

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

Application No : 18/05157/FULL1

Ward:
Bromley Town

Address : 21 Cromwell Avenue Bromley BR2 9AG **Objections:** Yes

OS Grid Ref: E: 540559 N: 168332

Applicant : Mr Chris Tew

Description of Development:

Erection of detached three bedroom dwelling house, to include basement, ground and first floor. Creation of associated residential curtilage, vehicular access and car and cycle parking and refuse facility. Alterations to host dwelling including reduced balcony and repositioning of patio doors. Excavation to existing and proposed rear garden (adjacent public footpath at rear of the site) to create single level amenity area

Key designations:

Biggin Hill Safeguarding Area
Bromley Town Centre Area Buffer 200m
London City Airport Safeguarding
Open Space Deficiency
Smoke Control SCA 51

Proposal

The application proposes the creation of a separate plot and erection of a detached dwelling set over three floors; basement, ground floor and first floor accommodation. Associated vehicular access is proposed from Cromwell Avenue, together with parking and landscaping. The submitted plans indicate a 1m side space each side of the newly formed boundary between the existing and proposed dwelling. The application also proposes excavation to east part of the site in order to increase the level area of surrounding amenity space for the host and proposed dwelling.

Location and Key Constraints

This is a corner plot at the junction with Cromwell Close and located within a residential area. The land slopes away significantly to the south-west.

There is a protected tree at the site - Tree Preservation Order 2491 and public footpath 122 runs along the eastern boundary.

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

- Overdevelopment
- What happens to the TPO tree?
- Historical context provided by objector - concern that the proposal is out of character
- Housing needs in Bromley are being met
- Illustrations are not to scale and create false impression; the scale of garden area will be very small compared to those nearby.
- Concern that on-street parking provision will be lost
- Garden grabbing
- Not much difference to previously refused proposals
- Concerns about the integrity of the very high retaining wall to the rear of the site which is planned to be 'excavated'. The substrate is believed to be sand with no structural cohesion. This calls into question whether a secure retaining wall could be constructed. This wall is also very close to a well-used public footpath used by pupils at Ravensbourne School

Comments from Consultees

Thames Water:

Waste: Thames Water would advise that with regard to Foul Water sewage network infrastructure capacity, we would not have any objection to the above planning application, based on the information provided. Thames Water would advise that with regard to surface water network infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

Water: There are water mains crossing or close to the development. Thames Water do NOT permit the building over or construction within 3m of water mains. If you're planning significant works near our mains (within 3m) we'll need to check that your development doesn't reduce capacity, limit repair or maintenance activities during and after construction, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>

On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application.

Thames Water recommends the following informative be attached to any planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

Drainage Engineer:

The applicant is required to maximise the use of SUDS to restrict surface water run-off to 2l/s.

Conditions are recommended in the event of a planning permission.

Highways:

The site is located on the corner of Cromwell Avenue and Cromwell Close.

The development is within a high PTAL rate of 6a on a scale of 0 - 6b, where 6b is the most accessible.

Vehicular Access- new access from Cromwell Avenue via a new crossover leading to 1 car parking space is proposed. However the applicant should be made aware that there are Pay and Display bays in front of the access point which must be removed. The cost of relocation or in case of not finding an appropriate alternative, loss of revenue will be at applicant's expenses. I would still prefer the option with 2 car parking spaces as it was indicated in the previous application.

The maximum width of a vehicle crossing should be 3 metres forming a ramped area, with dropped kerbs either side increasing the overall width to 4.8 metres at the kerb edge of the carriageway. We would like to see a revised drawing in relation to the Pay and Display bays

Refuse storage should be provided.

Due to the height of the proposed retaining wall and its proximity to the public highway approval of design of retaining wall will be required.

Conditions are recommended in the event of a planning permission.

Tree Officer:

Our original comments from 17/02980 highlighted the potential for an unacceptable degree of future pressure on the TPO Beech tree, due to the proximity of the proposed dwelling and the increased use of the garden/amenity space around the tree.

