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| <p>PLANNING COMMITTEE SUPPLEMENTARY AGENDA</p> |
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4 August 2022

The following report is attached for consideration and is submitted with the agreement of the Chairman as an urgent matter pursuant to Section 100B (4) of the Local Government Act 1972

- 9 STOPPING UP ORDER 23 ROSSLYN AVENUE, HAROLD WOOD, ESSEX RM3
ORG (Pages 1 - 22)**

**Zena Smith
Democratic and Election
Services Manager**

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AGENDA ITEM No:

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|  <p>Havering LONDON BOROUGH</p> | <p>Planning Committee 4th August 2022</p> |
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| Application Reference: | Stopping Up Order |
| Location: | 23 Rosslyn Avenue, Harold Wood, Essex RM3 0RG |
| Ward: | Harold Wood |
| Description: | Stopping up of land adjoining No. 23 Rosslyn Avenue, Harold Wood |
| Case Officer: | Musood Karim |
| Reason for Report to Committee: | The Head of Planning considers committee consideration to be necessary. |

1. Background

On 19th January 2021 the owners of 23 Rosslyn Avenue submitted a planning application to the London Borough of Havering (LBH) under ref. **P0071.21** relating to relocation of existing fence, fronting Tindall Close to incorporate the land into existing garden which the applicant had purchased from Countryside Properties (UK) Ltd in November 2019.

Basically the proposals involved relocating the existing boundary fence on western side of 23 Rosslyn Avenue, Harold Wood further west to incorporate a long strip of grass verge running parallel with the public footway on Tindall Close. The land would be incorporated with the existing garden of 23 Rosslyn Avenue and enclosed by a timber fence and a gate to match existing.

Planning application reference No. **P0071.21** was refused on 15th March 2021 for the following reasons:

The proposed development would, by reason of its height, total length and position, form an unacceptably dominant and visually intrusive feature within the

street, harmful to the appearance of the street scene and detracting from the open character of the surrounding area, contrary to Policy DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document, the Residential Extensions and Alterations Supplementary Planning Document and Policy D1 of the London Plan Adopted March 2021.

It was also stated in the decision notice that if the applicant is aggrieved by the decision of the local planning authority the applicant can submit an appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

- 1.2 Following the refusal of the planning application **P0071.21**, the applicant appealed to The Planning Inspectorate under the application reference: **APP/B5480/D/21/3274891**. The appeal was upheld on 10th September 2021 with planning permission subsequently granted.
- 1.3 A resolution is, therefore, sought to stop up the existing grass verge shown on the drawing attached in Appendix 1 to enable the owners of 23 Rosslyn Avenue to incorporate the land within their premises and erect a new boundary fence fronting Tindall Close in accordance with the planning permission granted on appeal by The Planning Inspectorate under the reference: **APP/B5480/D/21/3274891**.
- 1.4 The applicant has submitted a stopping up application and Planning Committee needs, as it has powers to decide whether to agree the stopping up process to the start or not .
- 1.5 Council's highway officers consider that there are highway safety implications associated with erection of the boundary fence to be incorporated into 23 Rosslyn Avenue. These concerns will be addressed as objections which will form part of the consultation before an agreement is reached in stopping up to enable the development in pursuant to the planning permission granted on appeal.

2. **Recommendations**

That the Planning Committee resolve the following;

- (a) That the Council's Planning Committee to decide whether to agree the stopping up process to commence or not authorise the stopping up to the land adjoining No 23 Rosslyn Avenue, Harold Wood as shown hatched on the plan attached in appendi1 , in accordance with the procedure set out in section 252 of the Town and Country Planning Act 1990, subject to the following conditions:

- the lawful implementation of the planning permission granted on appeal (reference APP/B5480/D/21/3274891);
- payment, by the applicant, of all costs associated with the stopping up;
- any direction by the Mayor of London

on the following basis:

- i) if no objections are received (or any received are withdrawn), or the Mayor of London decides a local inquiry is unnecessary, then the stopping up order will be confirmed by officers;
 - ii) if objections are received from a local authority, statutory undertaker or gas transporter (and are not withdrawn), or other objections are received (and not withdrawn) and the Mayor of London decides that an inquiry is necessary, the Council shall cause a local inquiry to be held.
- (b) to delegate authority to the Assistant Director of Public Realm, Environment to do anything necessary and incidental to facilitate the process of stopping up the highway pursuant to section 247 of the Town and Country Planning Act 1990.

