

Section '4' - Applications recommended for REFUSAL or DISAPPROVAL OF DETAILS

Application No : 15/01292/FULL1

**Ward:
Orpington**

Address : 23 The Drive Orpington BR6 9AR

OS Grid Ref: E: 545856 N: 165672

Applicant : Mrs Elaine Hamilton

Objections : YES

Description of Development:

Detached 2 bedroom dwelling house with vehicle parking for 2 vehicles in the rear garden of 23 The Drive. Accessed from The Avenue

Key designations:

Biggin Hill Safeguarding Birds
Biggin Hill Safeguarding Area
London City Airport Safeguarding
Open Space Deficiency
Smoke Control SCA 29

Proposal

- The proposal seeks permission for a new three bedroom detached dwelling on a site created from part of the rear garden of No.23 The Drive, and the frontage of the new dwelling would be accessed via The Avenue.
- The new dwelling would be two storeys in height with car parking space for 2 vehicles. The proposed dwelling would have a width of approx 9 metres along the front elevation, approx 6. metres along the rear elevation, and approx 7 metres along the flank elevations notwithstanding the staggered elevation along the eastern flank. A minimum of 1 metre would be retained between the flank elevations and the newly formed property boundaries.
- The roof design would be hipped to the front and rear roof slopes and gable end features introduced to both roof flanks.

Location

The application site hosts a detached family dwellinghouse on a sizeable plot set along the southern side of The Drive, with a large garden to the rear. The application site relates to the rearmost part of the rear garden of the host dwelling, and the front boundary of the proposed new plot fronts onto The Avenue.

Comments from Local Residents

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

- Unhappy with proposed extra house being access via The Avenue, close to Brethren Church;
- Will set a precedent for gardens nearby in The Drive to be sold off for additional buildings to be built;
- Would lead to extra traffic congestion down an already congested road with traffic driving too fast;
- The fact the applicant is a "key worker" should have no influence on this application. If the proposal was turned down her job as a Teacher is not at risk.
- The impression given is that the relationship between the applicant and Father/Mother at 23 The Drive are close (they are planning at some stage to "switch" properties) so has she not considered moving into 23 The Drive as it is a large house ?
- The application states no trees are involved. There is a large tree directly outside the proposed property which would be at major risk if the development went ahead and change the local landscape character. Why is that not commented on in the application ? As a side issue there is a tree and associated vegetation that would need to be cleared on the proposed site.
- The proposal if approved will likely erode the individual quality and character of The Avenue. Not just the threat of a large tree (The Avenue is known for its tree lined route) but with 2 car parking spaces which would increase the already large volume of traffic in The Avenue. It should be remembered The Avenue is the main route for walking pupils from the station to St Olave's School and they would be at increased risk of injury.
- Surprised the application refers to access to the proposed property as "already in existence". Having lived in The Avenue for over 20 years I have not seen the existing wooden gates opened for car access. If the application suggests it is in current use, why does The Council allow paid parking right across the full boundary? If a proper drive I would expect a yellow line across to stop parking due to the Council's parking restrictions.
- The Knoll Residents Association (KRA) are currently gathering a petition to become an Area of Special Residential Character (ASRC) in line with other residential areas in Bromley. It plans to safeguard this as a well-established residential area to retain identifiable and distinctive characteristics. In other words it wants to stop developments such as the one being proposed at 23 The Drive plus commercial ventures that threaten the areas objectives.
- If this application goes ahead, it would give encouragement to houses at 21, 19, 17 and 15 The Drive to carry out similar ventures.
- Have told the applicant that, whilst we would prefer that the house is not built, we will not raise a formal objection to her plans. In coming to this decision, we have accepted her verbal promise that she will arrange for a restrictive covenant to be placed on No. 23 to guarantee that the existing Leylandii hedge between the edge of the rear garden of No. 23 and ours at

No.21 will be maintained at its present length and height, the latter being approximately 12 feet. This will obscure any view of the new house from ours at ground floor level. The applicant believes that this covenant would be binding on any future owner or occupier of No. 23. Therefore, we insist that you see evidence of such a covenant being in place before planning consent is granted.

