

# MAYOR OF LONDON

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**Our ref:** D&P/4503/COS/01  
**Your ref:** 161362FUL  
**Date:** 12 February 2018

Dear Mr Della,

**Town & Country Planning Act 1990 (as amended); Greater London Authority  
Act 1999 & 2007  
Royal Free Access Road  
Stopping Up Order Referral**

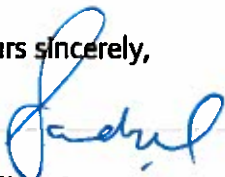
I refer to your letter of 27 November 2017 requesting that I make a decision under section 252 of the above Act as to whether, in the special circumstances of the case, it is necessary to hold an inquiry into the proposed stopping up of the existing highway at the Royal Free Access Road and footpath (land adjacent to the Royal Free Access Road) described within your letter.

On 12 February 2018, I considered a report on the proposal (reference D&P/4503/01). A copy of the report is attached in full.

Having considered the report, I have concluded that the stopping up order will be in accordance with the statutory requirements under Section 247 of the Act in that the Order is necessary to enable development to be carried out in accordance with planning permission granted under Part III of the Act.

Under Section 252(5A) of the Town and Country Planning Act 1990, I have decided, having regard to the special circumstances of the case, that it is unnecessary to hold an inquiry. This letter is to notify Camden Council of this decision.

Yours sincerely,



**Sadiq Khan**  
Mayor of London

cc Andrew Dismore, London Assembly Constituency Member  
Nicky Gavron, Chair of London Assembly Planning Committee  
National Planning Casework Unit, DCLG  
Lucinda Turner, TfL

12 February 2018

**Royal Free Access Road**

in the London Borough of Camden

planning application no. 161362FUL

**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**

Stopping Up Order: Royal Free Access Road and Hampstead Green (footpath).

**Recommendation**

That Camden Council be advised that there are special circumstances in this case so that the holding of an inquiry is not necessary.

**Context**

1 On 25 April 2017 Camden Council (“the Council”) granted planning permission 2014/6845/P for the: *“Demolition of existing carpark and ancillary structures and erection of new 7 storey building, located on Heath Strange Garden site facing west to Hampstead Green footpath and Rosslyn Hill, containing laboratory/research space for Institute for Immunity and Transplantation, a patient hotel, Royal Free Charity offices plus a replacement carpark of 58 spaces, replacement memorial garden, plant and landscaping, all ancillary to Royal Free Hospital”*. Further, minor amendments to this application were approved on 15 August 2017 through permission 2017/4229/P to allow an increased width of public footpath adjoining Hampstead Green, redesign of landscaped terracing and staircases adjoining this, redesign of north courtyard landscaping and addition of one disabled car parking space.

2 The applicant for the planning permission was the Royal Free Charity Developments Ltd. The site is located south of Pond Street and east of Rosslyn Hill in the London Borough of Camden. The area to be stopped up comprises the Royal Access Road from its junction at Rowland Hill Street to its junction with the access road leading to the lower car park entrance, an area 8.62 metres wide and 108.26 metres long (equivalent to 880 sq.m) and an area of footway totalling 38.72 sq.m along the Hampstead Green footpath which runs adjacent to the Royal Free Access Road.

3 The planning process assessed the planning merits of the development described at paragraph 1 and concluded, taking the development plan and all material considerations into account, that planning permission should be granted for application 2014/6845/P. As set out in the Council’s committee report, the application involves the loss of the link road between Pond Street and Rowland Hill and potential diversion or temporary stopping up of the pathway, in order to enable the development to take place. Notwithstanding this application 2017/4229/P sought minor amendments to this approved plan to allow an increased width of public footpath adjoining Hampstead Green and redesign of landscaped terracing and staircases adjoining this providing for a net increase to the public footway.

4 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.

5 Eighty-three objections to the proposed stopping up order were received, 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.

