

**AREA 8 COMMITTEE 24<sup>th</sup> JUNE 2015**

|  |  |                                     |
|--|--|-------------------------------------|
| <b>Title of paper:</b>   | <b>REQUEST FOR AUTHORISATION TO STOP UP PUBLIC FOOTPATHS AT BROADMARSH CENTRE</b>  |                                     |
| <b>Director(s)/Corporate Director(s)</b>   | David Bishop, Director for Development and Growth<br>Tele: 0115 8763758<br>Email: david.bishop@nottinghamcitygov.uk  | <b>Wards affected:</b><br>Bridge    |
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| <b>Date of consultation with Portfolio Holder(s) (if relevant)</b>   | Not relevant   |                                     |
| <b>Relevant Council Plan Strategic Priority:</b>   |  |                                     |
| Cutting unemployment by a quarter  |  | <input type="checkbox"/>            |
| Cut crime and anti-social behaviour  |  | <input checked="" type="checkbox"/> |
| Ensure more school leavers get a job, training or further education than any other City  |  | <input type="checkbox"/>            |
| Your neighbourhood as clean as the City Centre   |  | <input type="checkbox"/>            |
| Help keep your energy bills down   |  | <input type="checkbox"/>            |
| Good access to public transport  |  | <input checked="" type="checkbox"/> |
| Nottingham has a good mix of housing   |  | <input type="checkbox"/>            |
| Nottingham is a good place to do business, invest and create jobs  |  | <input checked="" type="checkbox"/> |
| Nottingham offers a wide range of leisure activities, parks and sporting events  |  | <input checked="" type="checkbox"/> |
| Support early intervention activities  |  | <input type="checkbox"/>            |
| Deliver effective, value for money services to our citizens  |  | <input checked="" type="checkbox"/> |
| <b>Summary of issues (including benefits to customers/service users):</b>  |  |                                     |
| <p>This report seeks approval for the making of an order to stop up (permanently close) two public footpaths at Broadmarsh Centre to enable development to be carried out. The order would also create a new public footpath as a replacement for one of the footpaths authorised to be stopped up. The new footpath would benefit citizens travelling north – south on foot between the City centre, Nottingham Station and The Meadows.</p> <p>The report additionally seeks approval for the confirmation of that order if unopposed or for the referral of the order to the Secretary of State for confirmation if opposed</p> |  |                                     |
| <b>Recommendation(s):</b>  |  |                                     |
| <b>1</b>   | Authorise the Corporate Director for Development and Growth to make a Stopping Up Order under Section 257 of the Town and Country Planning Act 1990.   |                                     |
| <b>2</b>   | Authorise the Corporate Director for Development and Growth to confirm the above order if unopposed; and   |                                     |
| <b>3</b>   | Authorise the Corporate Director for Development and Growth to refer the above order to the Secretary of State for confirmation if opposed   |                                     |

## **1 BACKGROUND**

- 1.1 On 7<sup>th</sup> April 2015 Broadmarsh Retail Partnership Ltd applied for planning permission under Planning Application Reference 15/00950/PFUL3 for the development at Broadmarsh Centre. The proposed development consists of part demolition, alteration and extension of shopping centre, including change of use and erection of new buildings to provide for shops, financial and professional services, restaurants and cafes, drinking establishments and hot food take-away, assembly and leisure. Demolition of the western pedestrian bridge and refurbishment of eastern bridge across Collin Street. Alterations to existing entrances on Collin Street, Lister Gate and Drury Walk and creation of new entrance on Middle Hill and other ancillary works and operations. Part of the proposed development is shown on the plan at Appendix 1.
- 1.2 In order to enable the proposed development to be carried out, it will be necessary to stop up (permanently close) the two footpaths shown on the plan at Appendix 2. One footpath (marked AB on the plan) runs from Lister Gate through Broadmarsh Centre to Collin Street and is 68 metres long and has a variable width of between 2.7 and 4.5 metres. The second footpath (marked BD on the plan) connects to footpath AB and runs from Broadmarsh Centre through the subway under Collin Street to Carrington Street and is 93.0 metres long and has a variable width of between 4.5 and 6.5 metres. The parts of the development in direct conflict with these footpaths, namely new retail units and service corridors (making it necessary to stop up the footpaths on development grounds) are shown on the plan at Appendix 3. Should the two footpaths be stopped up, a new footpath will be created as a replacement for those authorised to be stopped up. The new footpath would be 71.0 metres long and 5.0 metres wide, and its position is marked AC on the plan at Appendix 2 and 3.
- 1.4 Should Area Committee authorise the making and confirmation of the order, full consultation will be carried out as part of the stopping up process. Further details of the consultation process for the order, including dealing with objections, are set out under Legal Implications at Paragraph 5.1 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 this is necessary to enable the proposed development to be carried out, if planning permission were to be granted. 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. Broadmarsh Retail Partnership Ltd 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 Stopping Up Order is £3,000 and includes officer time and preparing and publishing the order, and will be funded by Broadmarsh Retail Partnership Ltd. There are no financial implications for Area Committee. There may be additional costs, some of which will have to be met by the City Council's relevant Services Area, namely Legal and Democratic Services and Traffic and Safety Services, if objections are made against the order and it is necessary to refer it to the Secretary of State for confirmation.

