

SECTION '2' – Applications meriting special consideration

Application No : 15/05324/FULL1

Ward:
Plaistow And Sundridge

Address : 87 Oak Tree Gardens Bromley BR1 5BE

OS Grid Ref: E: 540986 N: 171589

Applicant : PJ Supplies Construction

Objections : YES

Description of Development:

Demolition of 89 and 91 Oak Tree Gardens and erection of 7 two storey four bedroom dwellings with accommodation in roof space on land to the rear comprising of 3 terraced dwellings and 2 pairs of semi-detached dwellings, single garage for No. 87, associated access, parking, landscaping, cycle and refuse storage

Key designations:

Biggin Hill Safeguarding Area
London City Airport Safeguarding
Sites of Interest for Nat. Conservation
Smoke Control SCA 7

Proposal

It is proposed to demolish 2 dwellings in order to provide access to the rear to a formed backland development site comprising the entire sites of Nos. 89 and 91 and parts of the severed rear gardens of the adjacent pairs of semi-detached houses at 87 and 93 Oak Tree Gardens.

It is proposed that one terrace of 3 dwellings and 2 pairs of semi-detached dwellings be erected on the site. One pair of semi-detached dwellings (houses 6 and 7) would be erected to the rear of No. 87, at a right angle to that frontage dwelling, with their rear gardens being broadly formed from the severed portion of No. 87's rear garden. The rear elevation of this semi-detached pair of dwellings would broadly align with a proposed detached garage which would be positioned adjacent to No. 87 and allocated for use by the occupiers of that dwelling.

The front elevation of this semi-detached pair would face into the site, across part of the on-site parking area and front gardens, towards the front elevations of houses 1, 2 and 3, the terraced group of dwellings. A minimum of 3.2m would be retained to the flank boundary of the site with the retained rear garden of No. 87, with a space of 2.7m retained to the rear (western) boundary of the site. Houses 6 and 7 would each have a rear garden measuring approx. 10.9m deep, with the rear garden boundary adjoining the rearmost 19.2m long portion of the garden at No. 85 Oak Tree Gardens. A retaining wall would be constructed at the back of the gardens, with the flat section of garden at the immediate rear of the dwellings being

a minimum of approx. 8.2m. To the front of the pair of dwellings a total of 4 car parking spaces are shown to be provided, set between areas of soft landscaping.

The terrace of 3 dwellings would be sited 2.8m from the rear (western) boundary of the site. 5 car parking spaces are shown to be provided in front of the terrace with soft landscaping front garden areas on either side of the hardstanding and pathways. The terraced dwellings would have gardens approx. 10.8m deep, with a retaining wall constructed at the rear of the gardens.

To the east of the terraced group of dwellings, a further pair of semi-detached dwellings is proposed (houses 4 and 5). A separation of 2m would be provided between the eastern flank wall of the terrace and the western flank wall of house 4. This pair of dwellings would be sited a minimum of 2.6m from the eastern boundary of the site with the rear garden of No. 95. A rear garden of approx. 11.1m deep would be provided to each dwelling. A total of 4 car parking spaces would be provided in front of the semi-detached pair of dwellings, with modest front gardens between the parking bays and the front elevation of the dwellings.

A turning head is shown to be provided between a car parking area towards the main vehicular access into the site and the flank boundary of house 6.

Location

Oak Tree Gardens is part of the Links Estate, a large suburban residential area dating from the 1930s which is characterised by two storey dwellings that are in the main provided in semi-detached pairs or in short terraces set in long, narrow plots.

To the west of Oak Tree Gardens lies a railway line set above the gardens on a tree-covered railway embankment. The common features which characterise the development in the locality are considered to be the two storey bay windows, hipped roofs and part tile hung/rendered front elevations.

The site is located at the point where Oak Tree Gardens turns a sharp corner into Portland Road. The site comprises the plots of nos. 89 and 91 in their entirety and part of the rear gardens of Nos. 87 and 93. These gardens fan out behind the existing properties and are significantly larger than those associated with other dwellings in the area. There is a change in levels across the site, with the section at the rear of the site and particularly the area at the rear of No. 87 being set at a higher ground level than that at the front.