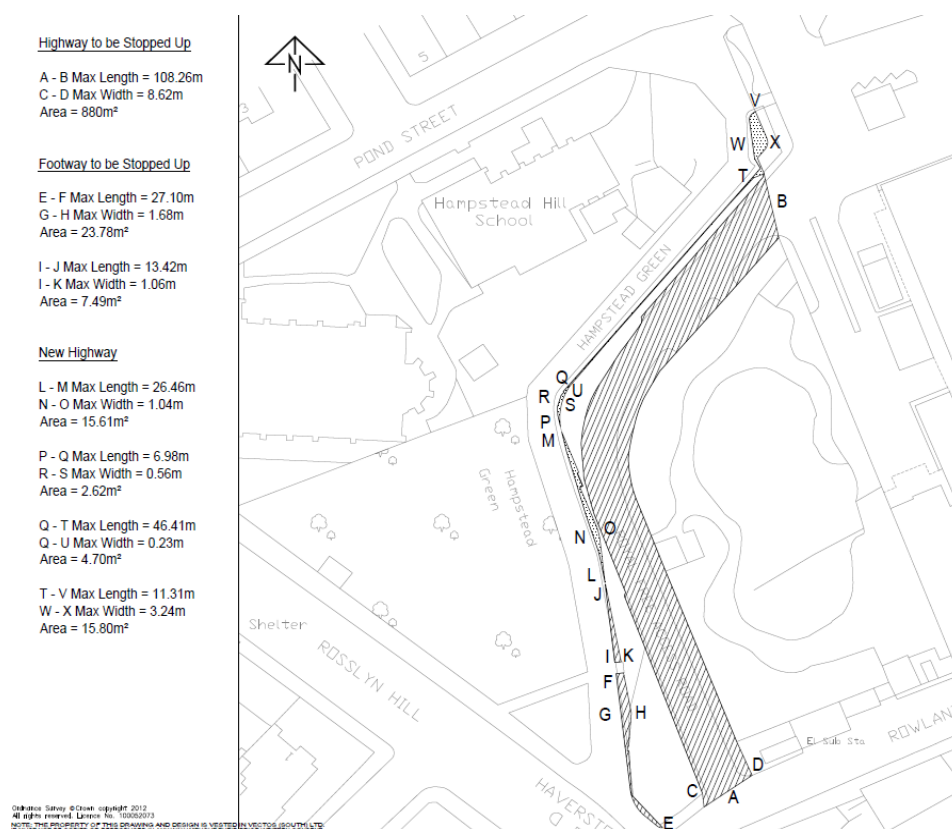
6 The Mayor of London’s decision on this case will be made available on the GLA’s website [www.london.gov.uk](http://www.london.gov.uk).

## The proposed Stopping Up Order

7 As set out above, the areas to be stopped up, described in the Council’s stopping up proposal is hatched in Figure 1 below and encompasses:

- The Royal Free Access Road from the junction with Rowlands Hill Street to the junction with the access road leading to the lower car park entrance, an area of 880 sq.m. Figure 1 below demonstrates that this covers the area between points A-B in length and C-D in width.
- A portion of the pathway shown on figure one below which measured between points E-F has a maximum length of 27.10 metres with a width between points G-H of 1.68 metres providing an area to be removed of 23.78 sq.m.
- A portion of the pathway shown on figure one below which measured between points I-J has a maximum length of 13.42 metres with a width between points L-K of 1.06 metres providing an area to be removed of 7.49 sq.m.

Figure 1: Areas to be stopped up.



## Consideration of the need for a local Inquiry

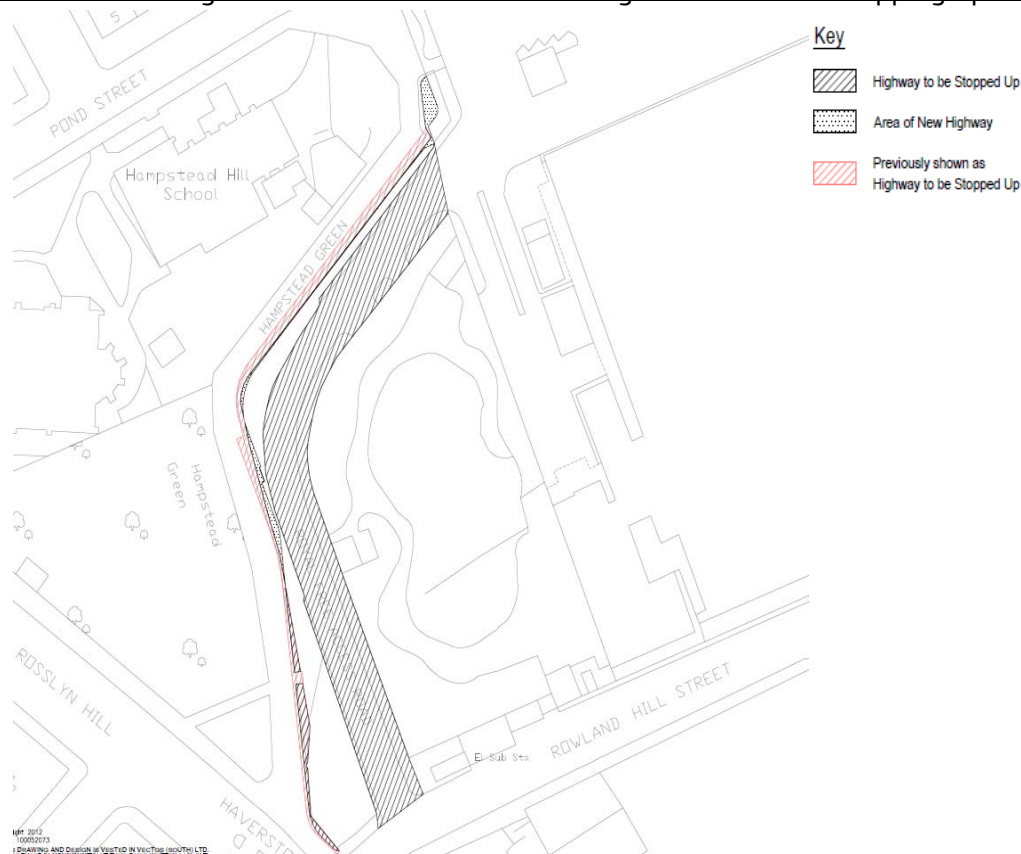
8 Section 252(4) (b) of the Act provides that if an objection to a proposed stopping up is received from any local authority, National Park Authority or undertaker or public gas transporter, or from any other person appearing to the relevant Council to be affected by the order and that objection is not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

9 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.

