



Appeal Decision

Site visit made on 21 October 2019

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th November 2019

Appeal Ref: APP/B5480/W/19/3232034

Land adjoining No 23 Stanley Road South, Rainham RM13 8AJ

- 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 K Dhiman (KAT Development Limited) against the decision of the Council of the London Borough of Havering.
 - The application Ref P0357.19, dated 6 March 2019, was refused by notice dated 5 June 2019.
 - The development proposed is the erection of a contemporary one bedroom bungalow.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a contemporary one bedroom bungalow at land adjoining No 23 Stanley Road South, Rainham RM13 8AJ in accordance with the terms of the application, Ref P0357.19, dated 6 March 2019, subject to the following conditions set out in Annex A.

Main Issues

2. The main issues in the appeal are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether or not the proposal would provide adequate living conditions for future occupiers with particular regard to internal and external space; and
 - The effect of the proposal on the living conditions of the occupiers of No 23 Stanley Road South with particular regard to outlook.

Reasons

Character and appearance

3. The appeal site is an irregularly shaped parcel of land that is currently unused. The surrounding area is predominantly residential with a mixture of short terraces, semi-detached and detached houses and bungalows. Whilst most houses in the area front the road, both No 21 and No 23, which are the detached houses to either side of the appeal site, have their gable end facing the street. Whilst the plot may have once formed the front garden area to No 23 it is now separated from this property by high fencing and the appellant has stated that it has its own title deed.
4. The proposed L-shaped bungalow would have a contemporary design with a flat roof and timber cladding. Given the varying design and types of dwellings

in the area, and the range of materials used, I am satisfied that the proposed bungalow would not be out of character or an incongruous addition to the street scene.

5. The proposed dwelling would be located to the rear of the site with a parking area and a garden to the front. The amount of space to the front of the property would be similar to other houses in the area, and as many dwellings have converted their front gardens to create parking areas, the location of parking immediately to the front of the house would not be unusual. I observed that many of the properties in the area occupied much of the width of their plots, and whilst a lack of rear garden would be uncommon, the size of rear gardens is not something that defines the character and appearance of the area. The location of the main garden area between part of the house and the road would be the same as for No 23.
6. In the light of this, and given the unusual layout and siting of the neighbouring properties, I am satisfied that the dwelling would not appear an incongruous feature in the street scene or unduly cramped. Furthermore, as the Council have confirmed that the density of the development would be within the acceptable range, I consider the site would not be over-developed.
7. Therefore, I consider that the proposal would not have a detrimental impact on the character and appearance of the area. Consequently, it would not conflict with Policy DC61 of the *Core Strategy and Development Control Policies Development Plan Document (adopted October 2008)* (DPD) which, amongst other things, requires that developments maintain, enhance or improve the character and appearance of the area.

Living Conditions – future occupiers

8. Policy 3.5 of *The London Plan (adopted March 2016)* (TLP) sets out the minimum space standards for new dwellings. This indicates that a 1 bedroom, 2 person dwelling should have a minimum gross internal area of 50 sqm. The Council have indicated that the dwelling would only have a gross internal floor area of 48 sqm but the appellant states that it would be 50 sqm. Nevertheless, the floor plans indicate that the rooms would be provided with adequate circulation space as well as being able to accommodate a range of furniture. Therefore, even if it would be slightly under the minimum requirement, I consider it would provide adequate internal space for occupiers.
9. The property would be provided with a garden area to the front of the house which would be directly accessed from the main living area. It is agreed that this would be around 34 sqm. The Council have not stated that there are any minimum standards for the amount of outdoor space that should be provided. I accept that this would be smaller than other dwellings in the area, but as these were generally significantly larger properties that are suitable for families it would be expected that they would have larger gardens.
10. Although the garden area would widen nearer to the road, its slightly irregular shape would not affect its usability. Although Stanley Road South is a bus route, I observed that traffic levels along the road were not such that it would cause unacceptable levels of noise and disturbance in the garden. As such, despite its position, I consider the garden would be a pleasant place to spend time.

11. In order to provide privacy to this area, a high fence would be needed around it. However, sufficient distance would be maintained between this and the property to ensure it did not have an overbearing impact on the living area. Moreover, as both No 23 and No 73 Philip Road have high boundary treatments adjacent to the pavement, the necessary boundary treatment would not appear out of keeping. Whilst some overlooking of this area would be possible from the first floor windows in No 23, it is common in suburban areas that there is some overlooking of garden areas from adjacent properties.
12. All in all, I consider that the dwelling would be provided with an adequately sized, private garden area.
13. Consequently, I consider the proposal would provide acceptable living conditions for future occupiers with particular regard to both internal and external space. Accordingly, there would be no conflict with Policy 3.5 of TLP or Policy DC61 of the DPD which require that developments, amongst other things, should not result in unacceptable living conditions and should have adequately sized rooms.

Living Conditions – No 23

14. The front elevation of No 23 faces the site and is located only a short distance from the common boundary with it. At ground floor level, it has a bay window that serves a habitable room as well as a front door. I do not know whether this is the only window serving this room or not, but given its close proximity to the high boundary fence, the outlook from this window is already severely compromised.
15. The proposed bungalow would be sited very close to the common boundary. Whilst it would be higher than the existing boundary fence, the additional impact it would cause on the outlook from this window would be minimal. Thus, whilst I consider that the outlook from this window is inadequate, the appeal scheme would not have a significant effect on it.
16. Given this, I am satisfied that the proposed development would not unacceptably harm the living conditions of the occupiers of No 23 Stanley Road South with particular regard to outlook. Therefore, it would not be contrary to Policy DC61 of the DPD outlined above.

