

**CREATION OF PEDESTRIAN LINK BETWEEN
ST GERMAIN WALK AND HIGH STREET HUNTINGDON
(Report by the Head of Planning & Head of Legal and Estates)**

1. INTRODUCTION

- 1.1 The following motion was moved by Councillor T D Sanderson and duly seconded at the Council meeting held on 29 September 2004:

‘that the Development Control Panel be requested to consider the potential options for and the implications of restoring the pedestrian link between St Germain Walk and St Germain Street through to the High Street, Huntingdon.’

- 1.2 Because of the proximity of the Council meeting to the Development Control Panel and the research necessary to prepare a report on the issues raised by the motion, the Development Control Panel at its meeting on 18 October, 2004 agreed to defer consideration of the matter to a future meeting.

2. ST GERMAIN STREET STOPPING UP ORDER

- 2.1 In March 1999 the Secretary of State for the Environment, Transport and the Regions, on the application of the Developer, Churchmanor Estates Company PLC, made an Order under Section 247 of the Town and Country Planning Act 1990 stopping up St Germain Street and a small length of Chequers Way in order to enable the re-development of the town centre in accordance with the planning permission granted by the Council in 1998 under reference 97/1246. **A copy of the confirmed Stopping Up Order is attached to this report.**

- 2.2 Public notice would have been given by Go-East of the proposal to make the Order and a Notice would have been displayed on the highway itself. There is a 28 day period for objections to be made and the Secretary of State is required to hold a Public Inquiry if any objections are made and not withdrawn. No objection was made to the proposed Closure Order by any public body, private individual or other organisation.

- 2.3 The Secretary of State in confirming the Order, required the Developer to provide an alternative highway along the routes shown by stipple on the Order Plan and for the areas of highway shown cross-hatched to be improved.

3. PLANNING BACKGROUND

- 3.1 The Huntingdon Town Centre Vision undertaken in 2000 identified the Chequers Court area as the most appropriate location in which to expand town centre retail development. A retail needs study carried

out in 2001 and commissioned by the District Council identified the need for an additional 5300 square metres of net retail floorspace by 2011. This floorspace is needed to meet identified need and maintain and enhance the vitality and viability of the town. Discussions with Churchmanor Estates started in October 2001 with a view of bringing forward a phase 2 development, now that they had become the owners of the older parts of the Chequers Court development. In January 2003, the Development Control Panel, with the support of the Town Council, approved proposals for the refurbishment of shop units in Chequers Court under planning application reference 02/01699FUL. This permission also authorised:

- (i) the provision of a new disabled car park, near the end of Chequers Way;
- (ii) improved access (1:20 gradient) for people with disabilities into the southern end of Chequers Court; and
- (iii) the erection of the gate at the end of Germain walk next to Wilkinsons' store.

3.2 During 2003 and up to April 2004 an Urban Design Framework to guide the new development was produced in association with external consultants and approved for consultation purposes by Cabinet on 6 May 2004. The framework envisaged a retail led scheme with a multi storey car park over the new shops. Access from the High Street to the new development is through an enhanced Chequers Court. An alternative route is through Newton's Court linking the shops there with the High Street and the new development. A link following the line of St Germain Street had already been legally closed, is in an area where there is likely to be radically changed to accommodate new development, and is on a route of a major service area.

4. PUBLIC PATH CREATION ORDER

4.1 Both the County Council and the District Council have a power under Section 26 of the Highways Act 1980 to create a new public footpath. Before making an Order, the Council must be satisfied that it is expedient that the path should be created having regard to two factors. The first factor is the extent to which the path would add to the convenience or enjoyment of a substantial section of the public or to the convenience of persons resident in the area. The second is the effect which the creation of the path would have on the rights of persons interested in the land, after taking into account the provisions available for payment of compensation.