3. Proposals and location details

- 3.1 Section 247(2A) of the Town and Country Planning Act 1990 (“the Act”) provides that the Council of a London borough may by order authorise the stopping up or diversion of any highway within the borough if it is satisfied that it is necessary to do so in order to enable developments to be carried out in accordance with planning permission granted under Part III of the Act.
- 3.2 The layout of the development has already been considered and was granted permission by the Planning Inspectorate. The approved layout plans would require the stopping up of the land adjacent to 23 Rosslyn Avenue that is the subject of this report. The stopping up now proposed would give effect to development on the land to be stopped up.
- 3.3 The area of land to which the application to stop up relates is an area of existing grass verge is bounded by Rosslyn Avenue in the north and fronting Tindall Close Harold Wood in the west,. The land measures approximately 34.5 linear metres in length and is sited between Ordinance Survey grid reference points **Point A** 554635 (E) 190304(N) on the north side and **Point B** 554650(E), 190273(N) and **Point C** 554 648(E) 190272(N) of south side of the grass verge. The locations are shown on drawing attached in appendix 1 of this report.
- 3.4 The land is classified as grass verge as contained in the Register of Highways and it is maintained by the Council at the public expense.

3.5 The application approved on appeal incorporates the subject land, fronting Tindall Close to form part of the existing garden of No. 23 Rosslyn Avenue, Harold Wood, RM3 0RG.

3.6 It is considered that the most effective way to accommodate the land is by stopping up of the existing highway. When the stopping up process is complete, the new owner's intention is to incorporate the area which will form part of No. 23 Rosslyn Avenue, Harold Wood. Officers therefore consider that there would be no significant disadvantages suffered by the public as there are several verges in the area. In contrast, there are advantages of stopping up the highway rights as doing so will enable the land to be transferred to the purchaser.

4. **Planning History**

The following planning decisions are relevant to the application:

P0071.21 – the re-location of existing boundary fence fronting Tindall Close to incorporate the purchased land by the applicant into existing garden which the applicant has the title deed – Refused

APP/B5480/D/21/3274891– appeal of planning application P0071.21 – Approved on Appeal

The stopping up is necessary in order that the development pursuant to planning permission granted on Appeal can be carried out.

5. **Consultation**

5.1 The Council's highway officer has no objection to the proposed stopping up order, except that the following conditions are adhered to:

- i) that a highway tree will require to be removed,
- ii) that the boundary fence will be erected in accordance to the approved drawings. DPL01,DPL02,DPL03 & DPL.04,
- iii) that the owner of 23 Rosslyn Avenue to identify the presence of any existing underground utility services which may impact their works,
- iv) that no materials will be deposited on the public highway which may cause imminent danger to the road users,
- v) that prior to relocating the boundary fence to its new location which is adjacent to public footway of Tindall Close, the owners of 23 Rosslyn Avenue will be required to submit a notice under section 50 of the New Roads and Street Works Act to the local authority.

- 5.2 No public or external consultations has been carried out by the Council in respect of the current stopping up application; however, should the Committee approve the stopping up before making the order, the Council would carry out consultation as required by Section 252 of the Act. This would involve consulting statutory undertakers, posting site notices and publishing the proposed orders in a local newspaper and the London Gazette. A 28-day consultation period would allow interested parties to respond.
- 5.3 Under Section 252(4)(b) of the Act if an objection is received from any local authority or utility provider on whom a notice is required to be served, or from any other person appearing to the council to be affected by the order and that objection is not withdrawn (through negotiation between the objector and the applicant) the Council must:
- (i) notify the Mayor of London and
 - (ii) cause a local inquiry to be held.
- 5.4 If, however, none of the objections received were made by a local authority or undertaker or transporter then, under Section 252(5A) of the Act, the Mayor of London shall decide whether, in the “special circumstances of the case” the holding of such an inquiry is unnecessary, and if he decides that it is unnecessary he shall so notify the Council which may dispense with the inquiry.
- 5.5 If there are no objections, or all the objections are withdrawn, then the Council may confirm the stopping up order without an inquiry.
- 5.6 In any event, the above advertisement and administrative works by the Council’s Legal Services will involve payment of the fees to cover the legal fees and other associated costs payable by the applicants.