Consultations

Local representations

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

- The proposal will reduce the harmony and character of the existing neighbourhood

- Increased concerns that rainwater run-off will flood existing houses and gardens in the near vicinity of the site
- Increased potential for road traffic incidents at the corner of Oak Tree Gardens and Portland Road
- The reasons for refusal of the previous application remain valid
- Increased pressure on services, amenities and sewage
- Too many houses proposed - the development would be cramped
- Loss of privacy to No. 85
- More parking should be provided
- Difficult for emergency vehicles to negotiate
- Proximity to the railway embankment
- Will make the roadway at the rear of the site incapable of use
- The Environment Agency wrongly state it is not a flood prone area, as the park nearby was flooded in the winter of 2014
- The properties are actually 2.5 - 3 storey dwellings and would stand out over and above existing dwellings in the locality
- The mature trees on the site have been cut down, spoiling the woodland feature and exposing gardens to the railway line. The proposal will have a further impact on outlook
- Other residents have had permission refused for 2 storey extensions

Technical Comments

Highways

The previous application was dismissed at appeal but not on highways grounds, with the Inspector commenting that adequate parking was proposed and that increased traffic was unlikely to result in any significant harm to conditions of safety or the free flow of traffic.

There are no objections raised to the proposal from a technical Highways perspective, and the provision of 18 spaces for 7 units is considered acceptable in the light of the PTAL score for the site. The on-site turning for service/refuse vehicles is considered adequate.

Conditions are suggested should permission be granted.

Environmental Health

Comments are on file and refer to the provisions of the Housing Act 2004, Part 1 - Housing Health and Safety Rating System.

Drainage

The submitted drainage plan regarding the discharge of foul water into the public foul sewer and surface water run-off into soakaways is considered acceptable. A soakage test should be carried out in accordance with BRE 365.

Environment Agency

Under the previous application the Environment Agency were consulted with, and responded that that application has been assessed as having a low environmental risk and therefore there were no comments.

This current application proposes 7 rather than 8 dwellings and is not therefore considered to have a higher environmental risk than the previous application.

Network Rail

Under the previous application, Network Rail recommended that prior to the commencement of development the developer should contact the Asset Protection Kent team and signs up to an Asset Protection Agreement to enable Network Rail to review the development's design and construction.

Further information and guidance has been provided regarding the relationship between development and the railway infrastructure and including advice regarding railway noise and development. The potential for any noise/vibration impact must be assessed in the context of the NPPF.

Planning Considerations

Unitary Development Plan

BE1 Design of New Development

H1 Housing Supply

H7 Housing Density and Design

H8 Residential Extensions

H9 Side Space

NE7 Development and Trees

T3 Parking

T7 Cyclists

T8 Other Road users

T18 Road Safety

SPG1 General Design Principles

SPG2 Residential Design Guidance

London Plan

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

The National Planning Policy Framework is a material consideration in the determination of the application, including (but not limited to) the following:

Para. 56 of the NPPF refers to the need for good design, and the indivisibility of good design from good planning.

Para. 53 relates to garden land, stating that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

Section 6 of the NPPF relates to the need to deliver a wide choice of high quality homes.

Planning History

Under reference 14/04443 an appeal was submitted on the grounds that the Council had failed to determine the application within the specified time-scale. Following the submission of the appeal, the application was reported to the Plans Sub-Committee to seek grounds to contest the appeal, if Members were so minded.

The grounds to contest the appeal were:

1. The proposal by reason of its layout, bulk and siting in relation to neighbouring residential dwellings constitutes an unsatisfactory and cramped form of backland development, seriously detrimental to the residential amenities which the occupiers of neighbouring properties might reasonably expect to continue to enjoy, thereby contrary to Policies BE1 and H7 of the Unitary Development Plan, Policies 3.5 and 7.4 of the London Plan and the National Planning Policy Framework.
2. The proposal, by reason of its bulk, layout and siting, would constitute an unsatisfactory form of backland development, out of character with the pattern of development, quality and distinctiveness of the surrounding area, thereby detrimental to the visual amenities of the area and contrary to Policies BE1 and H7 of the Unitary Development Plan, Policies 3.5 and 7.4 of the London Plan and the National Planning Policy Framework.

The application 14/04443 proposed the demolition of Nos. 89 and 91 Oak Tree Gardens in order to provide access to the rear to a formed backland development site upon which 2 terraces of 3 dwellings and 1 pair of semi-detached dwellings would be built. A total of 8 dwellings were proposed to be provided.

2.89m space was proposed to be retained to the western boundary from the terrace comprising houses 1-3. The gardens of these dwellings incorporated a retaining wall approx. 3.25m from the rear elevation of the terrace.