## **4 RISK MANAGEMENT ISSUES**

### **5.1 LEGAL IMPLICATIONS**

5.1.2 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.

5.1.3 The Planning Inspectorate (which would conduct any inquiry or hearing in the event of an objection to the order being received and not withdrawn) has in published Order decisions established that the appropriate test to be applied in relation to necessity and confirmation of an opposed Order, is whether the proposed development under the permission could be implemented if the right of way remained. In the case of this particular development the continued existence of the footpaths is incompatible with the proposed development, namely the new ground floor retail units and service corridor shown on the plan at Appendix 3.

5.1.4 Rights of Way Circular 1/09 (Guidance to Local Authorities) sets out the additional matters which should be taken into account when proposing to stop up rights of way on development grounds. The disadvantages or loss likely to arise as a result of the stopping up (or diversion) to members of the public generally or to persons whose properties adjoin or are near the existing right of way should be weighed against the advantages of the proposed order.

5.1.5 The new replacement footpath (marked AC on Appendix 1 and 2) will be 5.0 metres wide throughout, will terminate on the same highways (Lister Gate and Collin Street) but will be 3.0 metres longer than the footpath to be stopped up (marked AB on Appendix 2 and 3). The swept alignment and design of the new footpath AC takes account of the structural support pillars and new retail unit frontages. The new footpath AC will run through an open plan area (with no boundary enclosures) and footpath users will therefore have clear surveillance along and across the route. The new footpath will be an integral part of the development and will run wholly within the shopping centre and the entrance point on Collin Street will be aligned with Carrington Street, therefore making the new footpath AC more obvious and direct than footpath AB. When weighed against the design characteristics of footpath AB, it is considered that members of the public and persons whose properties adjoin or are near the footpath will not be disadvantaged by the stopping up.

- 5.1.6 The stopping up order will enable the redevelopment of Broadmarsh Centre which has been a long standing aspiration for Nottingham. It will attract investment, retailers and shoppers, (therefore supporting the city's position as a leading shopping and leisure destination) generate significant employment opportunities and economic growth potential. Between May 2014 and January 2015 an exhibition of the proposed development attracted 1000 responses from shoppers, retailers and leisure agents which informed the design process. During February 2015 a second exhibition received over 1600 responses, with 89% supporting the proposals and 79% stating that the proposed new footpath route through Broadmarsh (marked AC on the plan at Appendix 2 and 3) linking Collin Street to Lister Gate, would improve connections to the City Centre. The making of the stopping up order will therefore facilitate some notable advantages and has some support of the public.
- 5.1.7 It will also be necessary to stop up the pedestrian subway (marked BD on the plan at Appendix 2 and 3). Although subways offer the safest way to cross a road, they are often seen as potential places for crime and anti-social behaviour to be carried out. Additionally the capacity of the "build out" (the area of pavement where pedestrians wait at the pedestrian crossing) will be increased by widening to compensate for the anticipated increased use of the pedestrian crossing on Collin Street (opposite Carrington Street) should the subway be stopped up. The position of the pedestrian crossing is shown on the plan at Appendix 3. This will align the "build out" with the entrance to the new footpath marked C on the plan at Appendix 3. The long term aspiration is to fully pedestrianise Collin Street.
- 5.1.8 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 and Growth.
- 5.1.9 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. On making 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 the Nottingham Local Access Forum. If objections are received to the order within the statutory period, and 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 to the Secretary of State for determination. This determination may involve the holding of a public inquiry. The order will not be effective unless or until it is confirmed. An unresolved objection will therefore lead at least to a delay in the commencement date for the proposed development.

## 5.2 CRIME AND DISORDER ACT IMPLICATIONS

As set out under paragraph 5.1.7 above, in order to enable the development to be carried out, it will be necessary to stop up the pedestrian subway (marked BD on the plan at Appendix 2 and 3). Subways are often seen as potential places for crime and anti-social behaviour to be carried out. Although incidental to the making and confirmation of the stopping up order, closure of the subway will therefore help reduce the opportunity for crime and anti-social behaviour.

## **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"/>            |

There is no EIA for the Stopping Up Order. As part of the proposed development, a Design and Access Statement has been prepared for the planning application. The design of the proposed new replacement footpath (marked AC on the plan at Appendix 2 and 3) will be compliant with guidelines from the Department for Transport (inclusive mobility) and will be accessible by all citizens.