6. **Conclusions**

It is considered that the proposed stopping up of the existing grass verge is necessary to enable the owners of No. 23 Rosslyn Avenue to erect a new fence as shown on drawing Nos.DPL.01, DPL.02, DPL.03 and DPL.04 to incorporate the subject land in accordance with appeal upheld by the Planning Inspectorate and is acceptable in highway terms. It must be noted, however, that the remaining obligations relating to consultation and a local inquiry may be held, should the stopping up be approved by the Committee.

Appendix 1

Plan showing area of
Verge to be Stopped Up

Appendix 2

Copy of the Appeal by Planning Inspectorate
Ref. APP/B5480/D/21/3274891 of 10thSeptember 2021

Appendix 3

Drawing Nos.DPL.01, DPL.02, DPL.03 & DPL.04



Appeal Decision

Site visit made on 11 August 2021

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2021

Appeal Ref: APP/B5480/D/21/3274891

23 Rosslyn Avenue, Romford, RM3 0RG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr William Gough against the decision of London Borough of Havering.
 - The application Ref P0071.21, dated 19 January 2021, was refused by notice dated 15 March 2021
 - The application sought planning permission for relocation of existing fence to incorporate purchased land into existing garden.
-

Decision

1. The appeal is allowed and planning permission is granted for relocation of existing fence to incorporate purchased land into existing garden at 23 Rosslyn Avenue, Romford, RM3 0RG in accordance with the terms of the application, Ref P0071.21, dated 19 January 2021, and the plans submitted with it, and subject to the conditions listed below.
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing timber boundary fence.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: DPL.99, DPL.03 and DPL.04

Procedural Matters

2. The description of development on the decision notice is slightly different to that on the application form. I have adopted the former as it more accurately describes the appeal proposal.
3. On 20 July 2020 the Government published a revised version of the National Planning Policy Framework (July 2021) (Framework). However, the policies that are relevant to this appeal have not changed and there was no need, therefore, to invite the parties to make further submissions in response to the revised Framework. The paragraph numbering, in the revised Framework, for a number of policies has changed and where that is the case, I have highlighted those changes in my decision.

Main Issue

4. The main issue is the effect on the open character of the streetscene and wider area.

Reasons

5. The appeal proposal involves the relocation of the existing boundary fence, on the western side of the appeal site, further west to incorporate a long strip of land that forms a grass verge running parallel with the public footway on Tindall Close. The land would be incorporated within the existing garden to the appeal site and enclosed by timber fencing and gates to match existing.
6. The appeal site is located on the corner of Rosslyn Avenue and Tindall Close. The properties in Rosslyn Avenue largely comprise two storey semi-detached dwellings with off street parking at the front and long rear gardens. The style, design and age of the properties in Tindall Close are different, and they are predominantly two storey detached dwellings, with off street parking at the front, integral garages and some more open frontages.
7. Within this context, the existing grass verge does not appear to be part of the original design or formal layout of either Rosslyn Avenue or Tindall Close. It's possible that the verge is a remnant, with the narrow verge opposite, from the cul-de-sac development at Tindall Close. Even so, other than an existing small tree, the grass verge (abutting the appeal site) does not include any features of particular amenity value. Neither does the verge make a significant contribution to the openness of the area or form part of a harmonious streetscene.
8. Whilst there is a smaller grass verge opposite, running the length of the side boundary to 29 Rosslyn Avenue, this verge is narrower and although, in itself, it again does not make a significant contribution to the open character of the streetscene, it does contain two mature street trees, which, in my view, are of particular amenity value.
9. The removal, therefore, of the existing grass verge, would not, in my judgement, be harmful to the streetscene or to the open character of the area. Similarly, the repositioning of the existing boundary fence further west, to the back edge of the public footway, would not appear overly dominant or visually intrusive, when compared with the existing fencing and in this respect, it would also not be dissimilar to the positioning of boundary fencing/walls found at the junction of Rosslyn Avenue with Peel Way and Gubbins Lane. The proposed scale and siting of the relocated timber fence would, therefore, be broadly consistent with other boundary treatments in area.
10. For the above reasons, I am satisfied that the appeal proposal would not materially harm the open character of the streetscene or that of the wider area. Whilst the repositioning of the existing timber fence would result in change, there would be no material loss of openness nor the loss of an open feature that forms an important or integral part of the character of this part of Rosslyn Avenue.
11. I am also satisfied that the appeal proposal would not appear overly dominant visually and would allow better use to be made of the existing grass verge, whilst at the same time removing the problems that appear to arise from its

maintenance, dog fouling and fly tipping, problems that the Council have not challenged.

