

Section '3' - Applications recommended for PERMISSION, APPROVAL or CONSENT

Application No : 14/01887/FULL1

Ward:
Bickley

Address : 102 Nightingale Lane Bromley BR1 2SE

OS Grid Ref: E: 541262 N: 169111

Applicant : Mr Faisal Younus

Objections : YES

Description of Development:

Erection of part subterranean detached 3 bedroom dwelling with associated access road at land at rear of 102 Nightingale Lane.

Key designations:

Biggin Hill Safeguarding Birds
Biggin Hill Safeguarding Area
Local Cycle Network
London City Airport Safeguarding
London City Airport Safeguarding Birds
Open Space Deficiency

Proposal

Planning permission is sought to construct a part subterranean dwelling within the rear part of the plot at 102 Nightingale Lane within what currently forms part of its rear garden. The dwelling would be accessed via a "grasscrete" drive between 102 and 104 Nightingale Lane (within land situated within No 102's existing curtilage). The proposed dwelling would be of irregular shape and occupy a fairly central position within its plot and incorporate a flat roof with the lower level accommodation partly visible below the proposed upper floor.

The application is the essentially the same as that previously refused. However, the previous decision was appealed and although dismissed, it was only on one of the original five reasons for refusal and concerned access and parking arrangements. All other aspects of the proposal were considered acceptable by the Inspector. The current application has been submitted in an attempt to overcome the sole remaining reason for refusal following the subsequent appeal decision.

Location

The application site forms part of the rear garden area of a detached two storey dwelling and is 0.1ha in area. The surrounding area is wholly residential in character and is characterised by predominantly individual houses, the majority of which are set within generous plots.

The site contains a large detached house constructed in the early-twentieth century which fronts Nightingale Lane. The site also adjoins the properties 17 and 19 Wanstead Road located to the west. The eastern site boundary adjoins a flatted development at Field Close which forms a self-contained development of 14 apartments.

Comments from Local Residents

Nearby owners/occupiers were notified of the application and 5 representations objecting to the proposal were received. The representations are available to view in full on file and can be summarised as follows:

- overlooking and resulting loss of privacy;
- loss of light;
- out of character with surrounding area;
- access road will insufficient for emergency and refuse vehicle access;
- separation distance between buildings as well as access drive harmful to living conditions of neighbouring properties;
- exacerbate parking problems;
- plans are inaccurate and should be looked at in the context of recent extensions and additions to neighbouring properties;
- property is not 'heavily treed' rather it is overgrown and unkempt;
- proposed trees will impact significantly on light;
- application an attempt to confound and deceive usually planning polices applied in Bromley and by the Planning Inspectorate;
- limited boundary screening;
- will set a precedent for back-garden development; and
- affect future values of adjoining properties.

Comments from Consultees

Thames Water: No objection.

Highways: Subsequent to receipt of revised drawings has no objection.

Environmental Health (Pollution): No objection.

Drainage: No objection.

Planning Considerations

The application falls to be determined in accordance with the following policies of the Unitary Development Plan:

BE1 Design of New Development
H7 Housing Density and Design
T3 Parking
T18 Road Safety
ER13 Foul and Surface Water Discharges from Development

The following Council adopted SPG guidance is also a consideration:

Supplementary Planning Guidance 1 General Design Guidance
Supplementary Planning Guidance 2 Residential Design Principles

London Plan policies:

3.3 Increasing Housing Supply
3.4 Optimising Housing Potential
3.5 Quality and Design of Housing Developments
5.13 Sustainable drainage
7.4 Local Character
8.3 Community Infrastructure Levy

Planning History

The most relevant planning history is the planning application (Council ref. 13/00929/FULL1) refused in June 2013 for the erection of part subterranean detached 3 bedroom dwelling with associated access road at land at rear of 102 Nightingale Lane. The reasons for refusal being:

1. The proposed development, which would result in the loss of undeveloped garden land, constitutes a cramped and unacceptable form of backland development, out of character with adjoining development and harmful to the spatial characteristics of the area, thereby contrary to Policies H7 and BE1 of the Unitary Development Plan and Paragraph 53 of the National Planning Policy Framework.
2. The proposed access would harm the living conditions of the existing properties at Nos. 102 and 104 Nightingale Lane by reason of noise and disturbance, contrary to Policy BE1 of the Unitary Development Plan.
3. If permitted the development would be likely to set a pattern for similar undesirable backland development which would undermine the character and spatial standards associated with the area, thereby contrary to Policies BE1 and H7 of the Unitary Development Plan.
4. The layout of the access roads and turning arrangements to the proposed dwelling is inadequate and as such would be prejudicial to vehicle movement within the development, contrary to Policy T18 of the Unitary Development Plan.
5. The proposal lacks adequate on-site car parking and will be likely to lead to increased demand for on-street car parking in surrounding roads detrimental

to the amenities of nearby residents and prejudicial to the free flow of traffic and conditions of general safety along the highway, thereby contrary to Policies T3 and T18 of the Unitary Development Plan.

