

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

**Application No :** 17/04741/FULL1

**Ward:**  
**Cray Valley East**

**Address :** Land Opposite Econ House Old Maidstone  
Road Sidcup

**OS Grid Ref:** E: 548787 N: 170200

**Applicant :** Econ Construction Limited

**Objections : YES**

### **Description of Development:**

Erection of a sleeper wall and metal post security fence  
PART RETROSPECTIVE

### **Key designations:**

Biggin Hill Safeguarding Area  
Green Belt  
London City Airport Safeguarding  
Smoke Control SCA 20

### **Proposal**

Planning permission is sought (part) retrospectively for the construction of a sleeper wall and metal post security fence. The new fence measures 3.8m and surrounds the north-western corner of the site (the area approved under Ref: 12/01293/ELUD).

Members are advised that a lawful development certificate application has also been submitted for the resurfacing of the yard area with concrete under ref: 17/04948/PLUD for which there is a separate report on this agenda.

### **Location and Key Constraints**

The site is located on the south-western side of Old Maidstone Road, opposite Econ House, which is also in the applicant's ownership.

The site faces the road which is made up predominately of detached bungalows located on plots that adjoin the B2171 Old Maidstone Road and Maidstone Road, although the houses themselves front Old Maidstone Road.

The site falls within the Green Belt.

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

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

- The erection of a sleeper wall and metal post security fence was started prior to June 2017. Why has a planning application only been submitted 13th October 2017.
- At a meeting held by Econ in June the directors present openly admitted to all the residents present that they knew nothing about this fence. In fact they hadn't seen it even though it is 3 metres high and opposite their office that they come to daily.

- This is already a secure site where a steel spiked fence has been erected around the perimeter.
- It has been stated "that the fence has been constructed as a security and crime prevention measure due to the value of the equipment stored on the site." The neighbours are unaware of any crimes being reported within the last 20 years on this particular site. To my knowledge there have been no recorded events to the police about this exact site. The certificate of lawfulness is for "Use of land and building for the storage of furniture, bricks, window frames, container lorry trailers and portable building." Anything other storage or activity here is unlawful and any significant change from what is specified should result in enforcement action against it. If valuable equipment is to be stored here then that is contravening this.
- Econ have a high security yard opposite with CCTV camera surveillance and any property needing high protection could be stored in this area.
- We see no benefit to the local community and it is more likely to draw unwanted attention with a "high security profile".
- Fence is uncharacteristic to the area.
- The field next to the site has been sabotaged by the introduction of large mounds of soil, this land should be returned to the original state.
- Site should only be used for storage reclaimed items such as windows and nothing else.

#### **Comments from Consultees**

None were requested.

#### **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 takers 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:

National Planning Policy Framework (NPPF) (2012):

Chapter 7 - Requiring Good Design  
Chapter 9 - Protecting Green Belt land

The London Plan (2016):

Policy 7.4      Local Character  
Policy 7.6      Architecture  
Policy 7.16     Green Belt

Unitary Development Plan (2006):

BE1    Design of New Development  
BE7    Railings, Boundary Walls and Other Means of Enclosure  
G1     Green Belt

Supplementary Planning Guidance 1: General Design Principles

Draft Local Plan (2016):

Draft Policy 37 General Design of Development  
Draft Policy 49 Green Belt

**Planning History**

85/01130/FUL - Planning permission was granted for the field between Old Maidstone Road and the New By-Pass Disposal of Sub-Soil in connection with the construction of the A20 trunk road and restoration of the land for agricultural purpose (Section 32 Application).

12/01293/ELUD - Certificate of Lawfulness was approved for the use of land and building for the storage of furniture, bricks, window frames, container lorry trailers and portable building.

14/04870/FULL1 - Planning permission was refused for the use of land as a waste transfer station and recycling facility involving minor change of land levels, the erection of a facilitative building, associated plant, site office, and provision of car parking and associated landscaping.

16/03973/ELUD - Certificate of lawful use was refused for the use of site for over 10 years for the operation of crushing and screening brick, concrete, hard core, wood, metal and other inert demolition waste for refuse and recycling.

