

# **ENGINEERING SERVICE**

**TOWN & COUNTRY PLANNING ACT 1990  
Section 247**

**STOPPING UP OF THE PUBLIC HIGHWAY**

London Borough of Camden Reference: **ES/I&M/ED/1/22/S247**

**Stopping Up Of Public Highway At The Side Of  
73-75 Avenue Road London NW8 (On Queen's Grove)**

**PROOF OF EVIDENCE OF**

**ELLIOTT DELLA**

**On behalf of the London Borough of Camden**

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## 1. THE AUTHOR

- 1.1 I am Elliott Della. I am a Senior Engineer employed in the Engineering Service, Environment Department by the London Borough of Camden. I have worked for the Engineering Service since 2001. I have previous experience in Town Planning, Transport Planning and Highways with various Local Authorities and Passenger Transport Executives since 1998. I have a BA (Hons) and a post-graduate diploma in Planning, specialising in transport, from Oxford Brookes University. My duties involve processing stopping up applications, highway adoptions, giving highway views on planning applications and implementing highway schemes.

## 2 OVERVIEW

- 2.1 My proof of evidence details the process undertaken to progress stopping up of part of the public highway on Queen's Grove at the side of 73-75 Avenue Road NW8, in accordance with Section 247 of the Town and Country Planning Act 1990.
- 2.2 My proof of evidence also addressed the objections that have been raised into the stopping up.

## 3 The Proposal

- 3.1 The proposed stopping up order is required in order to enable development to be carried out at 73-75 Avenue Road in accordance with planning permission granted by the London Borough of Camden on 3 March 2021 under reference 2020/3796/P, for:

*Replacement of all boundary walls including side boundaries with 77 Avenue Road and 38 Queen's Grove (following demolition of existing walls) and erection of generator and sub-station to rear garden and bin store to front garden (both adjoining Queen's Grove).*

- 3.2 This permission approved the moving of the boundary wall on Queen's Grove further into the existing footway by 0.5 metres to safeguard existing mature trees with tree preservation orders and their roots.

## 4. Stopping Up Process

- 4.1 The Highway Authority and Planning Authority within the Council are to an extent separate bodies. Planning permission does not automatically confer Highway approval for a scheme that has an impact on the public highway. As such, a separate application was required from the developer for the stopping up. This

was received by the Council on 17 November 2021.

- 4.2 The area of the highway proposed to be stopped up is shown on the plan accompanying the stopping up application (page 70 of the Council's Evidence Bundle)
- 4.3 The legal process for stopping up highway under s247 of the Town and Country Planning Act 1990 is set out in Section 252 of that Act and within Greater London operates as follows:
1. The notice of the Council's intention to stop up the Public Highway is advertised in at least one local paper and the London Gazette – In this case notices were advertised in the Camden New Journal and the London Gazette on 28 July 2022 (page 134-137 of the Council's Evidence Bundle)
  2. Copies of the notice and a plan are sent to all the Statutory Undertakers and emergency services – This was sent on 25 July 2022 and also sent to neighbouring properties (page 129-133 of the Council's Evidence Bundle)
  3. A copy of the notice is erected on site - This was done prior to the notices being advertised on 28 July 2022.
  4. An official period for receipt of objections runs for 28 days from the date of advertising.
  5. During this period, copies of the notice, the draft Stopping Up Order and the plan are held for public inspection at the Council's offices - In this case they were also uploaded onto the Council's website.
  6. If no objections are received the Council may progress making the Stopping Up Order.
  7. If objections are received they are considered and, if appropriate, the objectors may be contacted to discuss withdrawal of their objection, which may be done by the applicant or the Council.
  8. If all objections are withdrawn the Council may progress the making of the Stopping Up Order.
  9. If any objections remain a Public Inquiry would be required, held by the Council with an Inspector provided by the Planning Inspectorate. In Greater London, however, the Mayor of London has the power to overrule the need for a Public Inquiry if he is satisfied that special circumstances apply. Outstanding objections are therefore submitted to the Greater London Authority (GLA).
  10. When submitting the objections, the Council provides the GLA with its view on whether they should be overruled or not – The council's letters to the GLA are at pages 111-116 of the Council's Evidence Bundle.
  11. Objections from Statutory Undertakers would automatically require a Public Inquiry if they are not withdrawn – In this case objections were received from Thames Water but these were subsequently withdrawn (page 81-90 of the Council's Bundle).

