

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

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## 1. Background

On 19<sup>th</sup> 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 15<sup>th</sup> 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 10<sup>th</sup> 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 10<sup>th</sup>September 2021

### **Appendix 3**

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