

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:

2582

Author:

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Department:

Development

Contact:

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Subject:

Stopping up a footpath at Conway Close, St Anns

Total Value:

£3,000 (Type: Capital)

Decision Being Taken:

That the Head of Neighbourhood Management in exercise of Area Committee executive powers under delegation 82(b) authorises the Traffic Manager, Development and Growth :

1. To make an order under Section 257 of the Town and Country Planning Act 1990 to stop up (permanently close) the footpath at Conway Close shown on the plan at Appendix 1 ; and
2. To confirm if unopposed the above stopping up order, or if the order is opposed, to submit the same to the Secretary of State for determination.

Reasons for the Decision(s)

1. Under the "Building a Better Nottingham" programme, Nottingham City Council in partnership with Nottingham City Homes proposes to build new Council housing at a site adjacent to Conway Close and Bangor Walk, St Ann's. The site was previously occupied by a nursery and private school which were demolished and in 2015 the Council acquired the land for development purposes. On 3rd August 2016 planning permission was granted under planning reference 16/00656/NFUL3 for 10 bungalows, communal unit and associated works. The proposed development is shown on the plan at Appendix 2.
2. Since the location of one of the residential units coincides with the line of the footpath between points AB on the plan at Appendix 1, it is necessary to stop up that footpath if the development is to be carried out. It should be noted that the footpath marked CD on the same plan will be retained and improved as part of the development. Footpath CD links the southern part of Bangor Walk to the southern part of Conway Close, so preserving a through route around the southern boundary of the new development. By way of background, it should also be noted that the footpath CE which adjoins footpath AB and is shown cross-hatched on the plan at Appendix 1 had already been stopped up in 2003 as part of the redevelopment of Bangor Walk and Egerton Walk under the St Ann's Phase 10 scheme.
3. The making of a stopping up order involves a statutory process in which the order is published in a local newspaper and site notices are displayed. There is a period for objections to be submitted, and if any objections are submitted but not withdrawn, the Council has no power to confirm the order. The opposed order can only be confirmed by the Secretary of State which may involve the holding of a public inquiry. An order is not effective unless and until it is confirmed.
4. The power to make a stopping up order under section 257 of the Town and Country Planning Act 1990 rests with the Corporate Director for Development and Growth under delegation 203 of the Council's Constitution, and that power was sub-delegated to the Traffic Manager, Development and Growth on 23rd October 2014.
5. A parallel power to approve the making of an application for footpath closure on grounds of development is contained in the terms of reference of Area Committee. Under delegation 82(b) certain officers, including the decision-maker in this particular matter, may exercise executive powers in place of Area Committee where a decision is required before the next meeting of the Area Committee, subject to consultation with the Committee's Chair and to report for information to the next available Area Committee meeting.
6. Site preparation is provisionally scheduled to start at the end of August 2016 and the development due to be completed June 2017. To align the project management timescales with the development at Conway Close, a decision on the stopping up order is required ahead of the next meeting of Area Committee (ACE) Dales, Mapperley, St. Ann's which is due to take place on 13th September 2016.

Briefing notes documents:

Appendix 1 - plan showing footpaths already stopped up, to be stopped up and to be improved.pdf, Appendix 2 - plan showing the development.pdf

Other Options Considered:

As no other legislation is available to the City Council to stop up the footpath at Conway Close on the grounds of development alone, the only other option is to not proceed with the order at all. The developer would then either have to abandon these development proposals or, if it did not proceed with the proposed development, could only do so by unlawfully obstructing the footpath.

Background Papers:

Published Works:

1) Delegated Decision 1985
2) Executive Board 20/10/15 : New Build Tender Awards for sites in the Building a Better Nottingham - Council housing programme

Affected Wards:

St Ann's

Colleague / Councillor Interests:

Consultations:

Date: 10/08/2016
Ward Councillors: Jon Collins, David Liversidge
The ward Councillors were consulted by Councillor Ayoola, the Chair of Area Committee (ACE) Dales, Mapperley, St. Ann's. They support the decision.

Date: 10/08/2016
Area Committees: Area 6: St Anns, Dales and Mapperley (from May 2012)
As this decision is being taken under Scheme of Delegation 82(b), Councillor Ayoola, the Chair of Area Committee (ACE) Dales, Mapperley, St. Ann's, was consulted. He supports the decision.

Those not consulted are not directly affected by the decision.

Crime and Disorder Implications:

This decision has no crime and disorder implications.

Equality:

EIA not required. Reasons: Because the decision to be taken does not involve a new or changing policy there is no EIA. The main pedestrian route linking Conway Close and Bangor Walk will be retained and improved and will be fully accessible by all citizens.

Decision Type:

Officer

Executive Decision?

Yes

Scheme of Delegation Reference Number or Other Source of Delegation:

82(b)

Subject to Call In:

No
The call-in procedure does not apply to the decision because the value of the decision is below the call in threshold.

Advice Sought:

Legal, Finance

Legal Advice:

1. The decision seeks approval to the exercise by the Council of its discretionary power under section 257 of the Town and Country Planning Act 1990 to make an order extinguishing public highway rights over a footpath in the development site. This legislation allows the Council to make such an order if it is satisfied that it is necessary to enable the development authorised by a planning permission to be carried out.

2. Planning permission for the development under reference 16/00656/NFUL3 was granted on 3 August 2016. It is considered that the statutory test is met, since the authorised development cannot be carried out unless the footpath is stopped up.

3. As outlined in paragraph 3 of the "Reasons for the Decision" part of this report, once an order is made, a statutory process must be followed which allows for the receipt of objections. If no objections to the order are received, the order can be confirmed by the Council and will be effective. However, any objection received which is not withdrawn will deprive the Council of the power to confirm its own order so Resolution 2 of the "Decision Being Taken" is included to enable the Council to progress towards seeking confirmation in this eventuality.

4. It is considered that the decision is within Area Committee's terms of reference in the Council's current Constitution. The exercise of the Executive power under delegation 82(b) by the decision maker is considered to be justified in the light of the circumstances set out at paragraphs 5 and 6 of the "Reasons for the Decision" part of this report. It is noted that the requirement of consultation with the Area Committee Chair has been complied with, and that a report for information will be taken to the next available Area Committee meeting.

Advice provided by Judith Irwin (Senior Solicitor) on 24/08/2016.

Finance Advice:

This decision is to apply to the Department for Transport to close some adopted highway and footpaths in order to enable the development new Council housing development sites. The cost of the decision will be £3,000 to cover the application cost. This will be met from the funding allocated to the capital scheme as approved by Executive Board on 20 October 2015.

Advice provided by Ian Greatorex (Finance Project Manager) on 15/08/2016.

Signatures:

Heidi (Head of Neighbourhood Management)

SIGNED and Dated: 30/08/2016