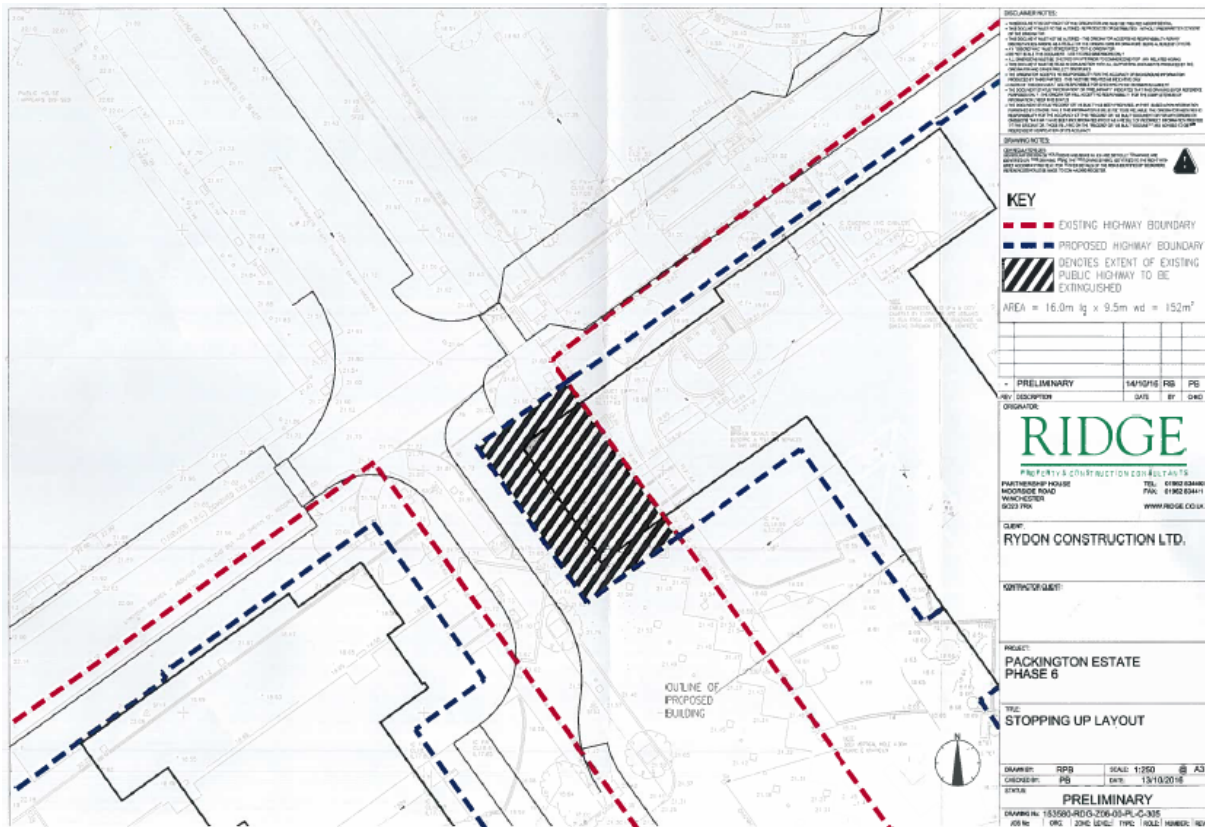
- 1.1 The area of land to which the current application to stop up the highway relates is a section of Packington Street adjacent to St Paul Street and Packington Square, and the western elevation of Phase 6 of the development, 152 square metres in size, illustrated on drawing 153580-RDG-Z06-00-PL-C-305.
- 1.2 The land to which the application relates is currently enclosed by hoardings erected in connection with the demolition of existing housing estate buildings and the erection of new buildings. The site is not within a conservation area, but the boundary of the Duncan Terrace/Colebrooke Row Conservation Area sits adjacent to the site on the northern side of St Paul Street.



- 1.3 Packington Street is a highway maintained by the council and is included in the council's List of Streets as highway maintained at the council's expense.

2.0 PROPOSAL

- 2.1 The proposal relates to the stopping up of an area of highway described above under Section 247 of the Town and Country Planning Act 1990 in connection with the implementation of the planning permission ref: P102754, granted on appeal on 14/11/2011
- 2.2 The plan below (ref: 153580-RDG-Z06-00-PL-C-305) shows the stopping up area in detail (hatched in black).



3.0 CONSULTATION

- 3.1 The council's highway officer has no objection to the proposed stopping up of part of Packington Street.
- 3.2 No public or external consultation has been carried out by the council in respect of the current stopping up application, however should the Committee approve the stopping up, before making the Orders the council would carry out consultation as required by Section 252 of the Town and Country Planning Act. This would involve consulting statutory undertakers, posting site notices and publishing the proposed orders in a local newspaper. A 28-day consultation period would allow interested parties to respond.
- 3.3 Under section 252(4)(b) of the Act if an objection is received from any local authority, National Park authority or undertakers or public 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.

- 3.4 If however, none of the objections notified were made by a local authority or undertakers or transporters 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.
- 3.5 If there are no objections, or all the objections are withdrawn, then the council may confirm the Stopping Up Order without an inquiry.

4.0 EVALUATION

- 4.1 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.
- 4.2 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 *Vasilou 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.
- 4.3 The layout of the Packington Estate redevelopment has already been considered and approved under application ref: P062806, which was the first application for outline planning permission (including layout) for the redevelopment of the Packington Estate. Later permissions included amendments to the layout of the redevelopment. The approved layouts would require the stopping up of the areas of land that are the subject of this report. The stopping up now proposed would give effect to an existing planning permission (ref: P102754) which was subject to public consultation.
- 4.4 Officers consider that the area comprises 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.
- 4.5 The proposed stopped-up area of land would not prevent pedestrian or vehicular access into Packington Square and would not result in a loss of public access through the redeveloped estate. This part of Packington Street which leads into Packington Square is a private estate road.
- 4.6 Vehicular and pedestrian routes will continue to be provided into the estate. Officers therefore consider that there would be no disadvantages suffered by the public or by those with properties near or adjoining the existing highway. In contrast, there are advantages of stopping up the highways rights to enable the development to be carried out.

5.0 CONCLUSION

- 5.1 It is considered that the proposed stopping up of the area of land is necessary to enable the development 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.