## **7** LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

None

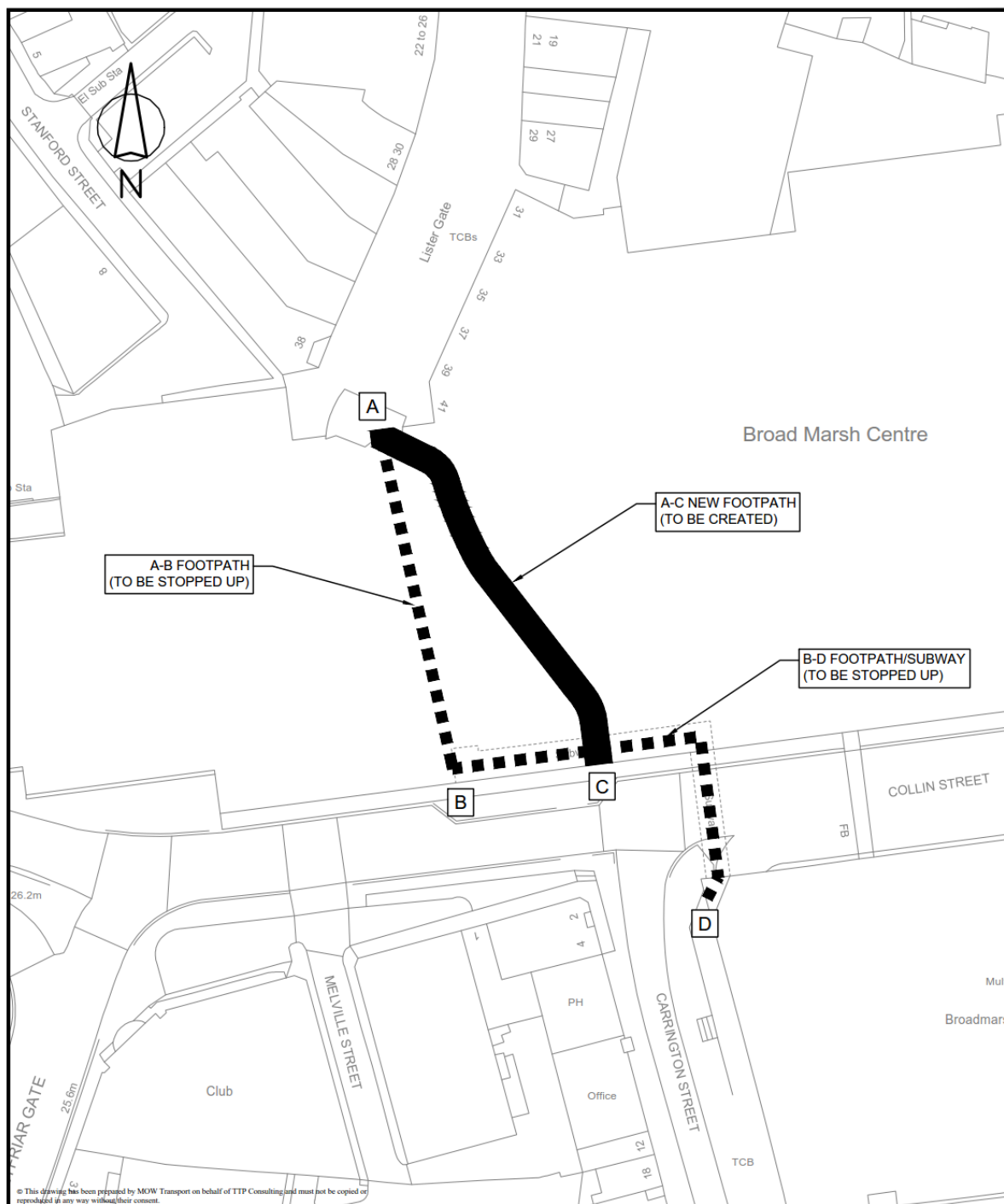
## **8** PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

- 8.1 Town and Country Planning Act 1990
- 8.2 Planning Application Reference 15/00950/PFUL3
- 8.3 Planning Inspectorate Order Decision  
[www.planningportal.gov.uk/uploads/pins/row/documents/fps\\_q3060\\_5\\_3.pdf](http://www.planningportal.gov.uk/uploads/pins/row/documents/fps_q3060_5_3.pdf)
- 8.4 Rights of Way Circular 1/09 Guidance for Local Authorities, Version 2, Department for Environment, Food and Rural Affairs October 2009  
[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69304/pb13553-rowcircular1-09-091103.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69304/pb13553-rowcircular1-09-091103.pdf)

## **APPENDIX 1: PART OF THE PROPOSED DEVELOPMENT AT BROADMARSH CENTRE**



## APPENDIX 2: FOOTPATHS TO BE STOPPED UP AND NEW REPLACEMENT FOOTPATH TO BE CREATED



### Stopping Up of Footpaths and Creation of New Footpath at Broadmarsh Centre

#### KEY:-

- ■ ■ ■ ■ A-B FOOTPATH (TO BE STOPPED UP)
- ■ ■ ■ ■ B-D FOOTPATH VIA SUBWAY (TO BE STOPPED UP)
- A-C NEW REPLACEMENT FOOTPATH (TO BE CREATED)



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| Drawn |            | Checked |            | Scale         | Drawing Number    | Rev. |
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## APPENDIX 3: PARTS OF THE DEVELOPMENT AFFECTING THE FOOTPATHS