10 When the Council carried out the necessary consultation required under section 247 of the Act on 26 January 2017, it received correspondence from 88 objectors. Two letters were received from Thames Water but were subsequently withdrawn. In response to the objections the applicant amended the scheme under application reference: 2017/4229/P and notified the objectors of these amendments via a letter on 22 September 2017. Subsequently 3 of the objections were withdrawn from Hampstead Hill School, St Stephens Church Trust and The Hampstead Green Neighbourhood Group (represented in part by Birketts Solicitors). On 4 December 2017 the Council notified the Mayor of the outstanding objections. The remaining 83 objectors do not contain, 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. The remaining grounds for objection are summarised as follows:

- Public safety (particularly at night),
- Effect on green space,
- Surrounding pedestrian routes being busy/increase in crowding,
- Reduction in amenity by virtue of pathway narrowing,
- Effect on surrounding heritage assets and neighbouring conservation area,
- Removal of benches,
- Access for those with reduced mobility/prams who find it difficult to walk up the incline of Pond Street,
- The pathway provides a route of reduced pollution in comparison to alternative routes,
- Additional pollution and congestion on Pond Street,
- Use by cyclists,
- A lack of clarity in planning drawings/consultation,
- Increase in disturbance and effect to Hampstead Hill School,
- Criticism of external landscaping,
- Further investigation required,
- Utility plant affected,
- Against policy,
- Royal Free Access Road provides an alternative at times of congestion on surrounding roads,
- Not required to realise the development,
- The Town and Country Planning Act is not a suitable mechanism to stop up the highway and the Highways Act should be used,
- Hampstead Green route is already narrow,
- Stopping up is extreme.

Figure 2: Plan showing the differences between the original and revised stopping up order



12 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.

13 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.

14 The objections have been acknowledged by the Council, and the applicant has written to the objectors to address their concerns raised that are related the Stopping up Order in their representations. However, the objections have not been withdrawn and remain outstanding.

15 A summary of the themes of the representations received has been provided above. The majority of grounds for objection relate to the impact of the parent planning permission and are made on non-highway grounds. As set out in paragraph 3 above, the principle of the mixed-use redevelopment of the site and its impacts were assessed as part of the planning process and these aspects of the objection are therefore not considered relevant for the purposes of this assessment as they would amount to a re-run of the planning merits of the development.

16 In addressing the representations surrounding a lack of consultation the applicant outlined in their letter to the objectors that the process of notifying the public and addressing any objections raised had been followed. It further highlighted that the proposed stopping up

had formed a consideration within the original planning application's assessment and was contained within the publicly accessible committee report presented to committee in 2015. The applicant reassured the objectors all relevant procedures regarding the advertisement of the scheme had been adhered to.

17 The stopping up of the highway and footpath within the development was considered as part of the planning application process for the parent application and the associated issues were addressed within the Council's report. Notwithstanding the above, the applicant has since submitted and had approved, plans to amend the original application to reduce the impact of the development on the footpath originally proposed to be stopped up. The footpath, as a result of the most recent proposals will see a net increase of 7.45 sq.m. The amendments from the draft stopping up order and the proposed are available at Figure 2. This demonstrates the area to be stopped up has been reduced with many areas widened and improved in response to the comments received. As such the concerns raised in relation to the footpath stopping up are considered to have been satisfactorily addressed by the revisions to the proposed stopping up.

18 The planning process has already assessed the planning merits of the proposed scheme, weighing up the advantages and disadvantages of the permission and concluded, taking the development plan and all material considerations into account that planning permission should be granted in April 2017. If the Mayor were to require an inquiry to be held on the basis of these objections, it would be revisiting the same issues that have already been discussed at the planning application stage where it was not deemed to be of sufficient weight to warrant a refusal of the planning application.

19 It is therefore considered that the concerns raised by the objectors to the stopping up of the highway and footway have previously been addressed as part of the planning process and subsequently through revisions to the stopping up order.

## **Financial Considerations**

20 There are no financial considerations at this stage.

## **Conclusion**

21 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 in April 2017. The stopping up of the Royal Free Access Road and Hampstead Green footpath is necessary to enable the development to be carried out and is therefore in accordance with the requirements under section 247 of the Act. Further to the above, revisions have been made which address the outstanding objections.

22 Therefore, if an inquiry is heard it would be revisiting: issues which have already been considered at the planning application stage (amounting to a re-run of the planning merits, and the related need to stop up the highway and footpath); and, issues which have been addressed through the subsequent amendments to this permission.

23 Accordingly, in the special circumstances of this case, the holding of an inquiry is unnecessary.

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

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