



Our Ref :qA1019785/1  
Date: 23 November 2012

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 247.**

**THE STOPPING UP OF HIGHWAYS (LAND ADJACENT TO 9, NASH CLOSE,  
ROGERSTONE, NEWPORT) ORDER 201-**

**Delegation Arrangements**

1. The functions relating to Planning Orders have been transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006. The decision falls under the responsibility of Carl Sargeant, Minister for Local Government and Communities (“the Minister”), one of the Welsh Ministers.

**Background**

2. The above proposed Order would enable the developer, Mr Deri Williams, to extend his boundary fence, residential property and garden area at 9, Nash Close, Rogerstone, in the City of Newport in accordance with planning permission granted by Newport City Council on 4 April 2012 under reference 11/1090.

3. The draft Order was published on 31st August 2012 and attracted one letter of objection and one letter of support.

**Objection and Response**

4. The main points of objection/concern together with the response from Newport City Council are summarised in the table below.

Issues	Developer's Response
<p>The scale of the development would be out of keeping with neighbouring properties. It would overlook adjacent properties and reduce available light and property values. The boundary change would have a detrimental impact and would cause disruption.</p>	<p>The issue of the relocation of the boundary fence was raised by neighbours at planning stage and Newport City Council justified its decision then to grant planning permission. As Highway Authority the council considered the possible effects of allowing the land to be stopped up to facilitate the garden extension and concluded that the relocated fence line provides a more consistent alignment of property boundaries along the lane which is currently very generous alongside 9, Nash Close. The council were however mindful that a full enclose of the land would not be recommended and have insisted that an area of verge to the side of the path is retained to maintain a certain level of openness.</p> <p>The objection does not quantify what it considers to be the detrimental impact of the boundary fence relocation or what disruption the objector believes the relocated fence line will cause. The council confirm that, as Highway Authority, it considers the relocation of the boundary fence to be acceptable and will not adversely affect highway safety or residential amenity. The size of the development is a planning matter which has been considered during the planning process.</p>

### Minister's Consideration and Decision

5. Section 252(4) of the Town and Country Planning Act (TCPA) 1990 gives rise to a presumption that the Minister will cause a public local inquiry to be held where there are outstanding objections from individuals appearing to him to be affected by a stopping up order, but the Minister may dispense with such an inquiry if he is satisfied in the special circumstances of the case that such an inquiry is unnecessary (section 252(5)). The Minister has fully considered the objector's concerns outlined above but he has seen nothing in the letter of objection or in any of the papers before him to suggest that the objector will be personally inconvenienced or otherwise affected by the extinguishment of the highway rights in question. He considers that the objections relate to the planning merits of the proposals and that it is not for the Welsh Ministers in cases of this nature to reconsider whether or not planning permission should have been granted. Furthermore, he has concluded in any event that he has sufficient information before him to give full consideration to the objection. Accordingly, he has decided to dispense with the need for a public local inquiry.

6. The Minister notes that the development is subject to full planning permission granted by Newport City Council. However, the Minister has a duty to consider whether it is necessary to stop up the highway to which the Order relates to enable the development to be carried out. He is satisfied in this case that the stopping up that would be authorised by the Order is necessary for the development to be carried out.

7. The Minister also has a duty to consider whether, if it is necessary to stop up the highway, he should exercise his powers to make the Order having regard to the effect the stopping up would have on highway rights and taking account of any other relevant matters.

8. The Minister has considered the points of objection and the responses to them from Newport City Council. He also notes that no objections have been raised by either the local highway authority or the residents of Nash Close. The Minister is satisfied that the highways rights along the lane next to the verge will not be affected. He is also satisfied that issues raised that are more pertinent to the planning permission than the removal of highway rights should not influence his decision. Consequently, after taking into account all relevant matters, he has decided to make the Order.

### **Making of Order**

9. The Order, as made, will become operative on the date specified in the public notice announcing the making of the Order.

10. Within 6 weeks from the operative date, anyone aggrieved by the Order may apply to the High Court and question the validity of the Order, or any provision contained therein on the grounds:

- a. the authorisation granted by the Order is not empowered to be granted, or
- b. that their interests have been substantially prejudiced by failure to comply with any statutory requirement relating to the Order.

Yours faithfully

**RICHARD MORGAN**

Head of Asset Management and Standards