I note that the updated comments from agb environmental state that in their opinion the subsequent increase in pressure to prune/remove would not be sufficient to lead to a loss of amenity value. This based on the following:

- There would be ample amenity space since the crown would cover up to 1/3 of garden.
- The area beneath trees receives plenty of light
- The crown would be 4.5m at its closest point to the proposed building.
- The tree is to the north of the proposed dwelling so would cast little shade

- The garden's topography limits the potential future uses of the corner of land where the tree stands.
- Pruning/removal can be controlled by the council since the tree is TPO (and pruning works have previously been granted.)

In response to these points, it is fair to say that, whilst the tree will cast shade over a significant proportion of the garden at midday in summer, the degree of shading would likely not be unreasonable. (By the same measure, it should be noted, should proposed be approved, that future applications for pruning/removal solely to reduce the extent of shade are therefore unlikely to be approved.) However, and despite the assertion that the council would have control over any future pruning/removal, by locating a permanent structure closer within the falling distance of the tree (not currently the case for the existing dwelling) and by increasing the frequency of occupancy beneath the canopy, the nature of a risk assessment inevitably changes. This is something tree officers have to take into account when considering applications for works to protected trees and can lead to more extensive works than would otherwise have been necessary. This is the link by which applications from residents to prune/remove apply pressure to grant such works. For lower value trees this may not be a significant issue, but this a high value tree, irrespective of its BS5837 categorisation. It is a large mature Beech in a highly prominent position on the cross roads with over 300 degrees public visibility. Therefore, given the tree's particularly high amenity value, the unacceptable degree of future pressure described in our original comments remains a cause for concern.

I note the inspector is satisfied "that the proposed dwelling would be far enough away to ensure that it would have sufficient space to prevent any pressure to remove or severely prune it." It is accepted that no facilitative pruning or the tree's removal is proposed at this time. However, as described above, it is our opinion that the proximity of the proposed dwelling, the relative size of the garden/amenity space and the increased frequency of occupancy beneath the canopy, increase the likelihood of applications for, at best, pruning that would otherwise not have been necessary. These same factors have to be given due consideration by tree officers and can result in the approval of works that could otherwise have been considered inappropriate.

If the application is due to be approved despite these ongoing concerns I would recommend the use of a condition to require the implementation of a tree protection plan and Arb method statement (for which I will be happy to recommend wording if required) and an informative along the lines of that below.

Informative:

Applications for the pruning or removal of T1 Beech in which the proposed works are not sufficiently well justified will not be recommended for approval. Reasons that are unlikely to be considered sufficient to justify even low impact works include reducing the amount of falling debris, increasing sunlight to the garden or property.

A tree to a nearby site was noted at the time of officer site visit. Further tree comments are given:

This multi-stem Sycamore should really have been picked up by the AIA as a neighbouring tree that could be impacted. That said, it was probably not included due to it being considered low value and also due to its comparatively small size. Given the distance of the proposed excavations, they could possibly encroach on its RPA but it would likely be by a small amount that would not be worthy of an objection. Therefore, I would not see too much value in asking for this to be calculated. Similarly I would not predict an obvious increase in pressure to prune/remove in the near future.

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.

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

London Plan Policies

7.4 Local character

7.6 Architecture

Bromley Local Plan

6 Residential Extensions

8 Side Space

30 Parking

37 General Design of Development

73 Development and Trees

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
12/03698/FULL6	Part one/two front/side/rear and single storey side extension, front porch and elevational alterations.	PER 18.01.2013
13/03433/FULL6	Two storey rear and single storey side extensions and porch	PER 24.01.2014

15/00093/FULL1 Erection of 4 bedroom house with new crossover on land adjacent to 21 Cromwell Avenue, Bromley NFA 05.06.2018

15/02131/TPO T1 Beech - Reduce the whole crown by 2 - 3m all around. Crown lift to 5m over the road and lift the low branches in the garden by 1 - 1.5m. On the eastern side of the tree remove 1 branch growing diagonally upwards through the crown which is rubbing on several lateral branches.
SUBJECT TO: TPO 24941 (T1) COS 29.07.2015

