



## PLANNING COMMITTEE REPORT

<b>PLANNING COMMITTEE</b>	<b>AGENDA ITEM NO:</b>
Date: 10 December 2018	NON-EXEMPT

Application number	P2018/3689/FUL
Application type	Stopping Up of Highway
Ward	St Peter's Ward
Listed building	n/a
Conservation Area	Duncan Terrace / Colebrooke Row
Development Plan Context	Duncan Terrace / Colebrooke Row Conservation Area Article 4(2) Duncan Terrace/Colebrooke Row Conservation Area Major 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 order of existing highway comprising part of the passageway to the south east of Rheidol Terrace, extending to the rear of 37 Allingham Street, under Section 247 of the Planning Act 1990 to enable the redevelopment of the Packington Estate (Phase 4).

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. 056.0025-2204 RevF to enable

Phase 4 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 If no objections are received (or any received are withdrawn), or the Mayor of London decides a local inquiry is unnecessary, then the Stopping Up Order will be confirmed by officers under delegated powers.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 If objections are received from a local authority, statutory undertaker or gas transporter (and are not withdrawn), or other objections are received (and not withdrawn) and the Mayor of London decides that an inquiry is necessary, the Council shall cause a local inquiry to be held.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

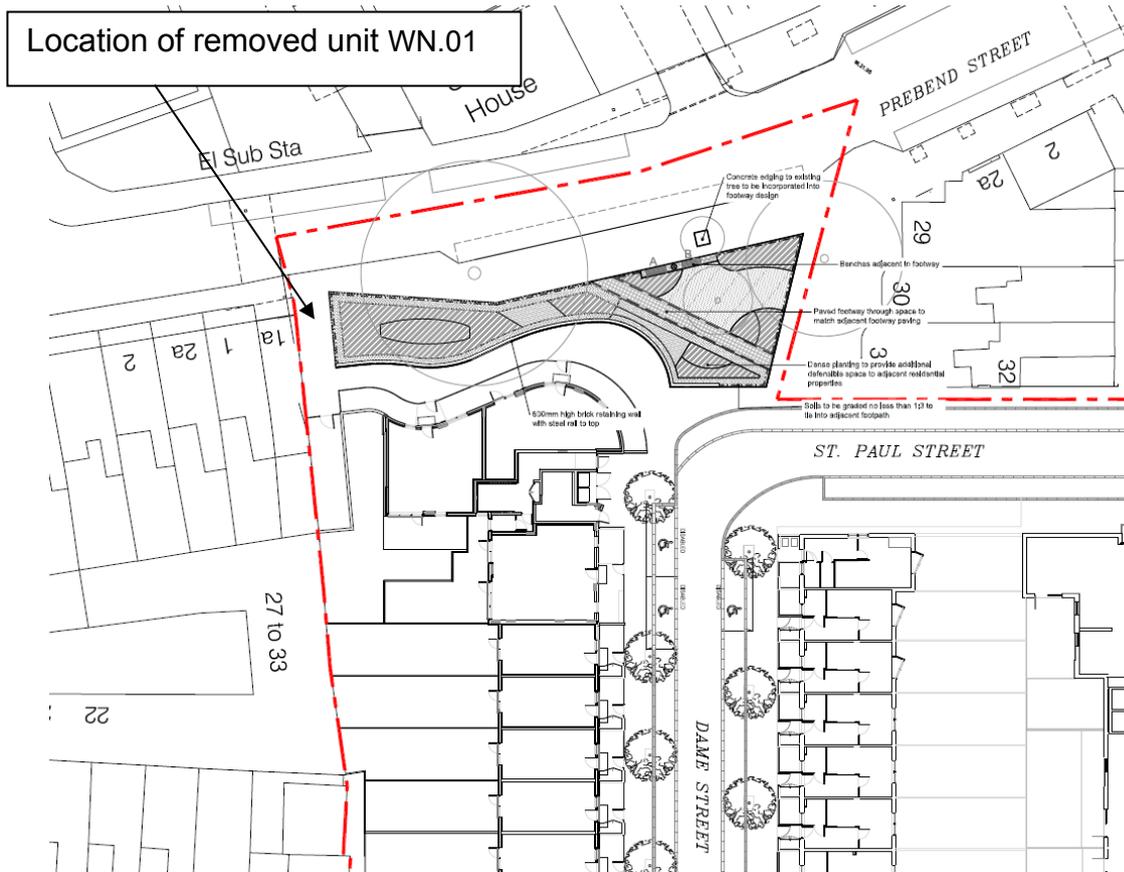
- 1.1 The area of land to which the current application to stop up the highway relates is part of the passageway to the south east of Rheidol Terrace, extending to the rear of 37 Allingham Street, 32.88 metres in length and 5.59 metres in width, illustrated on drawing 056.0025-2204 RevF.
- 1.2 The land to which the application relates has not been hoarded, to allow continued access to the side of 1a Rheidol Terrace. The northwest part of the site is within the Duncan Terrace/Colebrooke Row Conservation Area.
- 1.3 Rheidol Terrace 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 PLANNING HISTORY

- 2.1 The image below is an extract from the phasing plan for the original planning permission ref: P102754 granted on appeal ref: APP/V5570/A/11/2156120 dated 14/11/2011 showing the layout of Rheidol Terrace.