12. If the Mayor decides that special circumstances apply and that a Public Inquiry is not required, then the Council may proceed with making the Stopping Up Order.
13. If The Mayor decides no special circumstances apply, the Council may refer the objections to a Public Inquiry - In this case the Mayor ultimately confirmed no special circumstances apply in its report of 3 August 2023 (page 123-128 of the Council's Evidence Bundle).
14. The Council has arranged for a Public Inquiry, sending notice to all known parties on 21 September 2024 (page 138 of the Council's Evidence Bundle).
15. Notices of the Inquiry were erected on Site on 21 October 2024 (notice on page 142 and photos on page 80 of the Council's Evidence Bundle).
16. Notices of the Inquiry were published in the Camden New Journal on 24 October 2024 and will be published in the London Gazette on 30 October 2024.
17. The Inspector's report on the Inquiry recommends whether the Stopping Up Order should be made or not.
18. The Council then makes a decision on whether to proceed with the Stopping Up Order based on the Inspector's recommendations either without modification or subject to such modification as it thinks fit.
19. If the Council's decision is to proceed with making the Stopping Up Order, the decision is referred to the GLA for its consent.
20. If the GLA consents, the Council may proceed with making the Stopping Up Order.

## **5. Further Details on the Stopping Up Process and My Involvement**

- 5.1 As mentioned above, the owner of 73-75 Avenue Road applied to the Council for a stopping up order on 17 November 2021.
- 5.2 The Councils' internal process includes internally consulting departments and writing a report. Unfortunately, due to officer illness the council report authorising proceeding with formal consultation on the draft stopping up order was not approved until 20 July 2022.
- 5.3 Following internal approval, I arranged for notices of the draft stopping up order to be advertised on 28 July 2022 in the Camden New Journal and the London Gazette, put up on site and sent to neighbouring properties.
- 5.4 At that time, construction works for the new house were still ongoing and a 3 metre gap was left in the wall which was used for access to the site. I considered that the 3 metre gap was sufficient to ensure that the development was still being

carried out and was not complete.

- 5.5 I carried out a further site visit in August 2022 and 2<sup>nd</sup> November 2022 at which I noted that the 3 metre gap remained. By November 2022, works to the main house had completed and the 3 metre gap was filled with temporary hoarding for security reasons and decorated with a “brick” pattern, so that it did not stand out too much.
- 5.6 Objections were received during the statutory consultation period. These comprised three objections from individuals and one from Thames Water. The objection from Thames Water was withdrawn following further correspondence confirming that rights of access to their apparatus would not be impeded. As a result of the correspondence, I produced an amended draft stopping up order (see page 81-90 of the Council’s Evidence Bundle).
- 5.7 Following the removal of the objection from Thames Water, I wrote to the GLA on 13 March 2023 seeking the Mayor of London’s approval to dispense with the need for an Inquiry (see page 111 of the Council’s Evidence Bundle).
- 5.8 Prior to writing to the GLA, I also carried out a further site visit and took photos showing the 3 metre gap and the temporary hoarding (see page 75 of the Council’s Evidence Bundle) which I included as an attachment to my letter.
- 5.9 The GLA initially responded on 9 May 2023 that in special circumstances of the case the holding of an Inquiry was unnecessary, but it was subsequently noticed that further correspondence from one of the objectors was inadvertently missed from my letter that I sent on 13 March. The further correspondence was sent to the Mayor and the GLA sent an updated report dated 3 August 2023 which overturned the previous decision of 9 May 2023, such that a local public inquiry would now need to be held.
- 5.10 Before the GLA issued the updated report, the GLA wrote the Council on 12 June 2023 to ask whether the Council was satisfied that works to the boundary wall have not yet been completed, and therefore the s247 procedure can be employed. I visited the site on 13 June 2023 and confirmed that the 3 metre gap and the temporary hoarding remained, the same as shown in the photos sent with my letter to the Mayor on 13 March (included at page 75 of the Council’s Evidence Bundle), and that on this basis I am satisfied that the wall has not been completed and the procedure under s247 can be employed
- 5.11 I most recently visited the site on 21 and 27 October 2024 and can confirm that there has been no further change to the wall. I took the photos on page 76-80 of the Council’s Evidence Bundle and also measured the width of the remaining footpath.

