

SECTION '2' – Applications meriting special consideration

Application No : 16/04446/FULL1

Ward:
Plaistow And Sundridge

Address : 87 Oak Tree Gardens Bromley BR1 5BE

OS Grid Ref: E: 540986 N: 171589

Applicant : Mr T Joseph

Objections : YES

Description of Development:

Demolition of 89 and 91 Oak Tree Gardens and erection of six 2 storey 3 bedroom houses comprising of 3 pairs of semi-detached houses. Erection of single garage for No. 87; associated access, parking, landscaping, cycle storage, refuse and recycling provision

Key designations:

Biggin Hill Safeguarding Area
London City Airport Safeguarding
Smoke Control SCA 7

Proposal

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

It is proposed that six houses be erected on the formed site, arranged in three semi-detached pairs. Dwellings 1-4 would be arranged on the northern side of a cul-de-sac access road with north facing rear gardens and dwellings 5 and 6 would be on the south of the site partly positioned within the severed rear garden of No. 87, with south facing gardens and the northern front elevation of the pair facing towards the access road.

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 application 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 entireties 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 (including from the Links Estate Residents' Association) in response can be summarised as follows:

- impact of the proposal on parking in the adjacent road - 4 bedroom dwellings may each require more than 2 parking spaces
- the site lies on a dangerous corner and there does not appear to be space for additional parking
- refuse collection and emergency vehicles would have difficulty accessing the site
- the drainage in the area was designed in the 1930s and there is an existing heavy load on the sewage and waste water systems
- the area under development consideration is a flood plan. Although the flooding has eased since Chinbrook Meadows was redeveloped, the threat remains relevant when there is heavy rain
- during a recent heavy rain downpour flooding and sewage overflows were more significant than previously, since the trees on the site have already been removed
- the loss of trees at the rear will result in water having nowhere to flow other than adjacent land
- the local primary schools are oversubscribed
- this is garden grabbing when there are possibly brownfield sites that could be better used
- the development would be out of character with the architecture in the area
- would be overdevelopment
- the actual building works would be very disruptive
- impact on outlook
- increased air pollution with car fumes being close to bedroom windows at the rear of neighbouring dwellings
- existing houses have decent sized front and rear gardens
- introduction of landscaping would lead to an overall reduction in the garden available
- Milverton Place is not an appropriate comparison
- the roofs will still be higher than comparable properties and so will be out of character with the area
- the existing houses have been left vacant when they could have been used for short term lets
- loss of privacy to back garden of neighbouring properties

Technical Comments

Highways: There are no objections to the proposal. The site is located in an area with a zero PTAL level which is the lowest level on a scale of 0 - 6b. A total of 18

car parking spaces are proposed including parking for 2 visitors and 2 spaces for No. 87. A number of planning conditions are proposed should planning permission be granted.

Thames Water: There are public sewers crossing or close to the development. In order to protect public sewers and to ensure that Thames Water can gain access to the sewers approval should be sought from Thames Water where the erection of a building would come within 3m of a public sewer. Thames Water will usually refuse such approval in respect of the construction of new buildings and the applicant is advised to contact Thames Water about the proposals.

With regards 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. It is recommended that the applicant should ensure that storm flows are attenuated or regulated into the public network through on or off site storage. Where the developer proposes to discharge to a public sewer prior approval should be sought. With regards to sewerage infrastructure capacity no objections are raised.

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 6 rather than 8 dwellings and is not therefore considered to have a higher environmental risk than the previous application.

Comments were sought with regards to the current proposal but the Environment Agency declined to comment, stating that the application falls outside their remit as a statutory consultee.

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 was 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

The Council is preparing a Local Plan and commenced a period of consultation on its proposed submission draft of the Local Plan on November 14th 2016 which closes on December 31st 2016 (under The Town and Country Planning (Local Planning) (England) Regulations 2012 as amended). It is anticipated that an updated Local Development Scheme will be submitted to Development Control Committee on November 24th 2016 and Executive Committee on November 30th 2016, indicating the submission of the draft Local Plan to the Secretary of State in the early part of 2017.

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

15/05324: 7 dwellings

Most recently planning permission was refused under reference 15/05324 for the redevelopment of land to the rear of 87-93 Oak Tree Gardens including the demolition of No. 89 and No. 91 and the erection of seven 2 ½ storey 4 bedroom

houses comprising one terrace of three houses and a single garage for the existing dwelling at No. 87 along with associated access, parking, landscaping, cycle storage, refuse and recycling provision.

Permission was refused on the grounds:

1. The proposal by reason of its layout, bulk and siting in relation to neighbouring residential dwellings constitutes an unsatisfactory and cramped form of 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 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.

A subsequent appeal against the refusal of planning permission was dismissed. The Inspector's reasoning contained within the appeal decision is summarised below.

The Inspector referred to the character of the area as having an appearance of uniformity enhanced by the straight roads and reasonably consistent front building lines running through the area. Houses are quite closely spaced but the area has a pleasant landscape setting provided by street trees and the backdrop of mature vegetation from the rear gardens and railway embankment.

