



## PLANNING COMMITTEE REPORT

Development Management Service  
Planning and Development Division  
Environment and Regeneration Department

<b>PLANNING SUB COMMITTEE B</b>		
<b>Date:</b>	8 <sup>th</sup> December 2020	<b>NON-EXEMPT</b>

Application number	P2019/0608/FUL
Application type	Full Planning (Council's Own)
Ward	St. Marys
Listed building	N/A
Conservation area	St Mary Magdalene Conservation Area
Development Plan Context	St Mary Magdalene Conservation Area Aarticle 4(2) St Mary Magdalene Within 100m TLRN
Licensing Implications	No
Site Address	Mersey Garages, Ringcroft Street, Islington, N7 8ND
Proposal	Stopping Up Order of existing highway to front of the Mersey Garages, Ringcroft Street under Section 247 of the Planning Act 1990 to enable the redevelopment of the Mersey Garages adjacent to 29 Mersey Estate, for residential use.

Case Officer	Robin Tulloch
Applicant	London Borough of Islington
Agent	London Borough of Islington, Mr P. Tobin, Architects Group Leader

### RECOMMENDATION

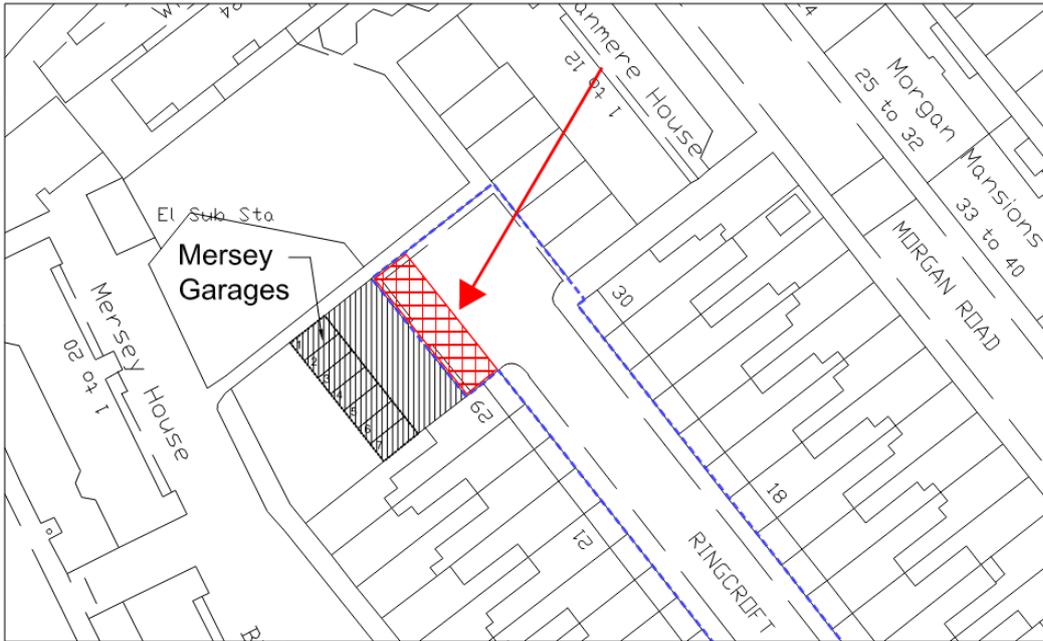
The Committee is asked to resolve to **APPROVE** the stopping up, subject to the applicant first entering into an indemnity agreement to pay all the council's costs in respect of the stopping up, on the following basis:

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. RS 17 Rev A to enable the development authorised by planning permission ref: P2018/4056/FUL 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 If no objections are received (or any received are withdrawn), or the Mayor of London decides a local inquiry is unnecessary, then the Stopping Up Order will be confirmed by officers under delegated powers.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 If objections are received from a local authority, statutory undertaker or gas transporter (and are not withdrawn), or other objections are received (and not withdrawn) and the Mayor of London decides that an inquiry is necessary, the Council shall cause a local inquiry to be held.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

- 1.0 The area of land which the application to stop up the highway relates to is an area at the northern end of Ringcroft Street in front of Mersey Garages. Ringcroft Street is a residential street to the north of St Mary Magdalene Garden, and the site is within the St Mary Magdalene Conservation Area.



- 1.2 The application relates to approximately 90sqm of public highway adjacent to the hardstanding in front of Mersey Garages. Ringcroft 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.



- 1.3 The application for the erection of three houses (planning application reference P2018/4056/FUL) was approved on 07/07/2020. Implementation of the development requires the stopping up of part of Ringcroft Street for the works to be carried out.

## **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: P2018/4056/FUL that granted

*The proposed demolition of disused single storey garages, and their replacement with 3no. three bed terraced houses, with associated private amenity space. The proposals also include the construction of a bicycle shelter and the replacement of a brick wall at the end of Ringcroft Street with new boundary treatment.*

## **3.0 CONSULTATION**

- 3.1 The council's highway officer has no objection to the proposed stopping up of part of Ringcroft 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 Order 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 order 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 *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.

- 4.3 The layout of the development has already been considered and approved by Planning Sub-Committee B under application ref: P2018/4056/FUL following a full statutory public consultation exercise. The approved layout plans would require the stopping up of the area of land that is the subject of this report. The stopping up now proposed would give effect to the above described planning permission as shown on Plan No. RS17. The proposed stopping up of the land shown on plan would allow for the erection of 3 new houses with front gardens matching the existing building line of the terrace, appended to the end of the terrace currently comprising 1-29 Ringcroft Street, and associated private amenity space, cycle store and replacement wall.



- 4.4 The stopping up will not impact on vehicular traffic with the area to be lost at the termination of the street and the area to be lost being formed of an inset area of hardstanding between the highway and the garages which are to be demolished.
- 4.5 There is an existing footway to the north of the garages creating a pedestrian route from Liverpool Road to the west to Morgan Road to the east. This route would be improved by being widened and repaved, with a new boundary wall and cycle store.
- 4.6 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 highway 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 approved development (P2018/4056/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.
- 5.2 Officers therefore recommend approval of the stopping up order, subject to the details as set out in the RECOMMENDATION.