

## SECTION '2' – Applications meriting special consideration

**Application No :** 13/00251/FULL1

**Ward:**  
**Bickley**

**Address :** 11 Chislehurst Road Bromley BR1 2NN

**OS Grid Ref:** E: 541889 N: 169304

**Applicant :** P J Construction

**Objections :** YES

### **Description of Development:**

Two storey detached five bedroom house with accommodation in roof space and detached double garage at rear with access from Shawfield Park. (Amendment to permission ref. 11/01719). (RETROSPECTIVE APPLICATION).

Key designations:

Biggin Hill Safeguarding Birds  
Biggin Hill Safeguarding Area  
London City Airport Safeguarding  
London City Airport Safeguarding Birds  
Local Distributor Roads  
Open Space Deficiency

### **Proposal**

This proposal seeks to amend planning permission ref. 11/01719. That permission was granted on appeal in January 2012, subject to conditions that included Condition 2 showing a 'street-scene'. That permission did not restrict permitted development rights except for flank wall windows.

- The application is for an infill development sited adjacent to 'Old Timbers' which is a Listed Building, 11 Chislehurst Road.
- The proposed dwelling is sited so as to continue the building line on Chislehurst Road, with the dwelling set back 5m from the highway on an L-shaped plot.
- On the basis of the scaled drawings, the dwelling has a width of 12.6m and a height of 8.8m. The depth of the dwelling will be 11.8m and will incorporate a single storey rear section to the house and a gable roof feature to the front.
- The submitted elevational street scene drawing indicates the dwelling to be 1m taller than 'Old Timbers'. The eaves height of the house will be 5.0m.
- The dwelling is served by a new garage at the rear of the site served from Shawfield Park. The amended garage has a height of 4.1m and a length of 7m. The width is 6m and the garage will house two vehicles with space for

two more at the front. The garage has been reduced in height from 5.3m previously allowed on appeal.

- The existing access onto Shawfield Park has been widened and retained.
- At the time of writing the report, the development had been substantially constructed and nears completion.
- This application seeks to alter the previously permitted (2012) two storey five bedroom detached house to include accommodation in the roof space and includes high level rooflights to the rear elevation, the relevant permitted development rights were not withdrawn in 2012.
- The applicant has provided information supporting the application which states that the approved 11/01719 elevational drawings contained minor discrepancies and that the dwelling has been constructed in accordance with the elevational drawings as closely as is practicable.
- The applicant has varied the current proposal in response to concerns from an adjoining property in Shawfield Park. The pitch of the detached garage roof has been altered so as to make it less obtrusive. Also the location of some roof windows has been changed to minimise overlooking.

## **Location**

'Old Timbers', 11 Chislehurst Road is a two storey detached two storey dwelling. The building dates from the 17th Century and is constructed from red brick with a steeply pitched Kent peg tile roof and timber casement windows. The building is Grade II Statutory Listed. The surrounding area is characterised by large detached and semi-detached residential dwellings sited within generously sized plots. On the southern side of Chislehurst Road there is a commercial building. There are two other Statutory Listed Buildings opposite the site at No. 2 Bickley Road and No. 2 Chislehurst Road. The proposal is to retain the detached house 'as built' in part of the side and rear garden of No. 11.

## **Comments from Local Residents**

Nearby owners/occupiers were notified of the application and representations were received which can be summarised as follows:

- excessive height with respect to neighbouring listed building
- impact on the character of the street scene
- withdrawal of earlier objections from Shawfield Park on garage height and roof windows.

## **Comments from Consultees**

No technical highways objections are raised in light of the Inspector's previous decision.

English Heritage comments have been received stating that the proposal should be determined in accordance with national and local policy guidance, and on the basis of the Council's conservation advice.

Technical drainage comments have been received stating that the previous drainage comments should be applied to the application.

No Thames Water objections are raised, subject to informatives.

No Environmental Health objections are raised subject to informatives.

Legal Services have obtained independent Legal advice and this is summarised as follows:

The Council has sought legal advice which concludes that the applicant has an existing valid planning permission (2012), but that Condition 2 is invalid and is not enforceable. Therefore the Council may find it difficult to enforce against the building as constructed, should permission be refused.