It was noted that the configuration of gardens in the corner provided by the right angle bend at the junction of Oak Tree Gardens and Portland Road is unusual in comparison with the prevailing pattern of development, resulting in a "significant tract of underused land behind the houses in this location." It was not considered that the demolition of the pair of semi-detached dwellings would be fundamentally out of character with the estate as a whole.

The Inspector drew attention to the ground levels on the site, noting that the ground levels on which the dwellings would be constructed would be at a higher level than those fronting Oak Tree Gardens and Portland Road. Concern was expressed at the likelihood that roof areas would be visible in the wider area, taking into account that most vegetation in the site would be removed increasing the visual contrast between the green appearance of the area and the proposed development. It could not be relied upon that vegetation on the railway bank would be retained since the embankment falls outside of the appeal/application site.

Reference was made to the height of the proposed dwellings along with their width and proximity to each other. However, the narrow access and corner position of the proposed development was considered to lend itself to a scheme with its own

identity rather than an exact replication of the spatial standards of the estate as a whole.

However, the Inspector stated:

"It is clear that the proposed dwellings would not have the same amount of space around them or garden sizes as the surrounding estate, and therefore the proportion of hard surfacing and buildings to green spaces would be higher. I also note that the gardens to No 87 and 93 would be considerably reduced in size. While I recognise that the level of outside space provision and the appearance of spaciousness would be an improvement on the previous scheme, I remain of the view that because these properties would be in a slightly elevated position, together with their height and number of dwellings proposed and the loss of landscape setting, this would lead to an intensity of development in this corner which would be at odds with its presently verdant nature which provides an attractive setting for the wider area."

Compared with the previously dismissed scheme, referred to below, the proposal under consideration by the Inspector was considered to appear less cramped, but not to the extent of improving spaciousness to render the development acceptable.

The Inspector noted the development at Milverton Place. However it was not considered appropriate to draw direct parallels between the schemes in view of their locational differences.

With regards to the impact of the proposal on the residential amenities of neighbouring properties, the Inspector considered that the reductions in the scheme under consideration limited the degree of overlooking to an acceptable degree. The introduction of sound attenuating fencing along the boundaries with neighbouring residential dwellings would limit the impact of noise and disturbance associated with the access drive to an acceptable degree.

The concerns expressed regarding flooding and surface water drainage issues were noted. However the Inspector referred to the lack of Environment Agency objection to the original scheme for 8 dwellings. It was also considered that the provision of 18 car parking spaces would be a reasonable provision for the development.

14/04443: 8 dwellings

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 reasonable 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 cumulative impact of the height and number of dwellings proposed to be sited in a slightly elevated position alongside the loss of landscape setting. The proposal was considered to lead to an intensity of development "at odds with its presently verdant nature which provides an attractive setting for the wider area."

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 in the following ways:

- A reduction in the number of houses by 1, allowing the arrangement of dwellings in three semi-detached pairs
- A reduction in the density of development from 196 hr/ha to 144 hr/ha
- Roof pitch reduced from 42 degrees to 30 degrees. However, the ridge height from external ground level would be 9.2m and the height to eaves would be 6m rather than 8.8m and 5.7m previously proposed. This is allied with a reduction in the finished floor levels of the development, such that the sections show that the ridgeline and eaves of the proposed development would be commensurate with that of the previously proposed scheme
- Deletion of all roof accommodation
- Crown roofs replaced by pitched roofs with no flat area

- The red line plan has been amended to show the proposed new garage for no. 87 incorporated into the scheme
- Tree screening and sound attenuating fence to be provided alongside the rear gardens and both sides of the access drive
- Parking layout between the flank wall of the southern semi-detached dwelling and the front of the site re-arranged with parking moved perpendicular and adjacent to the eastern flank garden boundary.
- Provision of a landscaped area between the garage to be provided for No. 87 and the access drive.
- The separation between the terrace and semi-detached pair previously proposed on the northern side of the site was 2m. The current scheme provides separation of 4.2m between the 2 pairs of semi-detached dwellings on the northern side of the site and an increased separation between the eastern flank of the dwelling nearest to the rear garden of No. 93.
- Reduction in depth of rear gardens of dwellings on the northern side of the site from 11.1m to 10.4m , although the gardens are wider.

Impact of the proposal on the residential amenities of the area

In view of the Inspector's findings in respect of the previous scheme and taking into account the proposed provision of noise attenuating boundary fencing and landscape screening to the boundaries with adjacent dwellings it is considered that the proposal would not have a significant impact on the residential amenities of neighbouring properties. The proposal would not result in undue overlooking and unacceptable noise and disturbance associated with the use of the access road and manoeuvring within the site. As a consequence of the separation between the buildings and the boundaries of the site it is not considered that the outlook from neighbouring gardens and windows would be unduly affected as a consequence of the proposal.

Impact of the proposal on the visual amenities, pattern of development and distinctiveness of the locality

It falls to be considered whether the amendments represented in the current scheme adequately overcome the concerns expressed within the appeal decision. A key consideration in the appeal was the appearance of spaciousness within the site, the height and slightly elevated position of the dwellings and the loss of the landscaped setting. The Inspector was concerned that the intensity of the development in this corner would have been at odds with the current verdant nature of the site, which was considered to provide an attractive setting for the wider area. In reaching the decision to dismiss the appeal the Inspector referred to the proportion of hardsurfacing and buildings relative to green spaces. It was considered that the proposal would have appeared as overdevelopment in the location and that the Council's concerns regarding the impact on the character and appearance of the area were justified.