17/02506/DEMCON - Prior Notification was granted for demolition of existing single storey storage building (Consultation under Class B of the Schedule 2, Part 11 of the Town and Country General Permitted Development Order 2015).

## **Consideration**

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

- Appropriate Development within the Green Belt;
- Openness and Character in the Green Belt;
- Very Special Circumstances;
- Design and impact on the character of the area;
- Impact on Neighbouring Amenities; and
- Mayoral CIL.

### Appropriate Development within the Green Belt:

Having established that the site is within the Green Belt the Authority must consider both its own Development Plan Policy and edicts of the NPPF.

The primary considerations in this case are the impact of the proposal on the Green Belt, including whether or not the development is appropriate and if it is not, whether there are any very special circumstances to justify inappropriate development which mean that the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, as set out in the NPPF, Policy 7.16 of the London Plan, Policy G1 of the UDP and Policy 49 of the Draft Local Plan.

Assessing proportionality is an objective test based on size. In this instance the proposal would be located behind the existing palisade security fencing, the proposal would not significantly increase the built footprint of the site over and beyond the current situation, but would be approximately 1.8m higher and of solid construction thereby not allowing views through towards the rear of the site. It should be noted that there is currently a dense vegetation screen around the site thereby limiting the views of the lower part of the fence.

In this case the proposed development does not fall within any of the categories of "appropriate development" set out in policy and, the Council is therefore satisfied that the proposed form of development is, by definition inappropriate development in the Green Belt and as such requires very special circumstances in accordance with para 87 of the NPPF.

Para 88 of the NPPF advises that LPAs should give substantial weight to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

Therefore, the harm in principle to the Green Belt remains even if there is no further harm to openness because of the development.

### Impact on Openness:

Beyond whether the proposal is considered to be appropriate development, it is necessary to assess the visual impact upon the Green Belt. The NPPF identifies that an essential characteristic of Green Belts is their openness.

Openness is an essential characteristic of the Green Belt and is different from visual impact. Openness is about freedom from built form. Even if there is absence of harm to openness, there can be harm in principle to the Green Belt from inappropriate development

The NPPF confirms good design is a key aspect of sustainable development and that development of poor design, which fails to take the opportunities available for improving the character and quality of an area, should be refused. Policy BE1 of the UDP and Policy 37 of the Draft Local Plan sets out guidelines for all new development. These require a high standard of design and for buildings to respect their setting and the character of the area in which they are located.

Policy BE7 of the UDP seeks to resist the construction or erection of high or inappropriate enclosures where such boundary enclosures would erode the open nature of the area, or would adversely impact on local townscape character.

The Council wishes to ensure that there is no incremental harm to the Green Belt or MOL by excessive development that collectively may jeopardise the open nature of the countryside, or other open land.

The openness and visual amenity of the Green Belt shall not be injured by any proposals for development within or conspicuous from the Green Belt which might be visually detrimental by reasons of scale, siting, materials or design.

The proposal will increase the overall height of the boundary treatment by approximately 1.8m and be of a solid construction, whilst it is appreciated that the use of wooden railway sleepers could be a sympathetic material choice, given its scale of the new fence it is considered that it would impact the setting of the area and result in a detrimental impact upon the openness of the Green Belt as a whole.

#### Very Special Circumstances:

Paragraph 88 of the NPPF requires decision makers to ensure that substantial weight is given to any harm to the Green Belt. If the Council considers that they have identified harm by reason of inappropriateness and a small degree of harm to its openness, to justify the proposal other considerations, in favour of the development, must clearly outweigh the harm.

There has been a claim made of very special circumstances. The applicant has stated that the proposal is required for security as there has been several burglaries at the site.

Taken together, it is considered that these various factors combined do not outweigh the harm to the Green Belt by reason of inappropriateness, and as such would not provide very special circumstances necessary to justify the development.

#### Design and impact upon the character of the area:

National policy on design is set out in the National Planning Policy Framework, this states that the appearance of proposed development and its relationship to its surroundings are material planning considerations. Therefore development plans should provide clear indications of a planning authority's design expectation and concentrate on broad matters of scale, density, height, layout, landscape and access.