4.2 An Order, once made, is open to objection and if opposed requires confirmation by the Secretary of State. Where objections are lodged to the making of the Order, a Public Inquiry or hearing must be held, at which the landowner and any other objector may appear to oppose the confirmation of the Order.

- 4.3 Before deciding to make the Order, the authority is required to consult with any other local authority in the area the land concerned is situated.
- 4.4 If a Footpath Creation Order is made and confirmed, the Authority making the Order is liable to pay compensation where the value of any interest in the land is depreciated or where a person suffers damage by virtue of his enjoyment of the land being disturbed. If the amount of compensation cannot be agreed, it would ultimately be referred to the Lands Tribunal for determination.

5. RELEVANT ISSUES

- 5.1 In deciding whether to make an Order, the Council must be satisfied that the footpath would add to the convenience of a substantial section of the public or local residents and weigh this against the rights of persons with an interest in the land, having taken into account the provisions for payment of compensation.
- 5.2 The history of the matter is also relevant in that an unopposed Stopping-Up Order was made in 1999, which required the provision of an alternative highway to replace the length being stopped-up. At that time the Secretary of State was required, as part of the decision making process, to take account of:
- ‘the disadvantages or loss likely to arise as a result of the stopping-up..... either to members of the public generally or to persons whose properties adjoin..... the existing highway’ (DOE circular 2/93).
- 5.3 Stopping-Up Orders render conduct lawful which could otherwise constitute an obstruction of the highway and are frequently sought to enable buildings to be erected over what was formerly highway. Indeed, in this case, part of the original highway has already been built over by the construction of the store occupied by Wilkinsons.
- 5.4 More recently, a planning application for refurbishment of part of Chequers Court, together with provision of a new disabled car park, improved access for the disabled into Chequers Court and the erection of the gates, was approved by the Development Control Panel in January 2003, with the agreement of the Town Council.
- 5.5 If an Order is made and confirmed, then the Council would be required to pay compensation to the owner and anyone else with an interest in the land, to the extent that the value of their interest is depreciated. As this is a commercial development the compensation payable may be significant, but if specialist advice would need to be sought on this, if it is decided to proceed.
- 5.6 The Urban Design Framework for Chequers Court was the subject of a public consultation exercise during June/July this year. The comments are currently being considered and it is likely as a result that some changes to the framework will be made particularly regarding access and servicing arrangements. These changes are unlikely to affect the fundamental principle of a retail led scheme with

a multi storey car park (incorporating a shop mobility scheme and parking for disabled persons, accessible by lifts) to accommodate the needs of the development and growth in car parking provision for the Town Centre.

- 5.7 Cabinet will consider the comments and officer recommendations before adopting the Framework as Interim Planning Guidance. Once adopted the development proposals will come forward in the form of an application and be considered in the normal way. The developers have indicated that work could commence in 2005 with an opening in 2007.

6. CONCLUSIONS

- 6.1 If the Panel are minded to pursue the possibility of making a footpath creation order, then it will be necessary for the Council first to consult with the County Council and the Town Council.
- 6.2 Whilst not a statutory requirement, it would seem sensible to obtain the formal views of the landowner with regard to such proposal at the same time.
- 6.3 In view of the liability of the Council to pay compensation to the owner and anyone else with an interest in the land, to the extent that the value of their interest is depreciated, specialist advice would need to be sought as to the likely extent of such financial liability.

7. RECOMMENDATION

- 7.1 If Panel are minded to pursue the possible creation of a new right of way they are advised prior to consulting with the County Council and Town Council to request officers to seek the specialist advice concerning the likely level of compensation if such an application were successful.

BACKGROUND PAPERS

Huntingdon Town Centre - A Vision and Strategy for Growth and Quality- 2000
Urban Design Framework Chequers Court -2004
Huntingdon Town Centre Retail Study-2001
Application 02/01699/FUL relating to extension and alteration to shop units, provision of parking for the disabled and security gate.

CONTACT OFFICER - R Probyn, Planning Policy Manager
☎ 01480 388430