

AREA COMMITTEE EAST (ACE) DALES, MAPPERLEY AND ST ANN'S
19 NOVEMBER 2013

Title of paper:	REQUEST FOR AUTHORISATION TO STOP UP PUBLIC FOOTPATHS ADJACENT TO ROBIN HOOD CHASE, ST ANN'S	
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Relevant Council Plan Strategic Priority:

World Class Nottingham	
Work in Nottingham	X
Safer Nottingham	X
Neighbourhood Nottingham	X
Family Nottingham	
Healthy Nottingham	
Serving Nottingham Better	X

Summary of issues (including benefits to customers/service users):

This report seeks authority to make an order to stop up (close permanently) a number of public footpaths at Robin Hood Chase, St Ann's. The report additionally seeks authority to confirm that order (if unopposed) or (if opposed) authority to refer the order to the Secretary of State for confirmation.

Recommendation(s):

1	It is recommended that Area Committee authorise the Corporate Director for Development to make an order pursuant to section 257 of the Town and Country Planning Act 1990 to extinguish the footpaths shown on the plan at Appendix 1; and
	Authorise the Corporate Director for Development to confirm the order if unopposed; and
	Authorise the Corporate Director for Development to refer the order to the Secretary of State for confirmation if opposed

1 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 1.1 During November 2013 Wilmot Dixon Housing in partnership with ASRA Housing Group intend to apply for planning permission for the second phase of redevelopment adjacent to Robin Hood Chase. The proposed development consists of retail units, an older persons' supported living scheme, a public square and associated parking and landscaping. Following the receipt of planning consent, to enable the proposed development to be carried out, it is necessary to stop up the four areas of footpath shown on the plan at Appendix 1. The development and the footpaths to be stopped up are shown on the plan at Appendix 2.
- 1.2 It will be noted that the proposed development and the footpaths to be stopped up are adjacent to and north east of an area of Inclosure land set out under the Inclosure Act 1845. The Inclosure land has a public footpath running along it. The Inclosure land is shown on the plan at Appendix 2 and the "Inclosure footpath" is shown on the plan at Appendix 1. This area of Inclosure land and the "Inclosure footpath" are not affected by the proposed development or the stopping up of the footpaths.
- 1.3 The redevelopment proposals have been considered at a number of public consultation events. The proposals received positive support, and in particular residents highlighted the need to keep a sense of place and open space and to provide pedestrian access between the new Joint Service Centre located to the east of the development and Robin Hood Chase to the west. These comments have been incorporated into the design shown at Appendix 2.
- 1.4 Should Area Committee approve the recommendations in this report for the stopping up of the footpaths, full consultation will be carried out as part of the stopping up order process. Further details of the consultation process for the order, including dealing with objections, are set out under Legal Implications at Paragraph 5.4 below.

2 REASONS FOR RECOMMENDATIONS

It is recommended that the footpaths are stopped up under Section 257 of the Town and Country Planning Act 1990 on the grounds that it is necessary to enable the proposed development, if planning permission is granted, to be carried out. There is no other legislation available to the City Council to stop up the footpaths on these grounds.

3 OTHER OPTIONS CONSIDERED IN MAKING THE RECOMMENDATIONS

As no other legislation is available to the City Council to stop up the footpaths on the grounds of development alone, the only other option is not to recommend the making and confirmation of the order at all. Wilmot Dixon Housing would then either have to abandon these development proposals or, if it did proceed with the proposed development, would be liable to enforcement action being taken against it for unlawful obstruction of the footpaths.

4 FINANCIAL IMPLICATIONS

The cost of preparing and publishing the order, including officer's fees, is £5,000. This cost will be met through existing funding allocated to the scheme. There will be no financial implications for Area Committee. If it is necessary to refer the order to

the Secretary of State for its confirmation there will be additional costs to the Traffic and Safety Service Area and Legal Services which would have to be recharged to the funding allocated to the scheme. The principles of Value for Money have been incorporated into this report and will be incorporated into the preparation of the making and confirmation of the order.

5 RISK MANAGEMENT ISSUES

5.1 LEGAL IMPLICATIONS

The power to make a stopping up order in respect of a footpath under Section 257 of the Town and Country Planning Act 1990 is exercisable where the Council is satisfied that:-

- (a) An application for planning permission has been made under Part 3 of that Act; and
- (b) If the application were granted it would be necessary to authorise the stopping up or diversion of the public right of way to which the order relates in order to enable the development to be carried out.

5.2 The Planning Inspectorate (which would conduct any inquiry or hearing in the event of an objection to the order being received) has in published decisions established that the appropriate test to be applied in relation to necessity is whether the proposed development under the permission could be implemented if the right of way remained. The disadvantages or loss likely to arise as a result of the stopping up along with the advantages to be conferred by the stopping up would also be considered at an Inquiry. In the case of this particular development, the continued existence of the footpaths is incompatible with the proposed development. It is therefore considered that the exercise of the power to make the stopping up order is justified.

5.3 The approval of applications for footpath closures on grounds of development falls within the terms of reference of Area Committees in the Council's current Constitution. Should Area Committee be satisfied that it is necessary to stop up the footpaths, authorisation for the making, confirmation or referral of the order will also be required from the Corporate Director for Development.

5.4 In the event that Committee authorise the stopping up of the footpaths the following actions will be carried out as part of the 28 day statutory consultation period for the order. Following the making of the order, Notice of the order will be placed on site and published in a local newspaper setting out the effects of the order and inviting representations. A copy of the order will be sent to a number of statutory consultees including utility companies and relevant interest groups such as the Ramblers Association and Open Spaces Society. If objections are received to the order within the statutory period, which are not withdrawn, the City Council has no power to confirm it. If, having considered any objections received, the City Council wishes to proceed with the order, confirmation of an opposed order can only be obtained via the submission of the order along with any outstanding objections to the Secretary of State for determination.

