

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

**Application No :** 18/03313/FULL1

**Ward:**  
Farnborough And Crofton

**Address :** Land At Junction With Crofton Road,  
Park Avenue, Farnborough, Orpington

**OS Grid Ref:** E: 543374 N: 165364

**Applicant :** Mr G Weeks

**Objections:** No

### **Description of Development:**

Replacement of in roadway pop-up barriers with new across highway (pair of) gates, less than 1.0m in height, central stone planter (low level) RETROSPECTIVE APPLICATION

Key designations:

Conservation Area: Farnborough Park  
Biggin Hill Safeguarding Area  
London City Airport Safeguarding  
Smoke Control SCA 11

### **Proposal**

Retrospective planning permission is sought for the replacement of in roadway pop-up barriers with a pair of new gates across highway less than 1.0m in height. The gates open upwards. The scheme includes a pedestrian gate located on the footpath to the side of the vehicular gates. A low level central stone planter and new lamp and camera post is also included as part of the application.

### **Location and Key Constraints**

The site is located close to the junction with Crofton Road. The security hut is located on Park Avenue, 20m away from this junction. The site is an entrance to Farnborough Park Conservation Area.

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

Nearby owners/occupiers were notified of the application and no representations were received.

### **Comments from Consultees**

Conservation Officer: No objections raised.

APCA- objections due to lack of information or photographs making judgement impossible.

Highways: Comments were received from the Council's Highways engineer. He states that there is a Registered Public Footpath 141 runs along the western side of Park Avenue at a recorded width of 1.5m approx. The proposal would involve the provision of a gate across this footpath. Such a gate, even if it were to be unlocked at all times would represent an unauthorised obstruction of FP 141. The Council has no power under highway legislation to authorise such a gate in such circumstances. It is recommended that the application be refused on this basis. However, should the application be deemed acceptable from a purely Town Planning perspective and permission is granted in spite of highway objection, the application should be advised that the grant of planning permission does not entitle the applicant to obstruct FP 141 and that enforcement action may be taken for the removal of the obstruction.

### **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 48 of the NPPF (2018) 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

7.6 Architecture

7.8 Heritage assets and archaeology

## Unitary Development Plan

T6 Pedestrians

T5 Mobility

T18 Road safety

BE1 Design of new development

BE7 Railings, boundary walls and other means of enclosure

BE11 Conservation areas

## Draft Local Plan

33 Access for All

37 General Design of Development

41 Conservation Areas

## Supplementary Planning Guidance

SPG1 - General Design Principles

SPG2 - Residential Design Guidance

## **Planning History**

Retrospective planning permission was recently refused for Replacement of in roadway pop-up barriers with new across highway (pair of) gates, less than 1.0m in height, central stone planter (low level) and new security hut under ref. 17/05692 for the following grounds:

*"1. The proposed security hut, by reason of its poor design, is out of character with the area and results in a visually harmful addition to the Farnborough Park Conservation Area, thereby contrary to Policies BE1 and BE11 of the Unitary Development Plan, and draft policies 37 and 41 of the emerging plan.*

*2. The proposal involves the provision of a gate across Registered Public Footpath 141 which represents an unauthorised obstruction of the footpath. The proposed pedestrian gate is unacceptable from a highway point of view and thereby contrary to Policies T6 and T5 of the Unitary Development Plan and draft Policy 33 from the emerging plan."*

An application is also currently under consideration separately for the temporary retention of the security hut (under ref. 18/03444).

The Council is currently considering an application for similar gates at the junction of Park Avenue and Farnborough Common under ref. 18/03314 following the recent refusal of a lawful development certificate under ref. 17/05691/ELUD for the following reasons:

*"1. The proposal as submitted would not constitute permitted development by virtue of Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015."*

## **Considerations**

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

- Resubmission
- Design
- Heritage Impact
- Highways
- Neighbouring amenity
- CIL

### Resubmission

The current application does not include the security hut (now sought under a separate application) seeks to address the previous refusal grounds. The gates remain as previously considered as the application seeks retrospective permission. The main change to the current application is the plan show that the proposed pedestrian gate will be permanently fixed open.

### 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.

Paragraph 124 of the NPPF (2018) states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

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

With regards to the proposed gates it is considered that they would complement the area and would not appear out of character with surrounding development or the conservation area generally. No ground of refusal was attached to the previous application on design grounds of the proposed gates.

## Heritage Assets

The NPPF sets out in section 16 the tests for considering the impact of a development proposal upon designated and non-designated heritage assets. The test is whether the proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset and whether it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits. A range of criteria apply.

Within or adjacent to a Conservation Area:

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a requirement on a local planning authority in relation to development in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

Interpretation of the 1990 Act in law has concluded that preserving the character of the Conservation Area can not only be accomplished through positive contribution but also through development that leaves the character or appearance of the area unharmed.

No concerns have been raised by the Council's Conservation officer in relation to this proposal.

It is considered that the proposed development would preserve the character and appearance of the conservation area

## Highways

The NPPF recognises that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. The NPPF clearly states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

London Plan and UDP Policies encourage sustainable transport modes whilst recognising the need for appropriate parking provision. Car parking standards within the London Plan, UDP and emerging draft Local Plan should be used as a basis for assessment.

Concerns have been raised by the Council's Highways officer. There is a Registered Public Footpath (FP 141) which runs along the western side of Park Avenue at a recorded width of 1.5m approx. The proposal would involve the provision of a gate across this footpath and as such a gate, even if it were to be unlocked at all times would represent an unauthorised obstruction of FP 141. The Council has no power under highway legislation to authorise such a gate in such circumstances and it is recommended that the application be refused on this basis.

However, the current application seeks to address these concerns by proposing the gate to be permanently fixed open. The application is considered acceptable in

planning terms and an informative has been added should permission be granted to advise the applicant that the grant of planning permission in itself does not entitle the obstruction of the public footpath.

### 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.

No comments have been received regarding the proposal. Having regard to the scale, siting, separation distance of the development, it is not considered that a significant loss of amenity to local residents.

### CIL

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

### **Conclusion**

Having had regard to the above it is considered that the development in the manner proposed is acceptable as it would not impact detrimentally on the character of the conservation area, nor would it impact negatively on the amenities of the neighbouring residents. It is considered that the concerns raised by Highways have been addressed by the proposed pedestrian gate being permanently fixed open as shown on the submitted drawings.

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: PERMISSION**

#### **Subject to the following conditions:**

- 1 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 order to comply with Policy BE1 of the UDP and in the interests of visual and residential amenity.**

#### **You are further informed that :**

- 1 The applicant is advised that the grant of planning permission does not entitle the applicant to obstruct Public Foot Path 141 and enforcement action may be taken for the removal of the obstruction.**