



OFFICER REPORT TO LOCAL COMMITTEE (TANDRIDGE)

LADYBIRD PUBLIC HOUSE SITE, GUARDS AVENUE, CATERHAM PROPOSED STOPPING UP OF A SECTION OF THE PUBLIC HIGHWAY

2 OCTOBER 2009

KEY ISSUE

To approve an application to the Magistrate's Court to stop-up a small piece of public highway adjoining the Ladybird Pub Site, Guards Avenue, Caterham, under Section 116 of the Highways Act (1980).

SUMMARY

This report recommends that the Local Committee approve an application to the Magistrate's Court to stop-up the area of land denoted green on drawing MH00090 SK07 in Annex 1 and therefore have its highway rights removed. The proposal includes the provision of a new soakaway, repositioned within the extent of the existing public highway. Once the new soakaway has been constructed the area of land, which is to be stopped up, will become 'unnecessary' with no public utility, passage or safety requirements. As such, the land is considered to be surplus to requirements.

OFFICER RECOMMENDATIONS

The Local Committee (Tandridge) is asked to agree that: -

- i) Authority be given to submit an application to the Magistrate's Court to stop-up the area of land denoted green on the drawing in Annex 1.

1 INTRODUCTION AND BACKGROUND

- 1.1 The land to be stopped up is in Guards Avenue, part of the former Caterham Barracks site. The site was redeveloped by Linden Homes, who entered into an Agreement under Section 38 of the Highways Act 1980 to dedicate land for new highways. The Agreement is dated 14th January 2000. There was a later Deed varying the extent of the dedication and adoption, but this does not materially affect the land under question.
- 1.2 The Section 38 plan (which is attached to this report) shows a Sales Centre between two of the new roads. Once the houses were sold, Linden Homes did not need the sales centre and planning permission was granted in 2005 for the building on this site to be converted to a restaurant. The restaurant was destroyed by fire in 2006 and the site cleared.
- 1.3 Marston's brought the land from Linden Homes and submitted a Town Planning application, ref No TA/2007/0775 for the erection of a public house/restaurant with ancillary parking, access arrangements and landscaping. Tandridge District Council refused Planning Permission on the 27 July 2007. However, this was granted on appeal on the 18 April 2008.
- 1.4 It was not until building work commenced this summer that Marston's discovered that they were building over a soakaway in the adopted highway. They stopped work whilst matters were discussed with Surrey's highway engineers. As a temporary measure the drain has been partly bridged over.
- 1.5 The stopping-up plan in Annex 1 shows the soakaway and inspection chamber on land coloured green. The green area is due to form part of the pub's patio. This arrangement would be unsatisfactory if left unresolved, as Surrey County Council engineers would have to gain access to the pub's patio to maintain the highway drainage system.

2 ANALYSIS

- 2.1 The proposed solution is for Marston's to extend the existing highway sewer westwards along the broken blue line, to a new soakaway on existing highway land, as shown on the stopping-up plan. The intention is for the blue land to remain public highway, but the green land to be stopped up and therefore have its highway rights removed.
- 2.2 Repositioning the soakaway in this way ensures that the soakaway is more conveniently located on highway land. There is also an advantage to the County Council as the highway authority, as it would have a new soakaway, designed to modern standards, about 10 years newer than the existing one.
- 2.3 Currently the only public utility of the land coloured green is the existing soakaway. Once the new soakaway has been provided the green land will

no longer have any public utility. There is no passage or safety requirement associated with this land. The highway authority therefore considers that it will become surplus to requirements, and could be stopped-up. This would make the surface available to Marston's, who already own the sub-soil.

- 2.4 There are two ways to apply to stop up the public highway. One is to the Secretary of State under section 247 of the Town and Country Planning Act 1990. The other is to the Magistrate's Court under Section 116 of the Highways Act 1980. Using the first method, the developers would apply to the Secretary of State, who would in turn consult the highway authority. Although this is the normally preferred method, both the developers and Surrey County Council have contacted the Secretary's office and been advised that it is too late to utilise this procedure. This is due to developers having already entered onto the highway land and commenced the development. The developers have therefore asked Surrey County Council to apply to the Magistrate's Court on their behalf, as the highway authority must make the application.

3 CONSULTATIONS

- 3.1 The planning application has been through the necessary consultation procedure. Surrey's engineers, who have agreed the new technical specification, have considered the drainage alterations. The former landowners and the local residents group are aware of the situation and no objection has been raised.

4 FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

- 4.1 The Developer will meet the full cost of providing the new soakaway and the stopping up order. This will include the advertising costs and the associated fees in preparing the application to the Magistrate's Court.

5 EQUALITIES AND DIVERSITY IMPLICATIONS

- 5.1 There are no perceived equalities and diversity implications.

6 CRIME AND DISORDER IMPLICATIONS

- 6.1 There are no perceived crime and disorder implications associated with this scheme.

7 CONCLUSION AND RECOMMENDATIONS

- 7.1 This report recommends that the Local Committee authorise the application to the Magistrate's Court.

8 REASONS FOR RECOMMENDATIONS

- 8.1 Once the new soakaway has been constructed in accordance with the stopping-up plan there will be no utility, passage or safety requirements for the land to remain as public highway. The said land will therefore become surplus to requirements.

9 WHAT HAPPENS NEXT

After carrying out statutory consultations Surrey County Council will apply to the Magistrate's Court to stop-up that part of the public highway once the new drainage system is properly installed. Surrey's engineers will agree all the details as part of the procedure involved in Section 116.

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BACKGROUND PAPERS:	Stopping-up plan – Annex 1 Existing Section 38 plan – Annex 2