The terrace comprising dwellings 6-8 was shown to be sited approx. 2.57m from the western boundary of the site, with 1m space retained between the eastern elevation of the terrace to the boundary with the severed rear garden of No. 87 Oak Tree Gardens. The change in site levels was proposed to be addressed by providing a terrace with a retaining wall within the rear gardens.

The dwellings were proposed to be approx. 8.75m high and 5.75m high to the eaves level, with the roof having a crown pitch form. Rear dormers were proposed within the rear roof slopes.

The appeal against the non-determination of the application was dismissed. In considering the impact of the proposal the Inspector identified the main issues as comprising:

- Character and appearance
- Living conditions

In response to the concerns raised regarding other matters by local residents, including parking, additional traffic movements and flooding, the Inspector considered that there was insufficient evidence before her to enable the assessment of the flooding concerns. It was noted that the Environment Agency did not raise any objection to the scheme, while the concerns raised by residents regarding the impact of heavy rain on the area were acknowledged.

With regards to parking, the Inspector considered that while car ownership in the locality appeared to be high at the time of the site visit, the area is not part of a residential parking scheme and the highway authority did not raise any objection to the scheme. The Inspector was satisfied that the additional demand for parking could be accommodated on the site and that the additional traffic movements would not be detrimental to highway safety.

The Inspector considered that a significant tract of under-used land is trapped behind the existing development and that the demolition of the pair of semis and creation of a cul-de-sac would not be fundamentally out of character with the layout of the estate as a whole.

The key consideration in the assessment of the impact of the proposal on the character and appearance of the area and the principle of the backland development was identified as the ability of the site to accommodate a development of the scale and quantity proposed whilst being sensitive to the surrounding area.

The layout of the site and the density of the development were considered to be not incompatible with the character of the surrounding area, although it was noted that the space available for soft landscaping would be more limited.

In assessing the impact of the proposal on the character and appearance of the area, the Inspector expressed concern that the steeply pitched roofs with significant area of flat roof with box-style dormer windows would result in dwellings that would be deeper and taller than those in the vicinity of the site.

The size of the plots for the proposed dwellings was considered to be materially smaller than those of surrounding development, with the Inspector finding that the division of the gardens into two sections by the retaining wall required to address the difference in levels across the site would have given rise to the gardens appearing cramped and rather too small in relation to the footprint of the buildings they would serve.

The Inspector considered that the key points against the proposal in terms of impact on character and appearance were the size and bulk of the dwellings relative to their respective plots. The existing buildings in Oak Tree Gardens were assessed as having a depth of approx. 9m including the front bay windows, and the proposed dwellings were noted to have a depth of approx. 11m. The crown style roofs were considered to be alien to the locality and the inclusion of rear dormers was considered unacceptable since dormers were not a feature of the original design of the surrounding houses, with their inclusion adding bulk to the roofs of the proposed dwellings.

The area available for landscaping was considered to be restricted and the Inspector concluded that the proposal would be harmful to the character and appearance of the area.

With regards to the impact of the proposal on the residential amenities of neighbouring residents, the Inspector considered that while the proximity of the flank wall of the proposed dwelling on plot 6 to the revised rear boundary of No. 87 would have an impact on outlook, this would not be materially harmful to their living conditions.

The Inspector noted that in view of the proximity of the side boundary of No. 87 to car parking spaces, it would be possible if the development was acceptable in all other respects to impose a condition securing the installation of an acoustic fence.

The Inspector noted that while some overlooking of gardens is a common feature in a suburban location, the provision of 6 first floor rear facing windows in addition to 4 dormer windows facing the rear garden of No. 85 would amount to an unacceptable loss of privacy for the occupants, making the rear part of the garden of No. 85.

Conclusions

In assessing the merits of the proposal the main issues are considered to be the impact of the proposal on the residential amenities of the occupiers of neighbouring residential dwellings and the impact of the development on the character and appearance of the area.

The appeal decision in respect of the previous proposal is a material consideration in the determination of the application, and it is necessary to consider whether the development that is currently proposed would overcome the concerns expressed by the Inspector in the appeal decision.

Members will note that the Inspector raised no objection in principle to the development of the rear garden land, subject to the provision of a satisfactory development that would complement the character of the area, describing the site as an under-used tract of land.

The primary concerns expressed in dismissing the appeal related to:

- the dwellings appearing cramped in the context of the depth and layout of their gardens
- the depth of the dwellings, their bulk at roof level and the provision of dormers resulted in the development appearing over bulky and cramped on the site
- the area for landscaping would be restricted and the space retained around the buildings would be too small
- the dwellings at plots 6-8 included a total of 6 first floor windows and 4 dormer windows looking towards the rear garden of No. 85, resulting in a loss of privacy.