New development should contribute towards a better quality of environment as part of a coherent urban design framework, which looks at how the urban form is used and how that form has an impact on the way development is planned. The Unitary Development Plan contains policies designed to promote very high standards of design, to preserve and enhance the existing character of areas to promote environmental importance, and to ensure that the natural environment is not adversely affected.

Policy BE1 of the UDP and Policy 37 of the Draft Local Plan requires all development proposals to be of a high standard of design and layout. This is supported by London Plan Policies 7.4 and 7.6. Policy BE7 of the UDP seeks to resist the construction or erection of high or inappropriate enclosures where such boundary enclosures would erode the open nature of the area, or would adversely impact on local townscape character.

Existing enclosures, such as railings, gates, fences, walls or hedges, often form characteristic features within the street scene. The Council believes they should be protected and maintained. The Council would also discourage their removal to provide off-street parking, the accumulation of which can have an adverse effect on the character and appearance of an area. Similarly, the introduction of new boundary enclosures can have a significant effect on the character of an area. It is important that new enclosures are appropriate in scale, location and design.

Proposals for new enclosures in Conservation Areas, open-plan estates and rural areas may prove to have particularly significant effects; any such proposals will be stringently tested and the impact on the wider area taken into account.

Concern is raised over the excessive height of the new boundary treatment together with the impermeability of the design. Whilst it is appreciated that there is vegetation screening surrounding the site, the new boundary treatment fronting Old Maidstone Road would still be highly visible and therefore on balance given the location of the site it is considered the design of the fence would not complement the character and appearance of the area and for these reasons, that the proposed development is unacceptable and does not comply with policy on design.

Impact on Neighbouring Amenities:

It is important to ensure the safeguarding of the interests of local residents in surrounding properties by ensuring that their residential amenity is maintained.

In considering planning proposals the Council gives particular regard to the amenity of adjoining occupiers. Policy BE1 (v) states that the development should respect the amenity of occupiers of neighbouring building and those of future occupants and ensure their environments are not harmed by noise and disturbance or by inadequate daylight, sunlight or privacy or by overshadowing. This is supported within Policy 7.6 of the London Plan.

Due to the orientation of the site, location of existing buildings, the overall size and scale of the fence and its distance from the any neighbouring properties it is considered that the development in the manner proposed would not impact on any of the neighbouring occupiers in terms of creating a sense of enclosure loss of sunlight / daylight and loss of outlook from the adjoining neighbours.

Mayoral Community Infrastructure Levy (CIL):

The Mayor has introduced a London-wide Community Infrastructure Levy (CIL) to help implement the London Plan, particularly policies 6.5 and 8.3. The Mayoral CIL formally came into effect on 1st April, and it will be paid on commencement of most new

development in Greater London that was granted planning permission on or after that date. The Mayor's CIL will contribute towards the funding of Crossrail. The Mayor has arranged boroughs into three charging bands. The rate for Bromley is £35 (plus indexing) per square metre.

The current application is not liable to this requirement.

### **Conclusion**

Having had regard to the above, it is considered that the proposed security fence is an unacceptable development within the Green Belt as detailed in the report and would result in an inappropriately high boundary treatment which is out of character with the locality and street scene generally detrimental to the Green Belt setting of the site.

Accordingly, and taking all the above into account, it is recommended that planning permission be refused in line with the grounds set out within this report.

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 proposed construction of a sleeper wall and metal post security fence given its height and use of materials would be an inappropriate enclosure where such boundary enclosures would erode the open nature of the area and adversely impact on local townscape character, contrary to the NPPF (2012), Policy 7.16 of the London Plan (2016), Policy G1 and BE7 of the Unitary Development Plan (2006) and Policy 49 of the Draft Local Plan (2016).**
- 2 The site is within the Green Belt where there is a presumption against inappropriate development and the Council sees no very special circumstances which might justify the grant of planning permission as an exception to Policy 7.16 of the London Plan (2016), Policy G1 of the Unitary Development Plan (2006) and Policy 49 of the Draft Local Plan (2016).**