### **Planning Considerations**

Policies relevant to the consideration of this application are BE1 (Design of New Development), BE8 (Statutory Listed Buildings), H7 (Housing Density And Design), T3 (Parking) and T18 (Road Safety) of the adopted Unitary Development Plan.

The National Planning Policy Framework and the Council's adopted SPG guidance are considerations, as is enforcement guidance in Circular 10/97 (Enforcing Planning Control: Legislative Provisions And Procedural Requirements).

From a heritage aspect, concerns were previously raised in regard to the relationship between the new dwelling and the adjacent listed building.

The existing planning permission should however be taken into account.

### **Planning History**

Planning permission was refused under ref. 11/01719 for a two storey four bedroom detached house and detached double garage at rear with access from Shawfield Park. The refusal grounds were as follows:

'The proposed dwelling would constitute an undesirable sub-division of the plot and reduction in the size of the garden and curtilage of No. 11 Chislehurst Road, detrimental to the special character and setting of the Statutory Listed Building and detrimental to the spatial standards of area, contrary to Policies BE1, BE8 and H7 of the Unitary Development Plan and PPS5 " Planning and the Historic Environment".'

The application was subsequently allowed on appeal in January 2012. The Inspector took the view that there was sufficient space to accommodate the new dwelling without prejudicing views of the listed building and its external constructional features and setting. In respect of the impact of the new house on adjacent development, he stated as follows:

'The subdivision of the present curtilage of Old Timbers would result in two plots somewhat smaller than many in the area but not unprecedentedly so. They would bear comparison with No. 34 Shawfield Park or with number 9 Chislehurst Road, a far more substantial building than either Old Timbers or the house proposed in this appeal.

Other than the generous space provided to the side of Old Timbers, the proximity of the new house to the flank of No. 17 Chislehurst Road would be typical of the spacing of houses along Chislehurst Road and Shawfield Park in the immediate vicinity. There is no information to suggest that the design and appearance of the new house proposed would be anything other than complementary to the character and appearance of the area. A condition can require compliance with the approved drawings to ensure that this would be so.

I conclude that the proposal would not harm the character and appearance of the area. It would comply with UDP policies BE1 and H7. Amongst other matters, these require new housing development to complement its surroundings in terms of layout, space, scale, form and materials.'

The appeal permission was subject to conditions, and Condition 2 required the development to be carried out in accordance with the approved plans, including a street scene drawing, which indicated the ridge height of the new dwelling to be similar to that of the listed building.

A planning application was submitted under ref. 12/03092 for a two storey five bedroom detached house with accommodation in roof space and detached double garage at rear with access from Shawfield Park (Amendment to permission ref. 11/01719). This application was subsequently withdrawn by the applicant.

The current application differs from the appeal permission 2012 in the following main respects:

- It shows accommodation in the roofspace, the Permitted Development rights for such an amendment were not however withdrawn under the 2012 appeal permission, the roof windows have now been located to minimise overlooking;
- It shows a modest rear extension, the Permitted Development rights for such an amendment were not however withdrawn under the 2012 appeal permission;
- The height of the approved detached garage has been reduced so as to reduce its impact on the adjoining property in Shawfield Park;
- The height of the new house is shown as 8.8 metres, this is consistent with the side elevations of the 2012 appeal permission, but the front and rear elevations of the 2012 appeal permissions were 8.5 metres;
- The current proposal is not consistent with the 'street-scene' drawing of the 2012 appeal permission mainly due to an inaccurate height of adjoining structures, we have taken legal advice on this matter which in summary is that the relevant Condition 2 of that 2012 permission is invalid.

Analysis of variations of the height difference of the New Building and Listed Building between the 2012 permission and 2013 application.

	Appeal Permission 2012	Current Application (ref. 13/00251)
Height of New House	8.8/8.5 metres	8.8 metres
Height of Listed Building Old Timbers	9.1 metres	8.2 metres
Difference of height New House and Old Timbers	+ 0.3/0.6 metres	- 0.6 metres
Variation between the 2012 permission and 2013 application	0.7 to 1.0 metres	

Source: application drawings and written submission by applicants.

