

## **SECTION '2' – Applications meriting special consideration**

**Application No :** 17/05576/FULL6

**Ward:**  
**Crystal Palace**

**Address :** 17 Lawrie Park Crescent Sydenham  
London SE26 6HH

**OS Grid Ref:** E: 534907 N: 171178

**Applicant :** Drs Conal & Fiona Austin & Robinson **Objections :** YES

### **Description of Development:**

Removal of existing dilapidated boundary fencing between 17 and 15 and provision of new 2.4 m high timber fencing and trellis.

Key designations:

Biggin Hill Safeguarding Area  
London City Airport Safeguarding  
Smoke Control SCA 25

### **Proposal**

This application proposes the removal of an existing fence between 17 and 15 and the provision of a new 2.4 m high timber fencing and trellis. The fencing proposed is 2m high close boarded panels supported on 3no arris rails with gravel boards rebated into timber posts with 400mm high square design trellis above.

### **Location and Key Constraints**

The application site is a detached dwelling located to the west side of Lawrie Park Crescent and within a residential setting. The land levels fall away to the south.

### **Comments from Local Residents and Groups**

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

#### Objections

- inaccurate details submitted including boundary line
- Boundary line
- Lower ground level not taken into account
- Overbearing
- Reduce open aspect
- Loss of/impact on trees and shrubbery due to any excavations for fence posts
- Number 17 is higher so no concerns re privacy

## Support

- I support the erection of the fence to replace a hedge that has disappeared. The proposed fence with a trellis will be entirely in keeping with neighbouring properties and will facilitate plants such as clematis or climbing roses.
- The fence will be beneficial to all neighbours as trellises are known to deter burglars and the fence will thus enhance security in our neighbourhood

## **Policy Context**

Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.

According to paragraph 216 of the NPPF decision makers can 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

The Council is preparing a Local Plan. The submission of the Draft Local Plan was subject to an Examination in Public which commenced on 4th December 2017 and the Inspector's report is awaited. These documents are a material consideration. The weight attached to the draft policies increases as the Local Plan process advances.

The development plan for Bromley comprises the Bromley UDP (July 2006), the London Plan (March 2016) and the Emerging Local Plan (2016). The NPPF does not change the legal status of the development plan.

The application falls to be determined in accordance with the following policies:

## London Plan Policies

## 7.4 Local character

### Unitary Development Plan

BE1 Design of new development

### Draft Local Plan

37 General Design of Development

### Supplementary Planning Guidance

SPG1 - General Design Principles

SPG2 - Residential Design Guidance

### **Planning History**

The relevant planning history relating to the application site is summarised as follows:

Application Number	Description	Decision
01/01777/FULL1 PERMISSION	Single storey rear extension for conservatory	
11/01350/FULL6 PERMISSION	Alterations to window on front elevation to form a dormer extension	
11/01545/PLUD CERTIFICATE OF LAWFULNESS FOR A PROPOSED DEVELOPMENT GRANTED	Roof alterations including rear dormer window extension and insertion of roof lights on side elevation	
16/04605/TPO CONSENT	T1: Mature Cedrus Atlantica - Thin crown by 15%. Reduce lateral spread of crown over Morus nigra by up to 2m. Prune branches back to strong growth points. SUBJECT TO TPO 1841 (T1)	
17/00916/FULL6 REFUSED	Single storey rear extension to existing garage	
17/03280/FULL1 REFUSED	Single storey rear extension to existing garage	

The refusal grounds for application ref 17/03280 were:

The proposed extension would, by reason of its excessive rearward projection and scale, would have a detrimental impact on the outlook and visual amenities of the neighbouring property at No. 15 and the prospect which the occupants of that

dwelling might reasonably expect to be able to continue to enjoy, contrary to Policy BE1 and H8 of the Unitary Development Plan (2006) and Supplementary Planning Guidance 1 and 2.

An appeal has been submitted against the refusal of planning permission and has not, to date, been determined.

## **Considerations**

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

- Design
- Neighbouring amenity

### Design

Design is a key consideration in the planning process. Good design is an important aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF states that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

London Plan and UDP policies further reinforce the principles of the NPPF setting out a clear rationale for high quality design.

The proposed materials for the boundary treatment are considered acceptable; impact on neighbouring amenity is considered below.

### Neighbouring amenity

Policy BE1 of the UDP seeks to protect existing residential occupiers from inappropriate development. Issues to consider are the impact of a development proposal upon neighbouring properties by way of overshadowing, loss of light, overbearing impact, overlooking, loss of privacy and general noise and disturbance.

The garden to No 15 is wide and the application site is set to the north of No 15. The existing planting at No 15 along the boundary with No 17 is varied - more dense in some parts, sparser in others. Although the garden is large it is for particular note that to the north-west corner of the garden to No 15 is a designated patio area with seating set out. There are rear facing windows to No 15 in close proximity to the boundary. It is noted that the proposal seeks to use part trellis which will help to break up the solid appearance of height of the proposed fencing.

A supporting document to the application draws attention to the provisions of Part 2, Schedule 2, Class A of the General Permitted Development Order 2015; Class A of that part refers to the erection of, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. Class A.1 (b) states

development is not permitted if the height of any other gate, wall or means of enclosure erected or constructed would exceed 2 metres above ground level;

The supporting document asserts that a fence at a height of 2m could be erected without the need for express planning permission and the assessment in this case therefore is whether an additional 40cm in height gives rise to any harmful impacts.

It is noted that the ground levels fall away to the south and a site visit to No 15 revealed what appears to be a variance in levels to the west and the south. The GPDO advises that, when measuring height in the case of no uniform level of land, the higher level is to be taken. However, this definition only applies to buildings and plant, and not to fences. At appeal, as per the advice in Circular 9/95 paragraph 36, inspectors have tended to seek to establish the natural ground level at the time the wall or fence was erected and take the height measurement from there.

No lawful determination has been undertaken in respect of the assertion that a 2 m high fence could be erected. The difference in land levels are a material consideration in this case.

It is considered that the proximity of the proposed fencing to the rear windows in this location and the location of the patio area when taking in to account the lower levels of No 15, that the fencing at the height and design proposed will have an overbearing and unneighbourly impact.

CIL

The Mayor of London's CIL is a material consideration. CIL is not payable on this application.

## **Conclusion**

Having had regard to the above it is considered that the development in the manner proposed is unacceptable as it would result in a significant loss of amenity to local residents.

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

## **RECOMMENDATION: APPLICATION BE REFUSED**

**The reasons for refusal are:**

- 1 The height of the proposed fence would be overbearing and overdominant and would be detrimental to the amenities by reason of visual impact, loss of outlook and prospect that the occupiers of the adjacent property at No 15 might reasonably expect to be able to continue to enjoy loss of prospect thereby contrary to Policy BE1 of Bromley's Unitary Development**

**Plan, Policy 37 of the Draft Local Plan and Supplementary Planning Guidance 1 and 2.**