

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

Application No : 16/05062/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:

Sub-division of existing plot and construction of 3-bed 2 storey detached dwelling to the rear of no.23 The Drive, with 2 car parking spaces with access from The Avenue

Key designations:

Smoke Control SCA 29

Proposal

Planning permission is sought for the sub-division of the existing plot and creation of a new three bedroom detached dwelling from part of the rear garden of No.23 The Drive. The new dwelling would be accessed via The Avenue by utilising the existing cross-over.

The new dwelling would be two storeys in height with car parking spaces for 2 vehicles at the front. The proposed dwelling would have a width of 10 metres and depth of 7 metres with a gable ended pitched roof to a maximum height of 9 metres (eaves 5 metres). The proposal also includes a front porch which is located centrally within the new frontage and have a projection of 1.2 metres, 3.1 metres wide with a mono-pitched roof to a maximum height of 3.7 metres.

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.

Consultations

Comments from Local Residents:

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

- Result in an overdevelopment of the site;
- Permission has already been refused for a 2-bed house and now they are applying for a 3-bed house;

- The proposed house would set a precedent for other houses to develop their rear gardens;
- Loss of privacy to neighbouring properties;
- Impact on amenities of neighbouring properties;
- The new dwelling is large incorporating non-essential rooms;
- Impact on the character and detracts from the existing street scene; and
- Concern over the trees and hedges on site.

The Knoll Residents Association has objected to this application, they have raised concerns that the previous application for a 2-bed dwelling was refused and dismissed at appeal. This application proposes an even larger house which will have a greater adverse effect on the character and appearance of the area. Most nearby homes are on relatively large plots and subdividing this site will lower spatial standards. Although the plot is the full width of the original site the size and position of the new house mean leaves only a small garden located at the side. There will also be a family room with large patio doors on this side of the house which will reduce the privacy of the garden at no.21. The existing 4 bedroom house will also have a much smaller garden. Although this is described as a 3 bedroom property we note that the third bedroom is exceptionally small at 2.6 x 2.3 m. The Knoll Residents Association is also concerned that this would set a precedent for further piecemeal development along The Avenue which will change the character of the area.

Comments from Consultees:

Environmental Health Housing stated that the applicant is advised to have regard to the Housing Act 2004 Part 1 - Housing Health and Safety Rating System (HHSRS).

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. No objections are raised subject to conditions regarding parking arrangements to be constructed as set out in the plans, Construction Management Plan and drainage.

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

Planning Considerations

National Planning Policy Framework (NPPF) (2012):

The NPPF confirms that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

Chapter 6 - Delivering a wider choice of high quality homes

Chapter 7 - Requiring Good Design

London Plan (2016):

- 3.3 Increasing Housing Supply
- 3.4 Optimising Housing Potential
- 3.5 Quality and Design of Housing Developments
- 3.8 Housing Choice
- 3.9 Mixed and Balanced Communities
- 5.1 Climate change mitigation
- 5.2 Minimising Carbon Dioxide Emissions
- 5.3 Sustainable Design and Construction
- 5.7 Renewable Energy
- 5.10 Urban Greening
- 5.11 Green Roofs and Development Site Environs
- 5.12 Flood Risk Management
- 5.13 Sustainable Drainage
- 5.14 Water quality and wastewater Infrastructure
- 5.15 Water use and supplies
- 5.16 Waste self-sufficiency
- 5.17 Waste capacity
- 5.18 Construction, excavation and demolition waste
- 5.21 Contaminated land
- 6.3 Assessing Effects of Development on Transport Capacity
- 6.5 Funding Crossrail and other strategically important transport infrastructure
- 6.9 Cycling
- 6.13 Parking
- 7.1 Lifetime Neighbourhoods
- 7.2 An Inclusive Environment
- 7.3 Designing Out Crime
- 7.4 Local Character
- 7.5 Public Realm
- 7.6 Architecture
- 7.14 Improving Air Quality
- 7.15 Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes.
- 8.3 Community Infrastructure Levy

Housing: Supplementary Planning Guidance. (March 2016)

Technical housing standards - Nationally Described Space Standard (March 2015)

Unitary Development Plan (2006):

- BE1 Design of New Development
- BE7 Railings, Boundary Walls and Other Means of Enclosure
- ER7 Contaminated Land
- H1 Housing Supply
- H7 Housing Density and Design

- H9 Side Space
- T3 Parking
- T5 Access for People with Restricted Mobility
- T6 Pedestrians
- T7 Cyclists
- T16 Traffic Management and Sensitive Environments
- T18 Road Safety

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

Bromley's Proposed Submission Draft Local Plan (2016):

The final consultation for the emerging Local Plan was completed on December 31st 2016. It is expected that the Examination in Public will commence in 2017. The weight attached to the draft policies increases as the Local Plan process advances. These documents are a material consideration and weight may be given to relevant policies as set out in the NPPF paragraph 216 which states:

"From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given)
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)."