## **Conclusions**

The main issues relating to the application are the full range of planning issues in particular the effect that it has on the character of the area, the impact on the setting of the Statutory Listed Building, the impact on the amenities of the occupants of surrounding residential properties, the impact on highway safety and the existing planning permission.

The principle and much of the detail of the development has been established under the appeal permission ref. 11/01719.

This report will therefore focus here on the amendments. The amendments include accommodation in the roof space. The Inspector did not remove these Permitted Development rights when allowing the appeal and such accommodation could be added without permission upon the completion of the development.

The proposed roof lights in the rear elevation are all sited at a high level on the proposed elevation drawings, although previously some were shown at a lower level. When standing within the roof, it is not easy to see neighbouring gardens from the roof rooms which possess high level windows and therefore the proposed high level roof lights would not result in significant overlooking to neighbouring property including No. 53 Shawfield Park.

The applicant has also provided slab levels for the dwelling which indicate the floor levels of the dwelling are not elevated from the ground, with sections of the floor area actually excavated into the ground at some parts of the building. These may be made the subject of a condition

The alterations also include a single storey rear extension. As with the accommodation in the roof space the Inspector did not remove permitted development rights when allowing the appeal and therefore a limited extension could be added without permission upon completion of the development. It is

considered that a single storey extension to the permitted building would not impact on the character of the area or overdevelop the site, given the Inspector's view. The extension will be well separated from No. 11 by 5m and will only project beyond the neighbouring rear wall by 4m. This relationship is considered to be acceptable and not oppressive and harmful to the amenities of No. 11, as the rear gardens face north.

The proposed detached garage has a lower roof than the garage that was previously permitted. From a highway safety point of view, it is considered that the proposed replacement garage and parking area with access from Shawfield Park would not be detrimental to highway safety, with adequate car parking provision and manoeuvring space. The Inspector imposed a condition to prevent parking on Chislehurst Road and this can be repeated. The proposed reduction in the roof height of the garage will improve the relationship with No. 53, although this relationship was deemed acceptable previously.

The Inspector considered the effect of the previous proposal on the Listed Building's setting. He concluded that there was sufficient space to the side of Old Timbers for the brick string course on its flank to be appreciated. This space has not been affected by the current proposed amendments.

A further planning issue is the Street scene. We are aware from the above planning history that the main reason for the difference in the 'actual' street scene and that shown in the appeal permission Condition 2 drawing is the given height of Old Timbers. We have taken independent legal advice and to reiterate the summary from above.

The Council has sought legal advice which concludes that the applicant has an existing valid planning permission (2012), but that Condition 2 is invalid and is not enforceable. Therefore the Council may find it difficult to enforce against the building as constructed, should permission be refused.

Drawing the above planning issues together, the existing planning permission, other than the invalid Condition 2 in relation to the Street scene, should be given significant weight. The above amendments to that planning permission do not cause harm in planning terms. Furthermore, there is the opportunity to clarify that further development under Permitted Developments rights will be restricted and to ensure that the positioning of the roof windows and the reduced height of the garage are subject to conditions.

It is therefore recommended that planning permission be granted subject to the conditions set out below.

Background papers referred to during production of this report comprise all correspondence on files refs. 11/01719, 12/03092 and 13/00251, excluding exempt information.

## **RECOMMENDATION: PERMISSION**

Subject to the following conditions:

- 1 Details of a scheme of landscaping, which shall include the materials of paved areas and other hard surfaces, particularly to the western side of the site, shall be submitted to and approved in writing by the Local Planning Authority before the occupation of the development hereby permitted. The approved scheme shall be implemented in the first planting season following the first occupation of the buildings. Any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species to those originally planted.

**Reason:** In order to comply with Policy BE1 of the Unitary Development Plan and to secure a visually satisfactory setting for the development.

- 2 Details of the proposed height of the garage shall be submitted and approved in writing by the Local Planning Authority and the garage shall be retained permanently as such thereafter and shall not be enlarged to the size of that permitted under ref. 11/01719.

**Reason:** In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the area.

- 3 Details of the proposed slab levels and roof heights of the building(s) and the existing site levels shall be submitted to and approved in writing by the Local Planning Authority before the dwelling hereby permitted is first occupied and the development shall be retained strictly in accordance with the approved levels.