17/02980/FULL1 Erection of detached three bedroom dwelling house with accommodation over basement, ground and first floor level. Creation of residential curtilage and vehicular access, associated parking , cycle parking and refuse provision. REF 19.10.2017

1 The proposal involves the unsatisfactory subdivision of this prominent corner site, leaving inadequate space about the host dwelling, and the proposed dwelling, and would result in a cramped and over-dominant development of the site that would be out of character with the area and seriously detrimental to the street scene in general thereby contrary to Policies H7 and BE1 of the Unitary Development Plan and Policies 3.5 and 7.4 of the London Plan, and Draft Policies 4 and 37 of the Proposed Submission Draft Local Plan.

2 The proposal would be overdominant and would be detrimental to the amenities that the occupiers of adjoining properties might reasonably expect to be able to continue to enjoy by reason of visual impact and loss of prospect in view of its size, siting and design contrary to Policy H7 and BE1 of the Unitary Development Plan and Policy 7.4 of the London Plan, and Draft Policies 4 and 37 of the Proposed Submission Draft Local Plan.

3 The development would prejudice the retention and well being of the tree which is protected by a Tree Preservation Order, therefore contrary to Policies BE1 and NE7 of the Unitary Development Plan and Policy 7.21 of the London Plan, and Draft Policy 73 of the Proposed Submission Draft Local Plan.

This application was dismissed at appeal for reasons relating solely to residential amenity.

Considerations

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

- Resubmission
- Design
- Highways
- Residential amenity
- Trees
- CIL

Resubmission

The red line of the application has been amended to include the site of the host dwelling. This enables works to be included to the host dwelling and garden area which previously fell outside of the application site. This scheme proposes measures to the host dwelling which seek to address previous concerns and include the removal of outbuildings, the excavation of part of the site, the reconfiguration of fenestration to the host dwelling to improve the quality of amenity space. The proposed parking has been reduced from 2 spaces to one space.

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 BLP policies further reinforce the principles of the NPPF setting out a clear rationale for high quality design.

Local objections are received and include that this would result in a cramped form of development and be out of character with the street scene. The host dwelling has been significantly extended from its original form; the proposed dwelling is informed by the host dwelling and its form is not considered inappropriate. The proposed dwelling includes a basement area; lightwells by way of walkable glass are incorporated in the design to the side and rear. It is not known if basements are a common feature in the area, however the use of lightwells are not considered to result in such a detrimental impact to the street scene as to raise planning concern. Plans indicate that the basement is not designated for habitable rooms.

See Refusal ground 1 above for Council's previous concerns over the sub-division of the plot. The depth of the garden areas is not compatible with surrounding form however, the inspector found that '...this would not be particularly apparent in the street scene due to the footpath and planting behind the eastern boundary...'. The inspector found that neither the proposed dwelling nor the existing dwelling would appear unacceptably cramped.

There is no planting of note to the eastern boundary, however having regard to the Inspector's findings and the revisions included within the current scheme it is, on balance, considered that this ground of refusal may be considered to be sufficiently addressed.

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 transport issues should be considered from the earliest stage of both plan making and when formulating development proposals and development should only be prevented or refused on

transport grounds where the residual cumulative impacts of development are severe.

The NPPF states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed

London Plan and BLP Policies encourage sustainable transport modes whilst recognising the need for appropriate parking provision.

Local concerns have been raised in respect of the loss of on-street parking. This has been addressed in Highways comments as has the concern with the extent of excavation and the integrity of retaining walls.

One parking space is proposed (two previously) for the new dwelling and two for the host dwelling. Cycle parking and refuse storage are included in the proposals. Highways comments have indicated they would prefer to see two parking spaces provided on site. Other comments include (see above) matters relating to the removal of existing parking bays to provide access to the site (and to which the Council would seek recompense). The extent of excavation is also of concern and in the event of a planning permission specific and pre-commencement conditions will apply.