## 6. **RESPONSE TO OBJECTIONS**

- 6.1 Three objections were received from owners of neighbouring properties during the statutory consultation period for the stopping up order in 2022, and further objections have been received following the Council sending notice of the inquiry to known parties.

6.2 I address the main issues raised by the objections below.

**6.3 Whether the development is still being carried out**

6.3.1 The new wall along the boundary of Queen's Grove is approximately 80% complete. As I have mentioned above, a 3 metre gap has been left, initially to allow access for construction traffic and then covered in a temporary hoarding decorated with a "brick" pattern. The gap was left by the developer to ensure that the development works were not completed. It is my view that this is sufficient to ensure that the wall is not complete and is still being carried out (works being paused prior to being completed).

6.3.2 In my view, the works required to complete the wall are more than minimal, such that the Council has not yet been able to carry out repair works to the footway on Queens Grove. The Council has received funds for highway works under the s106/278 agreement in respect of the new dwelling (approved by the Council under application ref. 2011/2388/P) and carried out works to the footpath in front of the application site on 73-75 Avenue Road in April/ May 2022, but the repair works on Queen's Grove have not yet been carried out as the works required to complete the wall could create further damage. The repair works along Queens Grove will only be carried out once the wall is complete.

**6.4 The effects of the narrowing of the footway**

6.4.1 The planning process has already assessed the planning merits of the proposed scheme including the narrowing of the footpath.

6.4.2 The proposal to move the boundary on Queen's Grove further into the existing footway was referenced in the following documents submitted with the planning application:

- The location plan 3680 A2-110 P2 (page 11 of the Council's Evidence Bundle)
- Planning Statement prepared by TJR Planning dated August 2020 (page 19-30 of the Council's Evidence Bundle, paragraphs 2.6, 2.9, 2.10, 4.11 and 4.19);
- Boundary Wall Design Statement prepared by Studio Indigo dated August 2020 (page 32 of the Council's Evidence Bundle);
- Method statement for the avoidance of physical damage to roots prepared by Arbortrack (page 33 of the Council's Evidence Bundle)

6.4.3 During the course of assessment of the planning application, I was consulted on behalf of the Highway Authority. I had no objection to the proposal to move the boundary wall further in the existing footway and advised that the highway/

footway is quite wide at approximately 3.6 meters and even with the loss of 0.5m it would leave the footway at a comfortable width for the number of pedestrians who use this footway. I also advised that the proposal would require a stopping up order (see page 36 of the Council's Evidence Bundle).