Conclusion and Conditions

17. For the reasons set out above, I conclude that the appeal should be allowed.
18. In addition to the standard implementation condition, to provide certainty it is necessary to define the plans with which the scheme should accord. In the interests of the character and appearance of the area a condition is required to control the external appearance of the proposed dwelling.
19. I have not been given any detailed evidence regarding potential contamination of the site but I am mindful of the fact that it has been said the land has been used for storage and the sensitive nature of the end use. Given this, I consider it would be appropriate to have a condition to assess the potential for contamination and to outline measures of how any contamination would be dealt with. However, bearing in mind the size of the site and development I have altered the wording of this condition from that suggested by the Council. As this condition relates to work that would need to be done before

- construction takes place, it needs to be a pre-commencement condition. In accordance with Section 100ZA of the Town and Country Planning Act 1990, the appellant has provided written agreement to this pre-commencement condition.
20. Controlling the nature of the boiler and its emission levels is necessary in the interests of improving air quality, but I have amended the wording slightly to remove redundant clauses. For reasons of highway safety conditions are required to ensure the provision of the access to the highway and the parking area.
21. Given the proposal is for a single dwelling house I do not consider that a condition controlling the landscaping of the site is necessary. However, in the interests of the character and appearance of the area and to protect the living conditions of adjacent occupiers, a condition requiring the submission of details of the boundary treatments is necessary. In addition, and also to protect living conditions, a condition is required to control the hours of construction.
22. I consider that sufficient details of the refuse and cycle storage are provided on the approved plans, but a condition is necessary to ensure their provision in the interests of the character and appearance of the area and to encourage alternative modes of transport.
23. The Council suggested two conditions removing various permitted development rights. The *Planning Practice Guidance* (PPG) indicates that such conditions should only be used in exceptional circumstances. Given the design of the dwelling, its position on the plot which prevents any side or rear extensions, and conditions controlling the boundary treatments and the retention of the parking area which limit overlooking and potential extensions, I do not consider that they are necessary in this instance.
24. The PPG also indicates that conditions requiring compliance with other regulatory regimes will not pass the test of necessity. Given this, I consider it is not necessary to impose the conditions suggested by the Council requiring compliance with various parts of the Building Regulations.

Alison Partington

INSPECTOR

Annex A

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Site Plan and Location Plan Drawing No. STANLEY/01; Proposed Floor Plan Drawing No. STANLEY/02; Proposed Roof Plan Drawing No. STANLEY/03; Proposed Elevations Drawing No. STANLEY/04; Proposed Elevations Drawing No. STANLEY/05; Elevation Facing Stanley Road South Drawing No. STANLEY/06; and Cross Sections through Proposed House Drawing No. STANLEY/07.
- 3) The development hereby permitted shall be constructed in accordance with the materials detailed under section 7 of the application form.
- 4) No development shall commence until the following measures have been undertaken:
 - a) A Phase 1 (Desktop Study) Report documenting the history of the site, its surrounding area and the likelihood of contaminant(s), their type and extent (incorporating a Site Conceptual Model), has been submitted to, and approved in writing by, the local planning authority.
 - b) If the Phase 1 Report confirms the possibility of a significant risk to any sensitive receptors, a Phase II (Site Investigation) Report shall be submitted to, and approved in writing by, the local planning authority. This should be an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the sites ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.
 - c) If the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation a Phase III (Remediation Strategy) shall be submitted to, and approved in writing by, the local planning authority. This shall specify the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to, and approved in writing by, the local planning authority.
 - d) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to, and approved in writing by, the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.
- 5) The dwelling hereby permitted shall not be occupied until details for the installation of an Ultra-Low NO_x boiler with maximum NO_x emissions less than 40 mg/kWh have been submitted to, and agreed in writing by, the local planning authority. The installation of the boiler shall be carried out in strict accordance with the approved details and the boiler or any

replacement installation shall not exceed the approved emissions performance thereafter. Following installation, and before the dwelling is first occupied, an emissions certificate should be provided to the local planning authority to verify boiler emissions.

- 6) The dwelling hereby permitted shall not be occupied until the access to the highway has been completed in accordance with details that shall have been previously submitted to, and approved in writing by, the local planning authority.
- 7) The dwelling hereby permitted shall not be occupied until the area shown for car parking on the approved plans has been laid out and surfaced in accordance with details that shall have been previously submitted to, and approved in writing by, the local planning authority. That space shall thereafter be kept available at all times for the parking of vehicles.
- 8) The dwelling hereby permitted shall not be occupied until details of all the proposed boundary treatments have been submitted to, and approved in writing by, the local planning authority. The boundary treatments shall then be provided in accordance with the approved details and retained thereafter.
- 9) The dwelling hereby permitted shall not be occupied until the refuse/recycling facilities and cycle storage have been provided in accordance with the details shown on Drawing No STANLEY / 02. These facilities shall be retained as such thereafter.
- 10) Demolition or construction works shall take place only between 08:00 and 18:00 hours on Monday to Friday and 08:00 and 13:00 hours on Saturday, and shall not take place at any time on Sundays or on Bank or Public Holidays.