

22 October 2014

## Dingwall Avenue, Croydon

in the London Borough of Croydon

**Stopping up order**

Section 247 of the Town and Country Planning Act 1990 (as amended) by Schedule 22 of the Greater London Authority Act 1999

**The proposal**

The stopping up of Dingwall Avenue.

**Recommendation**

That Croydon Council be advised that special circumstances in this case have not been demonstrated and that the holding of a local inquiry is necessary.

**Context**

1 On 5 February 2014 Croydon Council granted planning permission 12/02542/P for the comprehensive redevelopment of the Whitgift Centre and land bounded by Poplar Walk, Wellesley Road, George Street and North End ("the Development").

2 The applicants for planning permission were Westfield Shoppingtowns Limited & Hammerson UK Properties.

3 The approximately seven hectare development site comprises the Whitgift Centre and the majority of the land bounded by Poplar Walk, Wellesley Road, George Street and North End; with the exception of the properties fronting George Street (excluding the former Alders and 9a George Street), a number of properties along North End, Green Park House, Meridan House, the HSBC building and Electric House on Wellesley Road. The site is located within the Primary Shopping Area of Croydon Metropolitan Centre as defined by the Croydon Local Plan Policies Map and as a result is occupied by a variety of town centre uses, principally the Whitgift Shopping Centre, the former Alders department store, several predominantly vacant office buildings and associated car parking.

4 Through a program of part demolition and refurbishment, the development will provide a range of town centre uses with a maximum floorspace of 357,138 sq.m. divided into the following uses:

- Retail (A1-A5) – 136,551 sq.m.
- Leisure (D2) – 16,428 sq.m.
- Residential (C3) – 32,512 - 48,924 sq.m.

- Community (D1) – 1,135 sq.m.
- Office (B1) – 1,921 sq.m.
- Car Parking - 11,920 sq.m.
- Malls – 18,684 sq.m.
- Back of house – 19,575 sq.m.

5 The planning process assessed the planning merits of the Development and concluded, taking the development plan and all material considerations into account, that planning permission should be granted for application 12/0254/P.

6 The comprehensive nature of the redevelopment proposals involves a reconfiguration of part of the highway network within the application site in order that the Development may be carried out in accordance with the planning permission. It is therefore proposed that the area of highway known as Dingwall Avenue be stopped up.

7 The Council proposes to make a stopping up order pursuant to section 247(2A) of the Town and Country Planning Act 1990 (“the Act”) on the basis that it is satisfied that this is necessary in order to enable the Development to be carried out.

8 Objections were received to the proposed stopping up order which remain outstanding and ordinarily the Council is required to hold a local inquiry. However, in accordance with section 252 of the Act the Council has notified the Mayor of the objections and seeks his decision whether, in the special circumstances of the case, the holding of an inquiry is unnecessary.

9 The Mayor of London’s decision on this case will be made available on the GLA’s website [www.london.gov.uk](http://www.london.gov.uk).

## **The Proposed Stopping Up Order**

10 The area of highway to be stopped up consists of the complete width of Dingwall Avenue from the back edge of the footway along Wellesley Road, which is located immediately to the north of Electric House and runs westwards for a distance of 117 metres. Dingwall Avenue currently provides the primary access road to a multi-storey car park known as Allders Car Park. A map showing the exact area subject to the order is annexed to this report.

11 Dingwall Avenue requires stopping up as the western portion that extends towards the centre of the development site will be built upon to provide a new department store. While the eastern portion is also subject to the order, this will be retained as public highway to provide a new tree-lined public square referred to as Electric Square in the planning application documents, a new taxi rank and to retain access to existing properties that are not within the application boundary.

## **Consideration of the Need for a Local Inquiry**

12 Section 252(4)(b) of the Act provides that if an objection to a proposed stopping up is received from any local authority, National Park Authority or undertaker or public gas transporter, or from any other person appearing to the relevant council to be affected by the order and that objection is not withdrawn, the Council must notify the Mayor and ordinarily it must cause a local inquiry to be held.

13 The only exception to the usual requirement to hold a local inquiry arises under section 252(5A) of the Act whereby, provided that none of the outstanding objections is from a local authority or undertaker or transporter, the Mayor shall decide whether, in the special circumstances of the case, the holding of such an inquiry is unnecessary.

14 When the Council carried out the necessary consultation on the proposed stopping up order, it received nine letters of objection from/on behalf of Virgin Media, Stairview Estates, HSBC Bank PLC, National Car Parks Limited, the Whitgift Trust, Albermale Croydon LLP, Croydon Plaza Limited, Minerva (Finance) Limited, Minerva Stores Limited, Park Place Limited and Eagle Croydon Centre A Limited/Bouwfonds Croydon. With the exception of Virgin Media who has equipment located within the highway, all objections are raised by or on behalf of freeholders and leaseholders whose property interests will be directly affected by the stopping up of Dingwall Avenue. These objections are based on the loss of pedestrian and vehicular access to the effected properties and the impact on tenants being able to carry out contractual lease obligations regarding maintenance, the timing of when the order would take effect in relation to the planning permission or compulsory purchase order, resultant transport and financial impacts and the necessity of the stopping up order. None of the objectors is, for the purposes of s252 of the Act, a local authority, undertaker or transporter. Accordingly, the Mayor must decide whether the holding of a local inquiry is unnecessary.

15 Advice received from the Secretary of State when he was the order-making authority is that he would only find special circumstances if satisfied that no objections remained which could benefit from being heard at an inquiry, for example objections made on non-highway grounds or objections made in bad faith. If objections remained relating to traffic issues, the Secretary of State generally considered that these should be heard at an inquiry, although not so as to permit a re-run of the planning merits of the development.

16 Furthermore, guidance for Inspectors published by the Planning Inspectorate states that, when considering objections to a stopping up order, there is a need to weigh the disadvantages or loss likely to arise as a result of the stopping up, whether to members of the public generally or to persons whose properties adjoin or are near the existing highway, against the advantages to be conferred by the proposed order.

17 The outstanding objection made by Virgin Media, while not considered an objection to the principle of the proposed stopping up order, does raise concern regarding the protection of its apparatus and vehicular access to the area included in the draft stopping up order and is ostensibly a highway issue. The remaining objections made by those with leasehold and freehold property interests set out above raise issues regarding the potential disadvantages and losses as a direct result of the stopping up. Therefore, in accordance with the advice from the Secretary of State as set out above, it is considered that the outstanding objections would benefit from being heard at a local inquiry. On this basis, it is not considered that there are any special circumstances in this case that would justify dispensing with the holding of an inquiry.

## **Financial Considerations**

18 If the Mayor decides that a local inquiry is to be held he must notify the Council who shall cause a local Inquiry to be held. In this instance, the Act provides that the costs incurred by the Council in relation to the Inquiry and the costs of the parties involved shall be paid by such party to the Inquiry as the Council acting with the consent of the Mayor may direct.

## **Conclusion**

19 The planning process assessed the planning merits of the comprehensive redevelopment of the Whitgift Centre and land bounded by Poplar Walk, Wellesley Road, George Street and

North End and concluded, taking the development plan and all material considerations into account, that planning permission should be granted. The stopping up of the identified areas of highway is necessary to enable the Development to be carried out in accordance with the outline permission.

20 The objections to the proposed stopping up order relate to highways issues and would benefit from being heard at an inquiry. It is not considered that there are any special circumstances in this case that would justify dispensing with the holding of an inquiry.

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for further information, contact GLA Planning Unit (Development & Projects Team)

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