- If consent is granted, this may be perceived as a precedent by others with a rear garden facing The Avenue, possibly encouraging them to put forward similar plans. For example, Mr John Heard of 17 The Drive may decide to submit a new planning application for a building on the site currently occupied by his single storey garage situated in his rear garden, with access from The Avenue. In 2007, he submitted plans for a two-storey office building plus basement on this site. These plans were rejected by the Bromley Planning Department and his subsequent appeal to the Planning Inspectorate was also turned down;
- The application is for The Avenue NOT The Drive;
- Residents of The Avenue were not informed;
- Rushed application to avoid any objection by residents of The Avenue;
- Encourages more access to The Drive from The Avenue;
- Applications for more housing will be made.
- Quality of life in The Avenue will suffer;
- The site is too small to squeeze a house onto. My house is directly opposite the proposed development and the privacy to my front bedrooms will be greatly reduced;
- As for the point of housing key workers I feel this is a moot point as there is no law to stop the house being sold as soon as its completed.

Comments from Consultees

Council's Drainage Engineer - no objections subject to conditions should permission be granted.

Environmental Health Housing stated that the applicant is advised to have regard to the Housing Act 1985's statutory space standards contained within Part X of the Act and the Housing Act 2004's housing standards contained within the Housing Health and Safety Rating System under Part 1 of the Act.

Highways Engineer stated there are 2 spaces proposed for the new dwelling. There is just more than the normally required 4.5m depth for a parking space, however the second space is at an angle and will require manoeuvring to access and is also directly adjacent to the front door of the proposed property.

The site is within a high (5) PTAL location and the surrounding roads have parking controls so there would be an incentive to park on the frontage. However, there are parking bays across the site frontage along The Avenue and there is a general assumption against removing such bays.

Thames Water raised no objection subject to informatives being imposed upon any permission granted.

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
T11 New Accesses
T18 Road Safety

Supplementary Planning Guidance 1
Supplementary Planning Guidance 2

London Plan:

3.3 Increasing Housing Supply
3.4 Optimising Housing Potential
3.5 Quality and Design of Housing Developments
5.3 Sustainable Design and Construction
5.13 Sustainable Drainage
6.9 Cycling
6.13 Parking
7.2 An Inclusive Environment
7.3 Designing out crime
7.4 Local Character
7.6 Architecture

Mayor of London's Housing Supplementary Planning Guidance

National Planning Policy Framework (NPPF)

Planning History

Permission granted under ref. 02/02173 for rear dormer extension and new flank window at the host dwelling No.23 The Drive.

Conclusions

The main issues relating to the application are the effect that it would have on the character of the area and the impact that it would have on the amenities of the occupants of surrounding residential properties.

The application site was visited by the case officer and the aims and objectives of the above policies, national and regional planning guidance, all other material planning considerations including any objections, other representations and relevant planning history on the site were taken into account in the assessment of the proposal.

The main issues in this case are considered to be:

- Siting and design of the development and the level of amenity space around the building;
- The level of amenity space afforded to No.23 The Drive;
- Impact of proposal upon the streetscene;
- Impact on the visual and residential amenities of the surrounding area;
- Impact on the visual and residential amenities of the occupiers of the surrounding residential properties;
- Highways impacts;
- The effect of the proposal on the living conditions of the occupiers of adjoining dwellings, with particular regard to outlook and general disturbance.

In cases such as this, which the Council would class as "backland development", the layout of the site and the level of amenity space that is provided around the buildings are critical to whether the proposal will be acceptable.

Policy H7 of the UDP requires that the site layout, buildings and space around buildings are designed to a high quality and recognise as well as complement the qualities of the surrounding areas. It also required that adequate amenity space is provided to serve the needs of the particular occupants and the remaining host dwelling.