- 6.4.4 The officer's report recommending approval of the planning application assessed the proposal to move the footway and confirmed that the Council's transport team, highway engineering and the Council's Structures Manager have reviewed the proposal (see paragraph 1.15 on page 44 of the Council's Evidence Bundle)
- 6.4.5 Queen's Grove is a quiet residential street with large houses. As such it does not have high numbers of pedestrians using the footway.
- 6.4.6 I went to the site on 21 October 2024 and measured the footway width at several positions along the new boundary wall (see photos on page 76-78 of the Council's Evidence Bundle). The remaining footway width following relocation of the boundary wall ranges between 3.2 to 3.45 metres.
- 6.4.7 This would leave a footway significantly wider than the standard width required for a residential street with low pedestrian numbers.
- 6.4.8 This is supported by the relevant guidelines, as set out below.
- 6.4.9 The Council's Streetscape Design Manual sets standards for street works in the borough, and states the minimum unobstructed pathway width within a footway should be 1.8 metres (page 185 of the Council's Evidence Bundle).
- 6.4.10 The Council's Transport Planning Guidance (adopted January 2021) states at paragraph 9.10 (page 213 of the Council's Evidence Bundle) that footpaths must be wide enough for two people using wheelchairs, or prams, to pass each other, and reference must be made to TfL's Pedestrian Comfort Level Guidance which sets out minimum widths based on footways in different environments and pedestrian flows.
- 6.4.11 Appendix B of TfL's Pedestrian Comfort Level Guidance (Recommended Widths) (page 258 of the Council's Evidence Bundle) recommends a minimum footway width of 2.9 m for a site with a low pedestrian flow (less than 600 people per hour). Where there is no street furniture other than street lights, the minimum can be 2m. This total width is required for two users to pass comfortably and to meet the Department for Transport's minimum standards.
- 6.4.12 The Department for Transport's minimum standards are set out in its Guidance on Inclusive Mobility: A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure (December 2021). Paragraph 4.2 (on page 230 of the Council's Evidence Bundle) states that footpaths should be made as wide as is practicable, but under normal circumstances, a width of 2000mm is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters.
- 6.4.13 Once the boundary wall has been completed, the Council's Highways Authority will carry out repair works to the footway on Queens Grove to ensure it remains in good condition for all users of the footway, including those with wheelchairs.

## 6.5 **The extent of the wall which should encroach onto the highway**



6.5.1 The extension of the wall along the full extent of the boundary on Queen's Grove was assessed by the Council when deciding whether to grant planning permission.

6.5.2 In my view it is preferable for the boundary wall to form a continuous sightline rather than protrude only where there are trees, which could obstruct view lines for pedestrians and those visually impaired and potentially create pockets which could attract anti-social behaviour.

6.5.3 This is supported by paragraph 9.14 of the Council's Transport Planning Guidance (on page 213 of the Council's Evidence Bundle) which states:

*"The footprint of a development adjacent to the pedestrian footway should not include projections into the footway, nor should it include recesses within the building outline. The back of the footway must be free from obstruction to assist visually impaired users and to avoid unwanted gathering of litter and antisocial behaviour."*

## 6.6 **Whether the development, including the materials used for the boundary wall and the new doorways, accords with the planning permission**

6.6.1 To my knowledge, the boundary wall along the Queen's Grove frontage, including the type of bricks used, the louvred access doors for the substation housing and two pedestrian access gates, is in accordance with the planning permission.

6.6.2 I have been provided with a compliance certificate by the Council's Planning Enforcement Team confirming that the works to date are in compliance with the approved scheme, which I have included as an Appendix to this proof.

## 6.7 **Safeguarding of Trees**

6.7.1 The planning process assessed the planning merits of moving the boundary wall further into the footpath to safeguard trees. Paragraph 1.15 of the officer report (page 44 of the Council's Evidence Bundle) shows that the impact of the loss of public highway was considered in the overall planning balance, and it was concluded that this was outweighed by the benefit of safeguarding existing trees with tree preservation orders.

## 7 **OPINION**

7.1 The disadvantages of the proposed stopping up would appear to be:

- loss of 0.5 metres of footway along Queens Grove at the boundary of 73-7 Avenue Road. However, the footway would remain at a comfortable width for the number of pedestrians who use this footway and would be wider

than the standard width required under relevant guidelines.

7.2 The advantages of the proposed stopping up would appear to be:

- safeguarding existing trees with tree preservation orders

## 8 **CONCLUSION**

8.1 The stopping up order is necessary in order to enable development of the boundary wall to proceed

8.2 The boundary wall is not complete and works are still to be carried out, such that the power under s247 of the Town and Country Planning Act 1990 to make the order remains

8.3 The benefits of the making of the stopping up order are not outweighed by any of the objections raised or disadvantages or loss likely to arise as a result of the stopping up.

**APPENDIX TO PROOF OF EVIDENCE OF ELLIOTT DELLA  
COMPLIANCE CERTIFICATE**