



Development Management Service  
 Planning and Development Division  
 Environment and Regeneration  
 Department  
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## PLANNING COMMITTEE REPORT

<b>PLANNING COMMITTEE</b>		<b>AGENDA ITEM NO:</b>
Date:	9 February 2016	NON-EXEMPT

Application number	P2016/0025/FUL
Application type	Stopping Up of Highway
Ward	Bunhill Ward
Listed building	n/a
Conservation area	none
Development Plan Context	King Square Estate Site Allocation BC4 King Square Area Framework and Action Plan Bunhill & Clerkenwell Key Area Central Activities Zone Within 50m of Hat & Feathers Conservation Area Within 50m of Northampton Square Conservation Area
Licensing Implications	n/a
Site Address	Part of Mason's Place, London, EC1V
Proposal	Stopping up of an area of existing highway under Section 247 of the Town and Country Planning Act 1990 to enable the redevelopment of the King Square Estate (P2014/5216/FUL)

Case Officer	Stefan Sanctuary
Applicant	Islington Housing
Agent	Islington Housing

## 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. 621\_SK\_138 Rev B to enable the development authorised by planning permission ref: P2014/5216/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 If no objections are received (or any received are withdrawn), or the Mayor of London decides a local inquiry is unnecessary, then the Stopping Up Order will be confirmed by officers under delegated powers.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 If objections are received from a local authority, statutory undertaker or gas transporter (and are not withdrawn), or other objections are received (and not withdrawn) and the Mayor of London decides that an inquiry is necessary, the Council shall cause a local inquiry to be held.

## PLANS

The plans included in this report at Appendix 1 as follows:

- 621\_PL(00)100 Rev C
- 621\_SK\_138 Rev B

### 1.0 SITES AND SURROUNDINGS

- 1.1 The area of land to which the application to stop up the highway relates (is Mason's Place, a pedestrian route behind a row of garages between the King Square Estate and the neighbouring residential apartment building known as Seraph Court. The area to be stopped up constitutes virtually the full extent of Mason's Place as shown on **Plan No** 621\_SK\_138 Rev B
- 1.2 Mason's Place 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 first phase of the King Square Estate redevelopment (planning application reference P2014/5216/FUL) is about to commence. It is the second phase of this consented development that requires the stopping up of Mason's Place in order for the second phase of the development to be carried out.

### 2.0 PROPOSAL

- 2.1 The proposal relates to the stopping up of Mason's Place, a 4m wide and 96m long area of highway, under Section 247 of the Town and Country Planning Act 1990 in

connection with the implementation of the planning permission ref: P2014/5216/FUL that granted:

*“Demolition of existing row of garages located to the north of Rahere House and demolition of 9 existing single storey studio units located to the south of Turnpike House. Change of use of the west section of the Moreland School site to residential use. Erection of 6 new buildings, providing 140 new residential units and a community centre, comprising: Block B – a 3 storey terrace of 10 x 3-bedroom and 1 x 2-bed houses for social rent located to the north of Rahere House; Block C – a 4 storey building located to the west of Rahere House providing a 167sqm community centre together with 13 flats for social rent, comprising 1 x 3-bedroom and 12 x 2-bedroom flats; Blocks D1 & D2 – a 7 storey over basement building and 5 storey building located on the west section of the school site, providing a 21sqm retail unit and 69 flats for social rent, shared ownership and private market sale, comprising 1 x 3-bedroom, 51 x 2-bedroom, and 17 x 1-bedroom flats; Block E, a part 3-, part-5 storey building located to the north of Turnpike House providing 25 flats for social rent over 55’s independent living, comprising 9 x 2-bedroom and 16 x 1-bedroom flats; Block F – a part 3, part 4 storey building located to the south of Turnpike House providing 22 flats for social rent comprising 13 x 2-bedroom and 9 x 1-bedroom flats.*

*Alterations to ground floor of Rahere House to provide improved nursery facilities. Comprehensive hard and soft landscaping across the site including: relocation of vehicular access from Central Street, re-provision of 81 parking spaces including 21 wheelchair accessible spaces, creation of new bin store enclosures and cycle parking for existing residents, and creation of a community garden and growing space. The scheme would provide 98 affordable homes which equates to 70% by unit.”*

### **3.0 CONSULTATION**

- 3.1 The council’s highway officer has no objection to the proposed stopping up of Mason’s Place.
- 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 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.
- 3.3 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.

- 3.4 If however, none of the objections received were made by a local authority or undertaker or 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.
- 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 King Square Estate redevelopment has already been considered and approved under application ref P2014/5216/FUL following a full statutory public consultation exercise. The approved layout plans 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 the above described planning permission As shown on Plan No 621\_PL(00)100 Rev C a building comprising of 11 social rented housing units will be constructed on the land over which Mason’s Place lies.
- 4.4 Mason’s Place is a highway which provides a route for pedestrians and cyclists. There is no vehicular access over Mason’s Place. As such the proposed stopping up will have no effect on vehicular traffic.
- 4.5 The proposed stopping up of the area of land would not result in a permanent loss of public access through the redeveloped estate. An east-west pedestrian route will continue to be provided between Central Street and Gard Street within the estate as shown on Plan 621\_PL(00)100 Rev C. 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 (P2014/5216/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.

**APPENDIX 1 – PLANS**

621\_PL(00)100 Rev C  
621\_SK\_138 Rev B