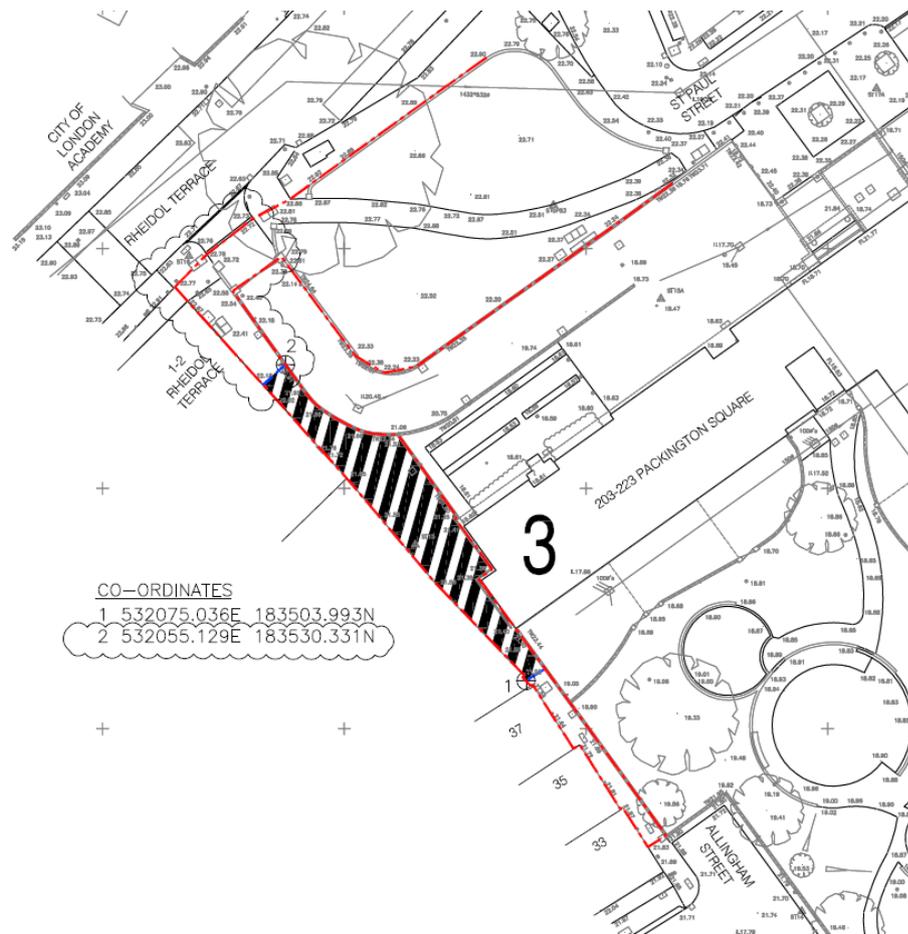


- 2.2 On 21/11/2017 Planning Permission ref: P2016/4932/S73 was granted for amendments to condition 43 (approved drawings and documents) of permission ref: P102754 granted on appeal ref: APP/V5570/A/11/2156120 dated 14/11/2011. The amendments allowed for unit WN.01 (annotated on some drawings as unit W0.15, and adjacent to 1a Rheidol Terrace) not to be constructed, and to allow access for servicing of 1a Rheidol Terrace, and extensions to and landscaping of the adjacent public and private outdoor amenity spaces.
- 2.3 The image below shows the revised layout of the scheme including the removal of unit WN.01.



### 3.0 PROPOSAL

- 3.1 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 and subsequently revised by consent P2016/4932/S73 on 21/11/2017.
- 3.2 The plan below (ref: 056.0025-2204 RevF) shows the stopping up area in detail (hatched in black).



#### 4.0 CONSULTATION

- 4.1 The council's highway officer has no objection to the proposed stopping up of part of the passageway to the south east of Rhaidol Terrace, extending to the rear of 37 Allingham Street.
- 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 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.
- 4.3 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.
- 4.4 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.

- 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 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 existing planning permissions (ref: P102754, revised by P2016/4932/S73) which have been subject to public consultation.

- 5.4 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.

- 5.5 The proposed stopped-up area of land would not prevent access into 1a Rheidol Terrace and would not result in a loss of public access through the redeveloped estate.

- 5.6 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.

## **6.0 CONCLUSION**

- 6.1 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.