12. Accordingly, I find that the appeal proposal would not be dominant or visually intrusive to the streetscene and would not detract from the open character of the area. It would, therefore, comply with policy DC61 of the Havering Core Strategy & Development Control Policies Development Plan Document (2008), policy D1 of the London Plan (2021) and the Residential Extensions & Alterations Supplementary Planning Document (2011). Combined, these seek, amongst other requirements, to ensure that new development reinforces the prevailing character of the streetscene, is of good design and integrates well with its surroundings.

Other Matters

13. The Council's Delegated Report raises a question over the ownership of the existing grass verge. However, the application form is accompanied by Certificate A and the Appellant's Personal Statement indicates that the grass verge was purchased by them from Countryside Properties (UK) Ltd in November 2019. There is no other evidence before me on this issue and I have therefore determined the appeal on that basis.

Conditions

14. The Council has suggested various conditions which I have considered against the advice in the revised Framework and the Planning Practice Guidance chapter on the use of planning conditions. Conditions relating to the time limit for implementing the development, requiring compliance with the submitted plans and for materials to match existing, are necessary and reasonable in order to secure a high quality development and to reflect the details included within the application. I have, however, added a list of approved plans.

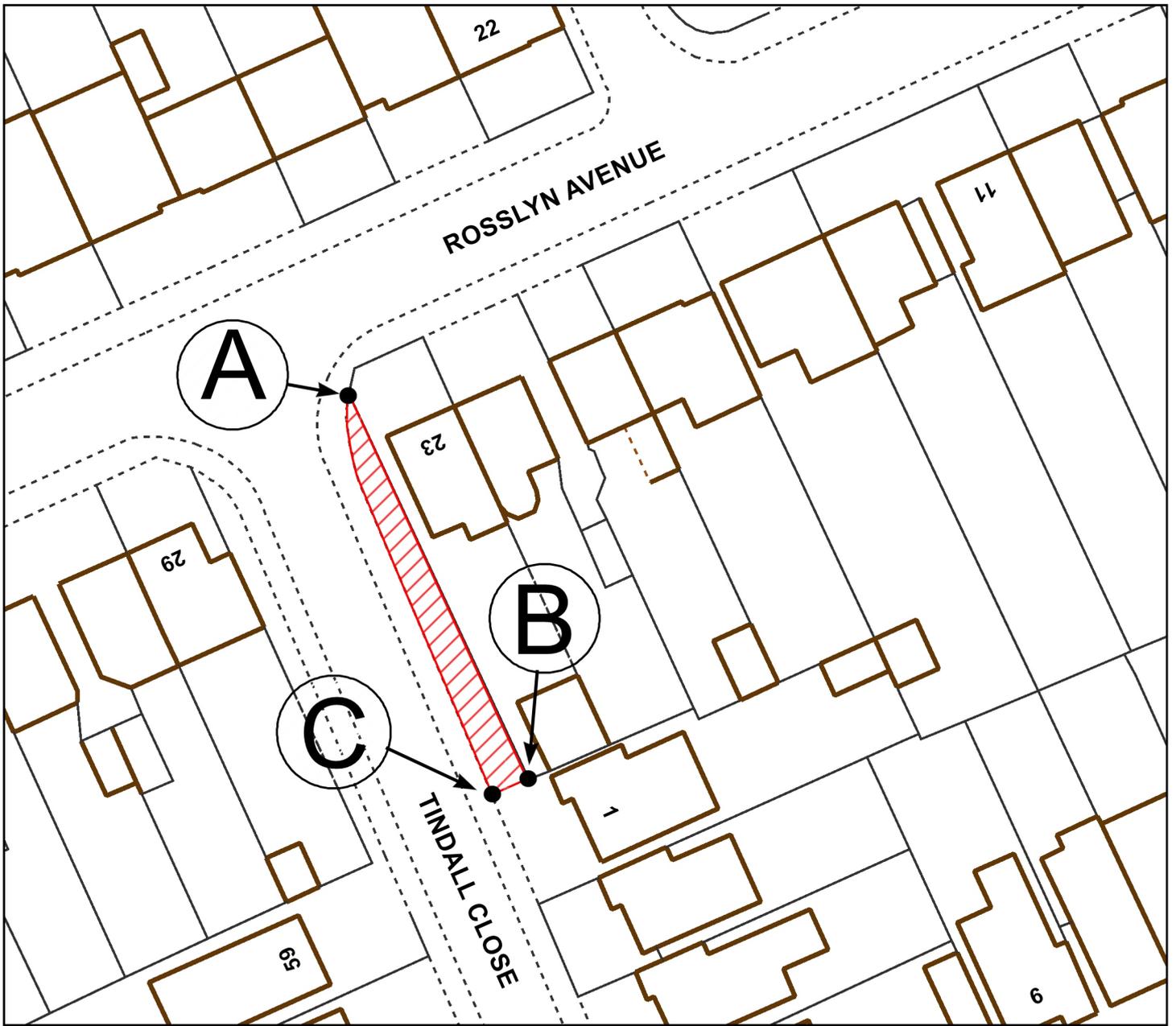
Conclusion

15. The appeal proposal would accord with the development plan when considered as a whole. There are no material considerations that indicate a decision should be made other than in accordance with the development plan. Accordingly, for the reasons given above, I conclude that the appeal should be allowed.

G Roberts

INSPECTOR

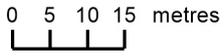
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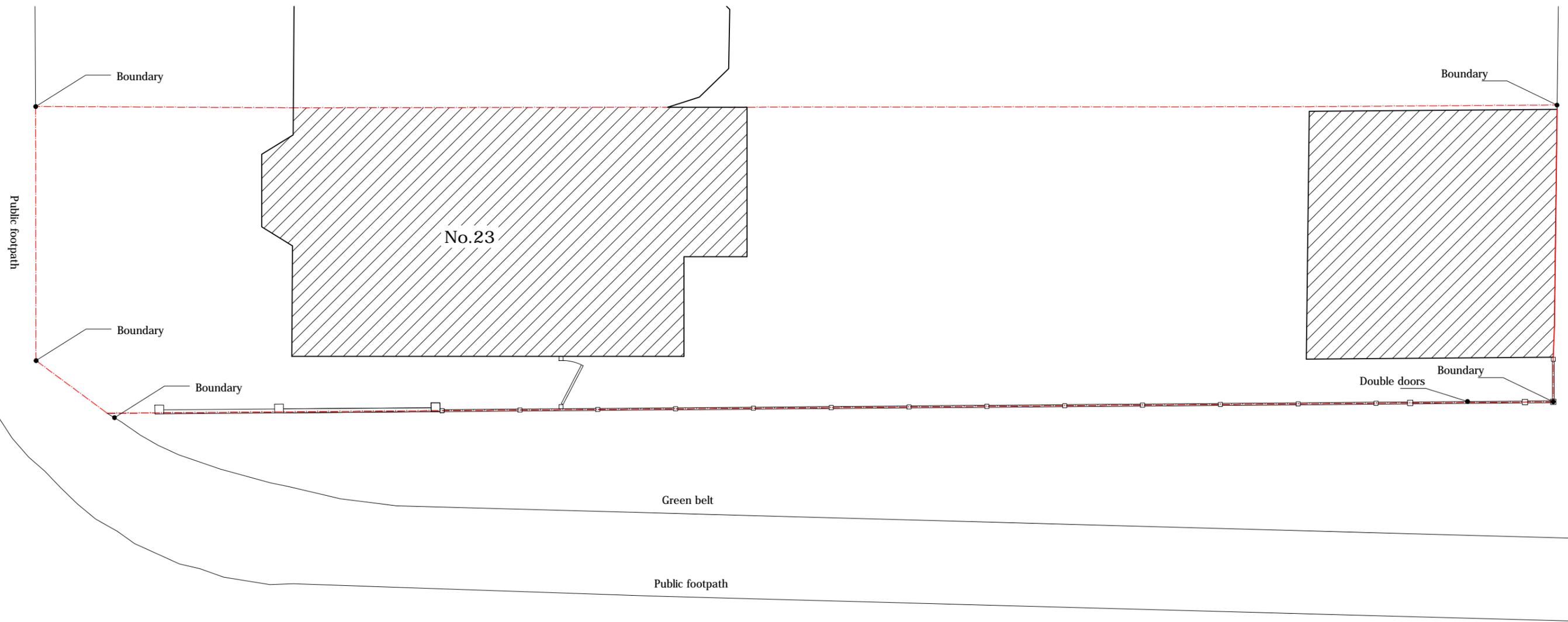
A = 554636.279 - 190304.450