Residential amenity

Policy 37 of the BLP, amongst other things, seeks to ensure that development proposals respect the amenity of occupiers of neighbouring buildings and those of future occupants, providing healthy environments and ensuring they are not harmed by noise and disturbance, inadequate daylight, sunlight, privacy or by overshadowing.

The Inspector found that the previous scheme would seriously harm the living conditions of the occupiers of No 21 due to a loss of amenity space and outlook. Solutions to this were presented but as No 21 was outside of the application site the Inspector was unable to consider them.

This scheme indicates the removal of a garage which allows for increased area to the side of No 21 and a large degree of excavation resulting in a 5m separation from the rear wall of No 21 to the 2.7m high proposed retaining wall. French doors will also be removed from the north elevation and replaced with a high level window; the creation of French doors to the rear (east) elevation will lead to the newly formed amenity area. It is for careful consideration as to whether this has sufficiently addressed previous concerns such to create a pleasant environment for future occupants of No 21 and whether adequate sunlight would reach to the newly formed amenity areas. The host dwelling is to the south of that proposed, and whilst the resultant garden area is limited in depth the revised scheme will result in an improved situation to that previously refused.

In terms of amenity for future occupants of the new dwelling there will be a similar arrangement of excavated area plus an upper garden to the north of the site. Due to the land levels this area of upper garden will not be private in nature. The first

floor balcony to No 21 will be reduced to help guard against overlooking to the proposed dwelling.

This is a finely balanced proposal given the scale of the host dwelling and significantly reduced amenity area that will result from the severance of the plot. The supporting statement advises that No 21 will have 125sqm of ground level amenity space within the rear (private) garden area and the proposed dwelling will have 55sqm of ground level amenity space to the rear and 30sqm to the side ; in addition the proposed dwelling will have access to the upper garden area (c 80sqm). Taking into account the findings within the appeal decision and the amendments proposed by this scheme it may be considered, subject to the removal of permitted development rights, that the proposed residential amenity may, on balance, be acceptable.

Trees

The Council raised concern with the pressure on the TPO tree in the previous grounds of refusal (see above). In the appeal decision the Inspector was of the opinion that the proposed dwelling would be far enough away to ensure that it would have sufficient space to prevent any pressure to remove or severely prune the tree. The supporting statement to the application advises that the proposed scheme is positioned further away from the protected tree than the previous appeal scheme; the tree report and addendum are submitted to support the proposal. The Council's tree officer acknowledges that no facilitative pruning or removal of the tree is proposed at this time. However the tree officer highlights several factors (see above) which have to be given due consideration by tree officers in the event of post-development applications, and which can result in the approval of works that could otherwise have been considered inappropriate. Therefore the tree officer's concerns remain in that despite the assertion that the council would have control over any future pruning/removal, by locating a permanent structure closer within the falling distance of the tree (not currently the case for the existing dwelling) and by increasing the frequency of occupancy beneath the canopy, the nature of a risk assessment inevitably changes. This is considered to be a high value tree and therefore these matters remain of significant concern. Whilst the Inspector found that the proposal would be unlikely to result in any harm to the TPO'd tree it remains the view of the Council's tree officer that the nature of the risk assessment changes and with it the post-development pressure to the tree.

CIL

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

Conclusion

Having had regard to the above although this proposal is very finely balanced it is noted that it is considered that the development in the manner proposed is acceptable in that it would not result in a significant loss of amenity to local residents nor impact detrimentally on the character of the area or

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 and/or impact detrimentally on the character of the area

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:

- 01: By locating a permanent structure closer within the falling distance of the tree (not currently the case for the existing dwelling) and by increasing the frequency of occupancy beneath the canopy, the nature of a risk assessment inevitably changes and therefore the development would prejudice the retention and wellbeing of this high value tree which is protected by a Tree Preservation Order, therefore contrary to Policy 7.21 of the London Plan, and Policy 73 of the Bromley Local Plan**