5.5 CRIME AND DISORDER ACT IMPLICATIONS

The design of the proposed development will help reduce the opportunity for anti-social activities, which although incidental to the legal grounds for the making and confirmation of the order, will have a positive effect on the local community.

6 EQUALITY IMPACT ASSESSMENT

Has the equality impact been assessed?

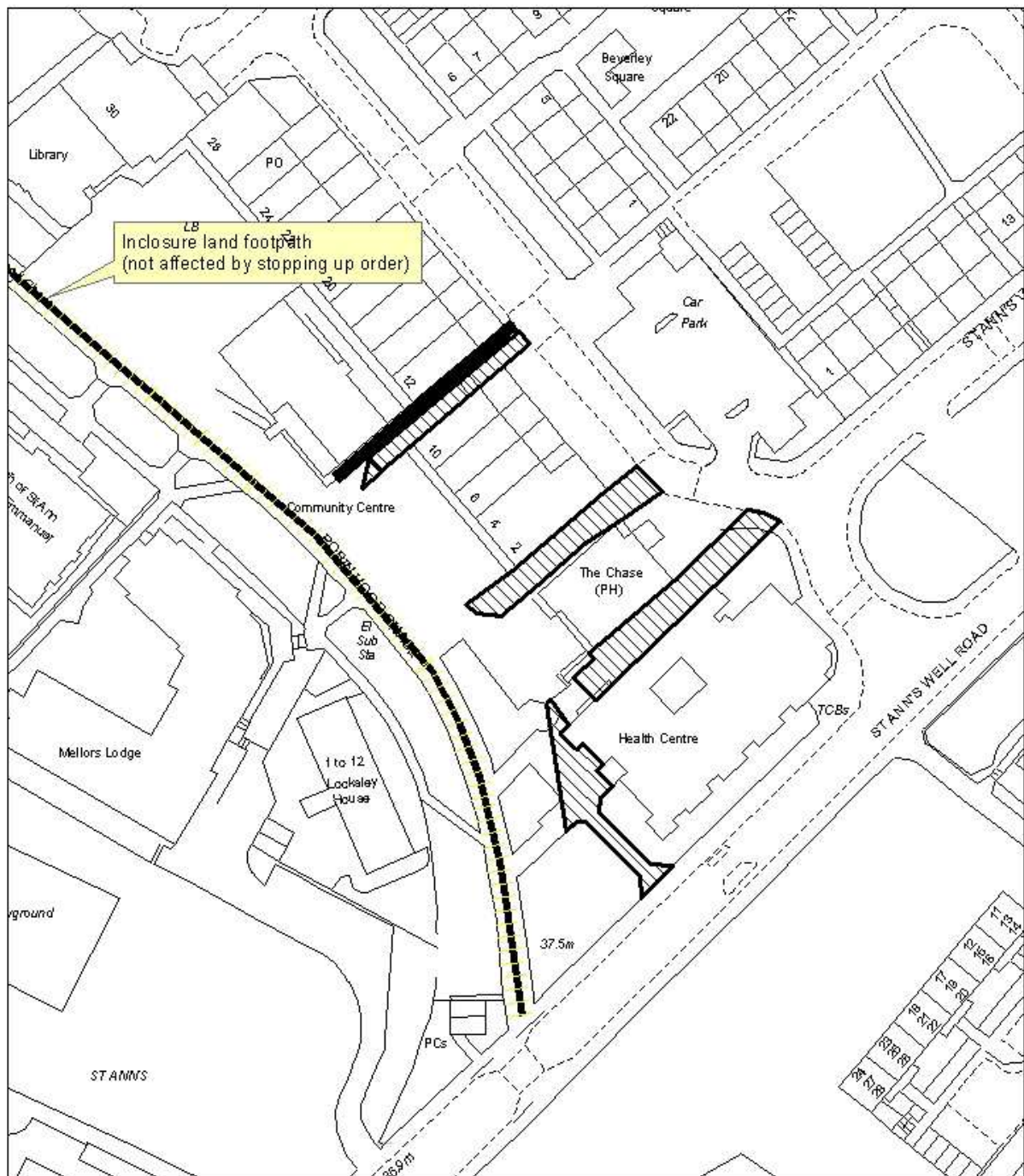
- | | |
|---|-------------------------------------|
| Not needed (report does not contain proposals or financial decisions) | <input type="checkbox"/> |
| No | <input checked="" type="checkbox"/> |
| Yes – Equality Impact Assessment attached | <input type="checkbox"/> |

As part of the development proposals an EIA will be prepared by the Regeneration team which will form part of a report during November 2013 to the Portfolio Holder for Resources and Regeneration. There is therefore no specific EIA for the stopping up order.

7 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT




7.1 Town and Country Planning Act 1990

APPENDIX 1: FOOTPATHS TO BE STOPPED UP



Proposed Stopping Up of Footpaths at Robin Hood Chase

Legend

-  areas of footpath to be stopped up
-  existing footpath to be improved (widened and resurfaced)
-  Inclosure Land Footpath (not affected by stopping up order)

Site produced on
October 2012
Site used for
Development
Scale 1:1,000



Development

Scale 1:1,000

APPENDIX 2: THE PROPOSED DEVELOPMENT, FOOTPATHS TO BE STOPPED UP AND THE INCLOSURE LAND NOT AFFECTED BY THE STOPPING UP