B = 554650.808 - 190272.920

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|  | London Borough of Havering Town Hall, Main Road Romford, RM1 3BD Tel: 01708 434343 Page 3 of 3 © Crown copyright and database rights 2021 Ordnance Survey 100024327 |

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 1. Ensure that all working drawings and calculations are approved by Building Control or Planning Departments & that they are the current revised drawings before any works start on site.
 2. Inform the Building control department that the works are about to commence on site after receiving an approved decision from planning / building control in writing for your proposed works.
 3. Verify boundary lines & ground conditions including checking positions and new connections of all gas, electrical, water & other services drainage eel. within the site prior to the commencement of excavations. Owner is responsible for establishing own boundary lines as DPL are not responsible for checking land ownership even if drawings have been approved by the planning and building control departments. If uncertain a land search should be carried out by the homeowner/contractor.
 4. DPL are not responsible for builders changing design methods from proposed works. The client is responsible for works being carried out on a building notice.
 5. Owner is responsible for purchasing additional materials and covering extra engineering design costs for any additional structural design change on site from the start to end of building works requested by building control or any other third party's instruction during building works.
 6. Request a copy of the Party Wall Award where works affect party wall or involve excavations within 3 meters of adjoining buildings or building over a public sewer.
 7. All drainage connections is assumed & is subject for checking by builder, Thames water & building control, foul and surface connections should be approved by Thames water before works commence.

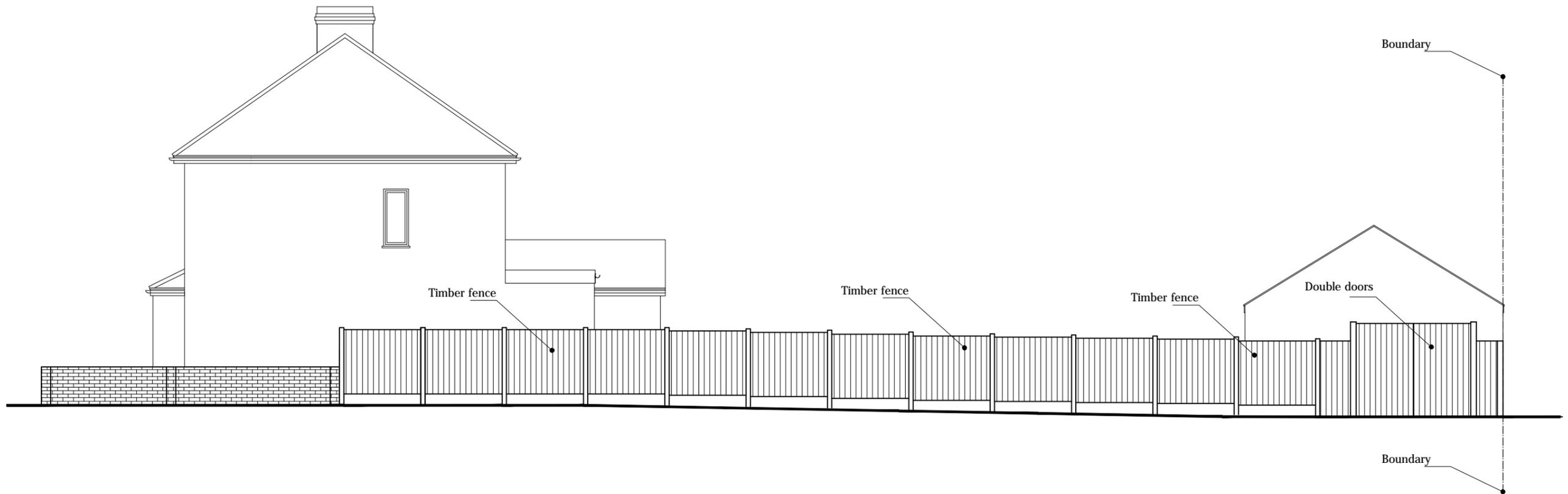
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 11. All of DPL structural designs are subject to footings being 1m deep, if however the existing foundation is different a trial-hole will need to be dug to establish the existing foundation type and building control will need to advise on a different method of construction. If requested by building control either a raft or piled foundation, this will need to be designed by an engineer with an additional cost being implemented.
 12. All wall/s which have been designed to be removed on plans are to be checked on site by building control inspector/builder for load bearing or non-load bearing status before purchase of steel/s. If non-load bearing then steel/s should not be ordered. No refund or claim can be given against DPL on the design/materials charged for these steel/s.