A comparison between the previously dismissed and currently proposed schemes may be helpful in assessing the extent to which the current proposal addresses the grounds for dismissing the appeal.

The applicant has amended the scheme by reducing the number of units from 8 to 7, with the development now comprising 2 pairs of semi-detached dwellings and one terrace of three dwellings.

The provision of a pair of semi-detached dwellings providing houses 6 and 7 rather than the terrace providing houses 6, 7 and 8 which was previously proposed has the effect of allowing the development to provide a more substantial space between the flank elevation of the building and the formed rear boundary of No. 87. The rear elevation of this building has been set back, with a commensurate modest increase in the depth of the rear gardens which are also improved by the relocation of the required retaining wall to the rear rather than punctuating the gardens.

The maximum depth of the proposed dwellings has been reduced by approx. 0.6m and the rear dormers previously proposed have been deleted from the scheme entirely, replaced by front and rear roof lights. The front roof lights would face into the site and these are shown to be large cabriovelux windows which have a function when open that is similar to dormer windows. They would look into the site however, and when closed would have a more streamlined appearance with a limited visual impact or addition to roof level bulk.

The rear roof lights have been amended to show that they would be set 1.7m above floor level. With regards to the building to the rear of No. 87, the depth of the

crown roof relating to has been reduced by 1.5m, with the width of the building reduced from 13m to 9m.

Opposite, the terrace and pair of semi-detached dwellings has been similarly reduced in depth, with the retaining walls relocated to provide a more substantial flat garden area at the rear. The rear dormers have been deleted, and the extent and scale of the crown roof has been similarly reduced although the maximum height is commensurate with that of the dismissed scheme.

It is considered that the reduction in the amount of fenestration facing towards No. 85, including the deletion of the rear dormers, reduces the impact that the proposal would have on the sense of seclusion and privacy in the rearmost part of that garden. The eastern flank wall of the semi-detached pair has been set further into the site, reducing the field of vision from the first floor windows, and the rear elevation has a slightly increased separation to the rear boundary. It is considered that these amendments are sufficient to overcome the concerns expressed regarding the seclusion at the rear of the garden at No. 85.

With regards to the extent to which the current proposal provides development that is sensitive to the surrounding area and appropriate in the context of the site, while the alterations when viewed individually are reasonably modest, the cumulative impact of the reduction in the bulk of the roof accommodation, the depth of the buildings and the improvement to the layout of the gardens would, on balance, result in the development sitting more comfortably within the site and being more sympathetic to its surroundings.

The gardens remain relatively short in comparison with those of neighbouring dwellings, and the built form of the development retains a flat-roof crown ridge at the same maximum height, although the bulk at roof level has been reduced. In general, the development provides an increased space about the buildings to afford a satisfactory setting. The modest reduction in the footprint of the dwellings results in a commensurate increase in the actual space around the buildings, and the relocation of the retaining walls increases the perception of the garden depth and size.

While the proposal would provide a form of backland development, in the context of the Inspector's reasoning, this backland development is not in principle unacceptable and while finely balanced, the proposal provides a residential development that would not, on balance, have a significant or seriously detrimental impact on the character and appearance of the area, or the amenities of the occupiers of neighbouring dwelling.

as amended by documents received on 12.01.2016

RECOMMENDATION: PERMISSION

Subject to the following conditions:

1 The development to which this permission relates must be begun not later than the expiration of 3 years, beginning with the date of this decision notice.

Reason: Section 91, Town and Country Planning Act 1990.

2 Details of a scheme of landscaping, which shall include the materials of paved areas and other hard surfaces, shall be submitted to and approved in writing by the Local Planning Authority before the commencement of the development hereby permitted. The approved scheme shall be implemented in the first planting season following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner. 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.

3 Before any part of the development hereby permitted is first occupied boundary enclosures of a height and type to be approved in writing by the Local Planning Authority shall be erected in such positions along the boundaries of the site(s) as shall be approved and shall be permanently retained thereafter.

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

4 The materials to be used for the external surfaces of the building shall be as set out in the planning application forms and / or drawings unless otherwise 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 development permitted by this planning permission shall not commence until a surface water drainage scheme for the site based on sustainable drainage principles, and an assessment of the hydrological and hydro geological context of the development has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage strategy should seek to implement a SUDS hierarchy that achieves reductions in surface

water run-off rates to Greenfield rates in line with the Preferred Standard of the Mayor's London Plan.