As the supporting text to Policy H7 states, "Many residential areas are characterised by spacious rear gardens and well-separated buildings. The Council will therefore resist proposals which would tend to undermine this character or which would be likely to result in detriment to existing residential amenities." The supporting text goes on to state that "backland development, involving development of land surrounded by existing properties, often using back gardens and creating new access, will generally also be resisted". Such development is only likely to be allowed where it is small-scale and sensitive to the surrounding residential area.

Policy 3.5 of The London Plan seeks to ensure the quality and design of housing and developments. This policy requires that housing development should be of the highest quality internally, externally and in relation to their context and to the wider environment in order to protect and enhance London's residential environment and attractiveness as a place to live. In addition, the design of all new housing development should enhance the quality of local places, taking into account physical context, local character; density; tenure and land use mix; and relationships with, and provision of, public, communal and open spaces. It is considered that the proposal, by introducing new residential development into existing rear garden land, does not comply with Policy 3.5 of the London Plan and does not protect the existing context of the host site and character of the wider area.

Policy 3.5 of the London Plan further states that directly and indirectly back gardens play important roles in addressing many policy concerns, as well as being a much cherished part of the London townscape contributing to communities' sense of place and quality of life. Pressure for new housing means that they can be threatened by inappropriate development and their loss can cause significant local

concern, as has occurred in this instance with a number of local residents raising concern with regard to the proposal. The London Plan therefore supports development plan-led presumptions against development on back gardens where locally justified by a sound evidence base.

In terms of providing a strong evidence base, there is a strong and consistent pattern of spatial standards that exist in The Drive and along The Avenue, with front and rear gardens of broadly similar lengths. These standards are also reflected in the wider area, where properties were constructed during broadly the same period. As such it is considered that the introduction of the proposed new dwelling would ultimately reduce the garden size of the host dwelling at No.23 The Drive, and would also introduce a new dwelling with substandard amenity space in relation to the general prevailing character of the wider area, contrary to Policy 3.5 of the London Plan.

The application documentation refers to a number of properties in the area as examples of development that the current application is attempting to emulate. As part of the pre-application submission the properties highlighted were historical, granted approval in the 1960s, and others in 1979-1980. It was considered that planning policy has evolved since the other properties were approved and built, and backland development is now largely resisted by the Council where it is considered to be inappropriate.

As part of the current application, further and more recent developments have been cited as similar examples, however, these are not located within the immediate vicinity of the application site. These more recently approved developments appear to have been raised as examples of new dwellings with minimal level of amenity space. However, it is considered that each case must be assessed on its own merit and direct comparisons should not be drawn.

The rear garden amenity space for the proposed new dwelling is considered to be substandard, and largely out of context for the surrounding area which is characterised by residential properties with spacious rear gardens. It is acknowledged that the main part of the rear garden for the host dwelling No.23 The Drive would not be affected, as the new plot would be inserted to the side of the rear garden served by the main dwellinghouse, however the rear garden area which is to the rear of the kitchen and converted garage aspect of the host dwelling would be used for the new plot and the overall amenity space afforded to No.23 would therefore be significantly reduced.

Whilst the supporting documentation for the application states that the proposed new dwelling would be used for family members of the host dwelling, there is no way to protect or control who the future occupiers of any new dwelling would be, and no way to ensure that the new dwelling is not sold outside of the family. Whilst it is acknowledged that there have historically been new plots inserted into rear gardens of properties along The Drive, the proximity of the site to the host dwelling, combined with the lack of amenity space around the new and host dwellings, is such that the impact of the proposed dwelling upon the visual and residential amenities of the occupiers of No.23, whether future occupiers are family members or not, renders the proposal unacceptable.

In addition, the gross internal area (GIA) of the proposed new dwelling in terms of the resulting habitable accommodation will measure approximately 52.88m² (two bedrooms, lounge, study and dining room). Policy 3.5 (para. 3.36) of The London Plan states in effect that the relative size of all new homes in London is a key element of strategic planning, and minimum space standards for dwellings of different sizes have been introduced. For a 2 bedroom, 4 person, 2 storey house, the minimum GIA required for this type of development is 83m². As such, the proposal falls significantly short of this requirement and it is considered that the resulting development would not form an acceptable level of residential accommodation for future occupiers of the proposed dwelling.