Current draft Policies relevant to this application include:

Draft Policy 1 Housing Supply
Draft Policy 4 Housing Design
Draft Policy 37 General Design of Development
Draft Policy 30 Parking
Draft Policy 32 Road Safety

Planning History

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

Under ref: 15/01292/FULL1 planning permission was sought for a new dwelling which would have a width of approximately 9 metres along the front elevation, approximately 6 metres along the rear elevation, and approximately 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 application was refused for the following reasons:

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.

The application was subsequently dismissed at appeal on the 3rd May 2016, the Inspector considered that the development would have a detrimental impact on the character and appearance of the area and street scene by forming a cramped form of development. Additionally provide poor living conditions for the future occupiers by not providing enough amenity space.

Conclusions

The main issues to be considered in respect of this application are:

- Principle of development
- Housing Density
- The design and appearance of the scheme and the impact of these alterations on the character and appearance of the area and locality
- The quality of living conditions for future occupiers
- Access, highways and traffic Issues
- Impact on adjoining properties
- Sustainability and energy; and
- Community Infrastructure Levy

Principle of development

Housing is a priority use for all London Boroughs. Policy 3.3 Increasing housing supply, Policy 3.4 Optimising housing potential and Policy 3.8 Housing choice in

the London Plan (2016) generally encourage the provision of small scale infill development in previously developed residential areas provided that it is designed to complement the character of surrounding developments, the design and layout make suitable residential accommodation, and it provides for garden and amenity space.

The National Planning Policy Framework (NPPF) states in Paragraph 49 that housing applications should be considered in the context of the presumption in favour of sustainable development.

The NPPF sets out in paragraph 14 a presumption in favour of sustainable development. In terms of decision-making, the document states that where a development accords with a local plan, applications should be approved without delay. Where a plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.

The document also encourages the effective use of land by reusing land that has been previously developed (brownfield land) and excludes gardens from the definition of previously developed land.

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.

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.

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.

It is noted that that historically some sub-divisions of gardens along The Drive have been approved dating spanning from 1960's to 1980's, however 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.

Pressure for new housing means that back gardens 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. 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.

Density

The density of the proposal would be 218.5 hr/ha. Table 3.2 of the London Plan sets out the appropriate density range for a site with a PTAL of 5 in a suburban area as 200-350 hr/ha.

Given, the density of the proposal is within the guided density criteria the amount of development on site is considered suitable at this location.

Design, character and appearance

Policies 3.4 and 3.5 of the London Plan reflect the same principles. Policy 3.4 specifies that Boroughs should take into account local context and character, the design principles (in Chapter 7 of the Plan) and public transport capacity; development should also optimise housing output for different types of location within the relevant density range. This reflects paragraph 58 of the National Planning Policy Framework, which requires development to respond to local character and context and optimise the potential of sites.

Policy BE1 and H7 of the UDP set out a number of criteria for the design of new development. With regard to local character and appearance development should be imaginative and attractive to look at, should complement the scale, form, layout and materials of adjacent buildings and areas. Development should not detract from the existing street scene and/or landscape and should respect important views, skylines, landmarks or landscape features. Space about buildings should provide opportunities to create attractive settings with hard or soft landscaping and relationships with existing buildings should allow for adequate daylight and sunlight to penetrate in and between buildings.

Policy H9 requires that new residential development for a proposal of two or more storeys in height a minimum of 1m side space from the side boundary is maintained and where higher standards of separation already exist within residential areas proposals will be expected to provide a more generous side space.

The design of the dwelling would be traditional in style and similar to Nos. 14 - 8 The Avenue and seen within the borough and as such would be acceptable and comply with the objectives set out within design sections of the policies described above.

With regards to the siting of the development the application proposes a two storey dwelling located 1m from the western boundary with No. 20 The Avenue and 7.575m from the eastern boundary with No. 21 The Drive. There are a mix of property designs and spacial standards along The Drive and The Avenue, and it is considered that the relationship from the boundaries would be acceptable and fit within the general pattern of the area. However, size of the overall plot is considerable smaller than other plots in the area. The Inspector noted in the appeal decision that "the footprint of the proposed dwelling covers a large part of the appeal site and this together with the fact that the frontage of the site is taken up by parking spaces means that the proposed rear garden is modest in size compared to the size of the proposed dwelling" whilst it is appreciated that this current application has increased the width of the new building plot by now including the full width of the rear garden to No. 23 nevertheless the comparable modest size and shape of the garden together with the front parking area would result in a cramped form of development that would be out of keeping with the generally spacious character and appearance of the area.