The main issue therefore would be the impact of the proposal on the character and appearance of the area and the appearance of the site in the context with the existing street scene and pattern of development in Oak Tree Gardens/Portland Road. This is a finely balanced case, and it is necessary to consider the extent to which the assorted differences between the previous scheme and that currently

proposed would address the concerns raised previously regarding the impact of the proposal on the character and appearance of the area.

While on plan form the proposal provides increased separation between dwellings on the northern side of the site, this increase would not be clearly appreciable from the opening to the proposed residential development or from outside the site. Due to the angle of vision from the existing street and the proposed vehicular access, the benefits of the amendments to the dismissed scheme would be of limited value in terms of the impact on the impression of the development from the entrance and adjacent road. The setting of the front of the northern 4 dwellings relative to the access road is broadly similar to the development which was considered unacceptable at appeal, albeit 4 rather than 5 dwellings are proposed. While a slightly increased opportunity exists for landscaping to screen the corner of the easternmost dwelling, this is not considered likely to provide adequate mitigation of the visual impact of the bulk and siting of development to that side of the site.

The current proposal would provide a larger landscaped area to the side of the proposed garage for No. 87 which would provide an area of 'green' in front of the uniform row of parking spaces adjacent to the proposed dwelling. However, this would be sited in conjunction with a large area of hardstanding and a more limited landscaped buffer between the hardsurfaced manoeuvring space and the flank elevation of the adjacent proposed dwelling. Considered in tandem with the increased height to eaves of the dwellings and the overall height of the houses (offset by amendments to the finished floor level of the proposed dwellings which results in the ridge and eaves height of the proposal being commensurate with that which was previously proposed), it is considered that the proposal does not wholly overcome the concerns expressed by the Inspector in dismissing the previous appeal. It is acknowledged that the current proposal does not incorporate accommodation in the roof, but similarly, the previous proposal limited visual cues to there being habitable second floor accommodation to rooflights only, and as such this is not considered in its own right to weigh strongly in favour of the development. The crown roof design would provide a slightly reduced visual impact although this is considered insufficient to address the concerns raised regarding the previous proposal in view of the associated increase in height of the buildings to eaves level and a higher ridgeline.

In the context of the topography of the site, the proposal is not considered to overcome the previous concerns regarding the extent to which development would be appreciable in the wider area and to which built development would replace the existing verdant and green backdrop to development in this part of the Links Estate with over-dominant development. On balance, it is considered that the relationship between buildings and hardsurfaces and retained and proposed landscaping would be disproportionate, with the proposal failing to have sufficient regard for the contribution that the site as existing makes in providing a verdant and attractive setting to the surrounding residential estate.

Other matters

The concerns raised by local residents regarding flooding, drainage, parking and highways safety are noted. However, no technical highways objections are raised to the proposal regarding the number and siting of parking spaces or future

servicing of the site by refuse/emergency vehicles. The width of the access road and manoeuvring space within the site are considered acceptable, and no technical concerns are raised regarding the vehicular/pedestrian access to the site in context with the host street.

In dismissing the appeal, the Inspector referred to the concerns raised regarding potential for flooding and surface water drainage issues in the area. It was considered that there was insufficient evidence before the Inspector to suggest that this was an issue in that case, and it is noted that the Environment Agency have not raised objections to this or previous applications on the site.

The submitted Planning Statement dated September 2016 refers to the Council's then acceptance that it does not have a five year supply of deliverable housing sites. However since the submission of the application a report to the Development Control Committee meeting held on 24th November 2016 set out the five year housing supply position for the Council from 1st April 2016 - 31st March 2021. It concludes that there is a suitable five year housing supply in the Borough. Members of the Committee agreed the report and it is considered that the Council is able to provide a 5 year housing supply.

Summary

It is considered that the proposal would have no significant adverse impact on the residential amenities of the occupiers of neighbouring residential dwellings and would not have a detrimental impact on parking and conditions of safety within the highway. On balance it is considered that the current scheme inadequately addresses the concerns raised at appeal regarding the impact of the proposal on the visual amenities of the area and the character and appearance of the locality. The height and siting of the proposed dwellings would, in conjunction with the proportion of the site given over to buildings and hard surfaces and the slightly elevated position of the site, result in an over-dominant development which would be at odds with the current appearance of the site and the existing intensity of residential development.

As amended by documents received on 03.11.2016

RECOMMENDATION: APPLICATION BE REFUSED

The reasons for refusal are:

- 1 The proposal, by reason of the height and siting of the proposed dwellings, their elevated position and the proportion of the site given over to buildings and hardsurfaces, would have a detrimental impact on the character and appearance of the area, detrimental to its green and verdant nature and thereby contrary to Policies H7 and BE1 of the Unitary Development Plan, Policies 3.5 and 7.4 of the London Plan and the National Planning Policy Framework.**