The decision to refuse the application was appealed (PINS ref. APP/G5180/A/13/2203458) with the appeal subsequently dismissed. However, whilst the appeal was dismissed, it is important for Members to note that it was only dismissed on one of the original five grounds for refusal relating specifically to access and parking arrangements. All of the other reasons for refusal were dismissed.

Conclusions

As noted above, the current proposal is essentially the same as the previous application. The only difference is improvements to the access and parking arrangements. These changes have been made in order to overcome the sole remaining reason for the previous refusal as determined by the Inspector in the previous appeal decision. In the conclusion of the appeal decision, the Inspector states:

The Government is seeking to significantly boost the supply of housing and requires applications for housing development to be considered in the context of the presumption in favour of sustainable development. The appeal site is within a residential area and there can be no objection in principle to its development, provided that this can be achieved without material harm to the local environment. The appeal proposal would make efficient use of land and provide an additional modest-sized home. I have found that it would not be harmful to the character and appearance of the area or to the living conditions of occupants of adjoining properties.

The Inspector goes on to state:

However, these positive aspects of the proposal are outweighed by my findings in relation to the proposed access and parking arrangements, which I have concluded would be potentially unsafe and inadequate to serve the development.

Given the above, it is respectfully considered that despite the objections of neighbours on other grounds, Members should limit consideration of the current application to the sole remaining reason for refusal relating to access and parking arrangements as identified by the Inspectorate in the previous appeal.

Following initial assessment of the application, the applicant was asked to demonstrate how an ambulance or delivery lorry would manoeuvre through the gate with a swept path analysis using auto track as well as indicating the location of the refuse storage. In consultation with Council's Highways Engineer the applicant improved the access for the emergency vehicle and the turning area as well as indicated the refuse storage area as being within a cupboard in the garage. Subsequent to assessment of the further information submitted by the applicant on 24 June 2014 the Highways Engineer no longer objects to the application subject to the imposition of standard conditions.

In conclusion, having had regard to the above Members may consider the proposed development acceptable as it would not be harmful to the character and appearance of the area or to the living conditions of occupants of adjoining properties. Furthermore, Members may consider that the proposed development is acceptable with regard to access and parking arrangements thereby overcoming the sole remaining reason for refusal as determined by the previously dismissed appeal.

Background papers referred to during production of this report comprise all correspondence on files refs. 14/01887 and 13/00929, excluding exempt information.

as amended by documents received on 24.06.2014

RECOMMENDATION: PERMISSION

Subject to the following conditions:

- 1 ACA01 Commencement of development within 3 yrs
ACA01R A01 Reason 3 years
- 2 ACK01 Compliance with submitted plan

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.

- 3 ACA04 Landscaping Scheme - full app no details
ACA04R Reason A04
- 4 ACA07 Boundary enclosure - no detail submitted
ACA07R Reason A07
- 5 ACK05 Slab levels - no details submitted
ACK05R K05 reason
- 6 ACC07 Materials as set out in application
ACC07R Reason C07
- 7 ACD02 Surface water drainage - no det. submitt
AED02R Reason D02
- 8 ACH03 Satisfactory parking - full application
ACH03R Reason H03
- 9 ACH05 Size of garage
ACH05R Reason H05
- 10 ACH08 Details of turning area
ACH08R Reason H08
- 11 ACH16 Hardstanding for wash-down facilities
ACH16R Reason H16
- 12 ACH19 Refuse storage - implementation
ACH19R Reason H19
- 13 ACH27 Arrangements for construction period
ACH27R Reason H27
- 14 ACH32 Highway Drainage
ADH32R Reason H32
- 15 No loose materials shall be used for surfacing of the parking and turning area hereby permitted.

Reason: In order to comply with Policy T18 of the Unitary Development Plan and in the interest of pedestrian and vehicular safety.

16 ACI02 Rest of "pd" Rights - Class A, B,C and E

Reason: In the interest of the visual amenities of the area and in order to prevent an overdevelopment of the site, to accord with Policy BE1 of the Unitary Development Plan.

INFORMATIVE(S)

- 1 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

- 2 Before the use commences, the Applicant is advised to contact the Pollution Team of Environmental Health and Trading Standards regarding compliance with the Control of Pollution Act 1974 and/or the Environmental Protection Act 1990. The Applicant should also ensure compliance with the Control of Pollution and Noise from Demolition and Construction Sites Code of Practice 2008 which is available on the Bromley web site.
- 3 If during the works on site any suspected contamination is encountered, Environmental Health should be contacted immediately. The contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Authority for approval in writing.
- 4 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 groundwater. 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.

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"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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