Residential Amenity - Standard of Residential Accommodation

Policy 3.5 of the London Plan and the Housing SPG (2016) states the minimum internal floorspace required for residential units on the basis of the level of occupancy that could be reasonably expected within each unit should comply with Nationally Described Housing Standards (2015).

The floor space size for a 3 bed 5 person new dwelling would be 93 sqm and there are minimum size standards for a single and double bedrooms. Whilst the two double bedrooms exceed the minimum size standard the single 3rd bedroom only measures 6 sqm which is well below the minimum size. The shape and room sizes

in the proposed building are considered satisfactory. None of the rooms would have a particularly convoluted shape which would limit their specific use.

Whilst overall the GIA would be approximately 117 sqm which is above the minimum standard, concern is raised over the acceptability in terms of the size of the 3rd bedroom and as such provide sub-standard size of internal accommodation.

Amenity Space

In terms of amenity space provided this is located to the eastern side of the new property. The space has been increased from the previously refused scheme as the plot now includes the remaining width of the rear garden of No. 23 which results in an amenity space of ~68 sqm to the side of the eastern side of the new property. Whilst the space provided would serve the needs of the future occupiers concern is raised over its location to the east of the main dwelling as it is not secluded, however on balance the provision is broadly acceptable at this location.

Car parking

Two car parking spaces are proposed to the front, however it is noted that the second space is at an angle and will require manoeuvring to access and is also directly adjacent to the front door of the property.

The site is located within a good provision of public accessibility the provision of 2 spaces would be acceptable as such the Council's Highways Officer has not raised objection in this regard.

Cycle parking

Cycle parking is required to be 2 spaces, the applicant has not provided details of a secure and lockable storage area cycle storage however this could be conditioned given the available size of the plot.

Refuse

All new developments shall have adequate facilities for refuse and recycling. The applicant has not provided details of refuse storage however this could again be conditioned given the overall size of the plot.

Impact on Adjoining Properties

Policy BE1 of the Unitary Development Plan states that development should respect the amenity of occupiers of neighbouring buildings and ensure they are not harmed by noise disturbance, inadequate daylight, sunlight, and privacy or overshadowing.

In terms of outlook, the fenestration arrangement will provide front and rear outlook at ground floor with only windows serving the bedrooms at the front elevation for first floor level (rear elevation windows will serve ensuite, bathroom and landing)

with no first floor flank windows proposed. The inspector also considered this aspect when assessing the previous application and considered that the "site is off set from the rear elevations of the existing dwellings at 23 and 25 The Drive and is located adjacent to the rear part of the gardens of those properties. As such given the position of the proposed dwelling set away from the rear boundary of the appeal site, I do not consider that the outlook from the rear elevations or rear gardens of Nos 23 and 25 would be significantly adversely affected by the proposal. Similarly having regard to the position and location of the proposal I do not consider that the outlook from any other nearby properties would be significantly adversely affected".... "Having regard to the relative position of the existing and proposed dwellings and to the position and nature of the first floor windows in the rear elevation of the proposed dwelling, I do not consider that there would be any significant overlooking from these windows".

As such it is considered that the proposal would not have an adverse effect on the living conditions of occupiers of neighbouring properties having regard to privacy and outlook. The proposal therefore complies with policies BE1 and H7 of the UDP and Policy 3.5 of the London Plan.

Sustainability and Energy

Policy 5.3 Sustainable Design and Construction of the London Plan states that the highest standards of sustainable design and construction should be achieved in London to improve the environmental performance of new developments and to adapt to the effects of climate change over their lifetime. Policy 5.2 Minimising Carbon Dioxide Emissions of the London Plan states that development should make the fullest contribution to minimising carbon dioxide emissions in accordance with the hierarchy; Be Lean: use less energy; Be clean: supply energy efficiently and Be green: use renewable energy.

No details of sustainability measures have been provided to ensure that the development strives to achieve these objectives as set out above.

Landscaping

No details of landscaping layout have been submitted, notwithstanding this full detail of hard and soft landscaping and boundary treatment can be sought by condition.

Community Infrastructure Levy

The Mayor of London's CIL is a material consideration. CIL is payable on this application and the applicant will be required to completed the relevant form.

Summary

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, 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, concern is raised over the size of the 3rd bedroom and the resulting room would fall 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, 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(s) 15/01292 and 16/05062/FULL1 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.

You are further informed that:

- 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