**Reason:** In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the area.

- 4 The development hereby permitted shall be permanently retained in complete accordance with the plans approved under this planning permission unless previously agreed in writing by the Local Planning Authority.

**Reason:** In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the appearance of the building and the visual amenities of the area.

- 5 The new dwelling shall not be occupied until space has been laid out within the site in accordance with drawing No 79769/1C for cars to be parked. The space so provided shall subsequently be kept available for its intended purpose.

**Reason:** In order to comply with Policy T3 of the Unitary Development Plan and to avoid development without adequate parking or garage provision, which is likely to lead to parking inconvenience to other road users and would be detrimental to amenities and prejudicial to road safety.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, revoking and re-enacting this Order) no building, structure or alteration permitted by Class A, B, C, or E of Part 1 of Schedule 2 of the 1995 Order (as amended), shall be erected or made within the curtilage(s) of the dwelling(s) hereby permitted without the prior approval in writing of the Local Planning Authority.

**Reason:** In order to comply with Policies H7 and BE1 of the Unitary Development Plan and to prevent overdevelopment of the site.

- 7 Before the development hereby permitted is first occupied, the proposed bathroom window(s) shall be obscure glazed in accordance with details to be submitted to and approved in writing by the Local Planning Authority and shall subsequently be permanently retained as such.

**Reason:** In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the amenities of the adjacent properties.

- 8 Only one of the planning applications granted under refs. 11/01719 and 13/00251 shall be implemented at the site and the development undertaken shall remain in complete accordance with only one of the developments granted.

**Reason:** In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the visual amenities of the area.

### **Reasons for granting permission:**

In granting planning permission the Local Planning Authority had regard to the following policies of the Unitary Development Plan:

- BE1 Design of New Development
- BE8 Statutory Listed Buildings
- H7 Housing Density and Design
- T3 Parking
- T18 Road Safety

The development is considered to be satisfactory in relation to the following:

- (a) the impact on the character of the surrounding area
- (b) the impact on the amenities of the occupiers of adjacent and nearby properties, including light, prospect and privacy
- (c) the spatial standards to which the area is at present developed
- (d) the impact on the setting of the adjacent Statutory Listed Building
- (e) the transport policies of the UDP

and having regard to all other matters raised.

### **INFORMATIVE(S)**

- 1 With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.



- 2 Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you contact Thames Water to discuss their status in more detail and to determine if a building over / near to agreement is required. You can contact Thames Water on 0845 850 2777 or for more information please visit our website at [www.thameswater.co.uk](http://www.thameswater.co.uk)
- 3 Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
- 4 If during works on site suspected contamination is encountered, Public Protection should be contacted immediately. The additional contamination shall be fully assessed and an appropriate remediation scheme submitted to the Authority for approval in writing by it or on its behalf.
- 5 Before the use commences, the applicant is advised to contact the Pollution Team of Public Protection regarding compliance with the Control of Pollution Act 1974 and/or the Environmental Protection Act 1990.
- 6 You are advised that this application may be liable for the payment of the Mayoral Community Infrastructure Levy under the Community Infrastructure Levy Regulations (2010) and the Planning Act 2008. The London Borough of Bromley is the Collecting Authority for the Mayor and this Levy is payable on the commencement of development (defined in Part 2, para 7 of the Community Infrastructure Levy Regulations (2010)). It is the responsibility of the owner and /or person(s) who have a material interest in the relevant land to pay the Levy (defined under Part 2, para 4(2) of the Community Infrastructure Levy Regulations (2010)).

If you fail to follow the payment procedure, the collecting authority may impose surcharges on this liability, take enforcement action, serve a stop notice to prohibit further development on the site and/or take action to recover the debt.

Further information about Community Infrastructure Levy can be found on attached information note and the Bromley website [www.bromley.gov.uk/CIL](http://www.bromley.gov.uk/CIL)

**Application:**13/00251/FULL1

**Address:** 11 Chislehurst Road Bromley BR1 2NN

**Proposal:** Two storey detached five bedroom house with accommodation in roof space and detached double garage at rear with access from Shawfield Park. (Amendment to permission ref. 11/01719). (RETROSPECTIVE APPLICATION).



"This plan is provided to identify the location of the site and should not be used to identify the extent of the application site"

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