With regard to the neighbouring property, No.25 The Drive, this property is sited further rearward on its plot than No.23, and as such, the rear elevation of the proposed new dwelling would be located within close proximity to the rear windows of No.25 which is considered to have a detrimental impact upon the visual and residential amenities of No.25.

Directly outside the front of the proposed new plot, located along The Avenue, are paid parking bays. The proposal to utilise the rear access for parking linked with the new dwelling would result in the loss of these parking bays, and there is an assumption against this. There is just more than the normally required 4.5m depth for a parking space and the second space is at an angle and will require manoeuvring to access. It is also directly adjacent to the front door of the proposed property. The site is within a high (5) PTAL location and the surrounding roads have parking controls so there would be an incentive to park on the frontage. On balance and given the scale of the development, the proposal is not considered likely to have a detrimental impact upon matters of road safety.

However notwithstanding this, it is considered that the proposal represents backland development that is not sensitive to the surrounding area, is contrary to the fundamental aims of Policy H7 of the UDP and should therefore be resisted. The proposal is considered to represent an overdevelopment of the site that would result in a significant lowering of spatial standards that would be out of character and detrimental to both the host dwelling and the surrounding area, and the proposal will also involve the removal of two parking bays located along The Avenue, where there is a general presumption against this.

It is noted that there are properties along The Avenue that have been built within the rear garden of other properties along The Drive, however these appear to be dated from the 1960s-1970s and planning policy has since evolved and now seeks to protect back garden land from built development of this type.

Having had regard to the above, it is considered that it would be difficult to achieve a plot of sufficient size in this location, particularly in view of the existing spatial standards of the area, that would both respect the spatial standards of the area and provide sufficient developable area and amenity space for an additional dwelling. In addition, the habitable space and GIA for the resulting new dwelling would fall significantly short of the London Plan requirements, indicating that the accommodation provided for any future occupiers would be insufficient and likely to lead to a poor standard of living.

As such, the principle of introducing a new dwelling and residential curtilage into the existing rear garden of No.23 The Drive is considered unacceptable and likely to result in an inappropriate form of development that would be harmful to the visual and residential amenities of the occupiers of the host dwelling, to the occupiers of neighbouring properties in particular those living at No.25 The Drive, would result in an uncharacteristically small plot in an area that is largely governed by large, spacious detached dwellings with sizeable rear gardens, and likely to lead to a substandard level of accommodation for future occupiers.

Background papers referred to during production of this report comprise all correspondence on the file ref. 15/01292, set out in the Planning History section above, excluding exempt information.

RECOMMENDATION: APPLICATION BE REFUSED

The reasons for refusal are:

- 1 The proposal involves the unsatisfactory subdivision of a residential plot in order to introduce a new residential unit that would create an overintensive use of the site, that would be out of character in the area by reason of its limited curtilage and size of rear garden, and would be detrimental to the privacy and amenities of the occupiers of neighbouring properties, thereby contrary to Policies BE1 and H7 of the Unitary Development Plan and Policy 3.5 of The London Plan.
- 2 The proposal, by reason of the restricted site dimensions and substandard GIA of habitable accommodation for the proposed new dwelling, would result in an unsatisfactory piecemeal form of development, out of character with and prejudicial to the proper planning of the area, and an unsatisfactory form of development for future occupiers of the proposed dwelling, contrary to Policies BE1 and H7 of the Unitary Development Plan and Policy 3.5 of The London Plan.
- 3 The proposal, by reason of its size and design, would represent an overdevelopment of the site resulting in a significant lowering of spatial standards that would be out of scale and character with, and would be detrimental to the visual amenities of the street scene, contrary to Policies BE1 and H7 of the Unitary Development Plan and Policy 3.5 of The London Plan.
- 4 The proposal would result in the removal of two parking bays along The Avenue, where there is a general presumption against this, contrary to Policy T3 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