Reason: To reduce the impact of flooding both to and from the proposed development and third parties.

- 6 Before commencement of the use of the land or building hereby permitted parking spaces and/or garages and turning space shall be completed in accordance with the approved details and thereafter shall be kept available for such use and no permitted development whether permitted by the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order amending, revoking and re-enacting this Order) or not shall be carried out on the land or garages indicated or in such a position as to preclude vehicular access to the said land or garages.**

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 inconvenient to other road users and would be detrimental to amenities and prejudicial to road safety.

- 7 While the development hereby permitted is being carried out a suitable hardstanding shall be provided with wash-down facilities for cleaning the wheels of vehicles and any accidental accumulation of mud of the highway caused by such vehicles shall be removed without delay and in no circumstances be left behind at the end of the working day.**

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

- 8 Details of arrangements for storage of refuse and recyclable materials (including means of enclosure for the area concerned where necessary) shall be submitted to and approved in writing by the Local Planning Authority before any part of the development hereby permitted is commenced and the approved arrangements shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.**

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in order to provide adequate refuse storage facilities in a location which is acceptable from the residential and visual amenity aspects.

- 9 Before any part of the development hereby permitted is first occupied, bicycle parking (including covered storage facilities where appropriate) shall be provided at the site in accordance with details to be submitted to and approved in writing by the Local Planning**

Authority, and the bicycle parking/storage facilities shall be permanently retained thereafter.

Reason:In order to comply with Policy T7 of the Unitary Development Plan and Policy 6.9 of the London Plan and in order to provide adequate bicycle parking facilities at the site in the interest of reducing reliance on private car transport.

10 Details of a scheme to light the access drive and car parking areas hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development hereby permitted is commenced. The approved scheme shall be self-certified to accord with BS 5489 - 1:2003 and be implemented before the development is first occupied and the lighting shall be permanently retained thereafter.

Reason:In order to comply with Policy T3 and Appendix II of the Unitary Development Plan in the interest of visual amenity and the safety of occupiers of and visitors to the development.

11 Whilst the development hereby permitted is being carried out, provision shall be made to accommodate operatives and construction vehicles off-loading, parking and turning within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority and such provision shall remain available for such uses to the satisfaction of the Local Planning Authority throughout the course of development.

Reason:In the interests of pedestrian and vehicular safety and the amenities of the area and to accord with Policy T18 of the Unitary Development Plan.

12 Prior to the commencement of the development hereby permitted a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include measures of how construction traffic can access the site safely and how potential traffic conflicts can be minimised; the route construction traffic shall follow for arriving at and leaving the site and the hours of operation, but shall not be limited to these. The Construction Management Plan shall be implemented in accordance with the agreed timescale and details.

Reason: In order to comply with Policy T5, T6, T7, T15, T16 & T18 of the Unitary Development Plan and in the interest of the amenities of the adjacent properties.

13 Surface water from private land shall not discharge on to the highway. Details of the drainage system for surface water drainage to prevent the discharge of surface water from private land on to the highway shall be submitted to and approved in writing by the Local

Planning Authority prior to commencement of works. Before any part of the development hereby permitted is first occupied, the drainage system shall be completed in accordance with the approved details and shall be retained permanently thereafter.

Reason: To ensure a satisfactory means of surface water drainage and to accord with Policy ER13 of the Unitary Development Plan.

14 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 or C of Part 1 of Schedule 2 of the 1995 Order (as amended) shall be erected or made within the curtilages of the dwellings hereby permitted without the prior approval in writing of the Local Planning Authority.

Reason: In order to prevent an overdevelopment of the site, in the interest of the visual and residential amenities of the area, and in accordance with Policies BE1 and H7 of the Unitary Development Plan.

15 Details of the proposed slab levels of the building(s) and the existing site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed 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.

16 Before the development hereby permitted is first occupied the proposed window(s) in the eastern flank elevation of house no. 5 shall be obscure glazed to a minimum of Pilkington privacy Level 3 and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and the window (s) shall subsequently be permanently retained in accordance as such.

Reason: In the interest of the residential amenities of the occupiers of the neighbouring dwellings and to accord with Policy BE1 of the Unitary Development Plan.

17 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans approved under this planning permission unless previously agreed in writing by the Local Planning Authority.

Reason: In the interest of the visual and residential amenities of the area and to accord with Policies BE1 and H7 of the Unitary Development Plan.