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 5. Owner is responsible for purchasing additional materials and covering extra engineering design costs for any additional structural design change on site from the start to end of building works requested by building control or any other third party's instruction during building works.
 6. Request a copy of the Party Wall Award where works affect party wall or involve excavations within 3 meters of adjoining buildings or building over a public sewer.
 7. All drainage connections is assumed & is subject for checking by builder, Thames water & building control, foul and surface connections should be approved by Thames water before works commence.

8. Where works involve demolition to ensure that all elements of the building and adjoining structures are accounted for and that all necessary propping and temporary supports are in place.
 9. Works carried out under a building notice or prior to approval of drawings are at the contractors/owners risk. (all DPL drawings must be approved before works commence) Builders building without plans being approved by planning & building control departments are fully responsible for the likelihood of condemned works.
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 11. All of DPL structural designs are subject to footings being 1m deep, if however the existing foundation is different a trial-hole will need to be dug to establish the existing foundation type and building control will need to advise on a different method of construction. If requested by building control either a raft or piled foundation, this will need to be designed by an engineer with an additional cost being implemented.
 12. All wall/s which have been designed to be removed on plans are to be checked on site by building control inspector/builder for load bearing or non-load bearing status before purchase of steel/s. If non-load bearing then steel/s should not be ordered. No refund or claim can be given against DPL on the design/materials charged for these steel/s.

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4. PPL are not responsible for building changing design methods from proposed works. The client is responsible for works being carried out on a building notice.
5. Owner is responsible for purchasing additional materials and covering extra engineering design costs by building control or any other third party's instruction during building works.
6. Request a copy of the Party Wall Award where works affect party wall or involve excavations within 3 metres of adjoining buildings or building over a public street.
7. All steelwork shall be protected against corrosion by galvanneal or other suitable means. All building control, fall and surface connections should be approved by Thomas water before works commence.

8. Where works involve demolition to ensure that all elements of the building and adjoining structures are accounted for and that all necessary propping and temporary supports are in place.
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11. All building structural drawings are subject to all relevant building regulations and building control before works commence. Loadings being 1m deep, if however the existing foundation type and building control will need to advise on a different method of construction, if requested by building control either a raft or piled foundation, this shall be carried out in accordance with the latest appropriate codes of practice and to comply with current building regulations.
12. All wall/ which bearing shall be designed to be on additional pile castings, dependent on site purchase of steel/s, if non-load bearing then steel's should not be ordered. No refund or claim can be given against DPL on the design/mislead charged for these steel/s.

OTHER NOTES:

All new proposed roof and wall finishes on this drawing to match existing materials. All new proposed skylights shown on this drawing will be designed not protrude more than 150mm from the existing roof profile. All new proposed windows shown on this drawing which overlook other property's are designed to be in accordance with the current building regulations. This drawing is to be read in conjunction with all other drawings relating to this project. For whatever reason, no refund will be made against DPL, Discount plans Ltd hold full copyright of this material on this drawing is set back from the eaves by 250mm, this note is a confirmation that it is designed on this way. All works to be carried out in accordance with the latest appropriate codes of practice and to comply with current building regulations.

Discount plans Ltd for the "client" only, a bound contract has been entered into between the client and discount plans Ltd for the work shown on this drawing. The drawing has been made, no refund will be made against DPL, Discount plans Ltd hold full copyright of this material on this drawing is set back from the eaves by 250mm, this note is a confirmation that it is designed on this way. All works to be carried out in accordance with the latest appropriate codes of practice and to comply with current building regulations.

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|--|-----------------|
| SITE ADDRESS | |
| 23 ROSSLYN AVENUE, HAROLD WOOD, ROMFORD, RM3 0PB | |
| DRAWING TITLE | |
| PROPOSED DRAWINGS | |
| DRAWN AT HEAD OFFICE | DRAWN BY |
| SCALE OS SHOWN @ A3 | 18. SEP. 2020 |
| DRAWING No. | REVISION |
| DPL.03. | - |

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