

**Section '3' - Applications recommended for PERMISSION, APPROVAL or CONSENT**

**Application No :** 19/01648/FULL6

**Ward:**  
Farnborough And Crofton

**Address :** 5 Tandridge Place Orpington BR6 8DL **Objections:** Yes

**OS Grid Ref:** E: 544883 N: 166383

**Applicant :** Mr Kapil Singh

**Description of Development:**

Proposed garden boundary fence erection and landscaping work to the side border. PART RETROSPECTIVE

**Key designations:**

Biggin Hill Safeguarding Area  
London City Airport Safeguarding  
Open Space Deficiency  
Smoke Control SCA 11

**Proposal**

The application seeks retrospective permission for the erection of a boundary fence with a height of 1.95m and garden landscaping. The development would include the enclosure of a strip of land adjoining No.5 to its north which has been the subject of a number of previous applications.

The current application would alter the siting of the existing fence (which has currently been erected without planning permission) to provide a 0.5m set back from the northern boundary of the site.

**Location and Key Constraints**

The site hosts a two storey end of terrace dwelling which lies within a housing estate developed in the 1960's which includes two and three storey blocks of houses with open plan frontages, larger rectangular open areas between blocks and incidental amenity open space on corners and alongside footpaths.

To the northern side of the property lies a strip of land between the flank wall of the house and a public footpath, which is proposed to be enclosed by the fence. It is noted from a previous appeal decision on the site (appeal ref: APP/G5180/A/00/1052816) that this land was sold by the Managers of the estate to the previous owner of No.5.

**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

- Crofton Place Estate is a designated Garden Estate and fences enclosing areas in front of the properties are not permitted.
- When the land was sold to the previous owner there were a number of constraints on the use of the land and height of any fencing.
- Land has been enclosed which does not belong to the applicant (communal ground).
- Would set a precedence to build on others land.
- Green areas of Crofton Place Estate are covered by a section 106.
- Objections to height of the fence.
- To only site the fence 0.5m inwards from the previous application is still unacceptable.

#### General Comments

- Site used to have lots of trees and greenery which has been cut down and replaced with a fence - I would like to see boundary re-established as it is supposed to be.

A response to one of the objections was received from the agent, which included that a number of neighbours were positive in their views on the application. Following this a further representation was received stating that they did not wish to be represented in an anonymous petition and asked to be excluded from this comment.

#### 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.

The National Planning Policy Framework was published on 24 July 2018 and updated on 19 February 2019.

The development plan for Bromley comprises the Bromley Local Plan (Jan 2019) and the London Plan (March 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

## Bromley Local Plan

6 Residential Extensions

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;

- 94/01201/FUL - Use of landscaped area as private residential curtilage enclosure of land to include land subject to landscaping condition V of WK7/62/712B - Refused and Dismissed on Appeal
- 96/00694/FUL - Use of landscaped area as private residential curtilage to include partial enclosure of the land with a 18m high close boarded fence all of which is subject to landscaping condition V or WK7/62/712B - Refused
- 99/00779/FULL1 - Proposed use of landscaped area adjoining No.5 as private residential curtilage' enclosure of land to include land subject to landscaping condition of planning application WK7/62/712B - Refused and Dismissed on Appeal.
- 00/01383/FULL1 - Proposed use of landscaped area adjoining No.5 as private residential curtilage; enclosure of land to include land subject to landscaping condition of planning application WK7/62/712B - Allowed on Appeal.
- 04/01672/FULL6 - Use of landscaped area adjoining No.5 as private residential curtilage, enclosure of land to include land subject to landscaping condition V of permission WK7/62/712B - Refused
- 18/04582/FULL6 - Replacement of a boundary fence and garden landscape (RETROSPECTIVE) - Refused

## **Considerations**

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

- Resubmission
- Design
- Principle
- Neighbouring amenity
- CIL

## Resubmission

The current application followed a number of other submissions which sought the inclusion of an amenity area that was subject of an original landscaping plan under reference WK/7/62/712B imposed when the original estate was approved. Three applications were refused during the 1990's, with two also dismissed on appeal.

A subsequent application (ref: 00/01383/FULL1) was refused by the Council and allowed on appeal by the Inspector. However it is noted that in allowing the appeal the Inspector's comments that "the land the appellant wishes to enclose as part of his garden amounts to little more than a tenth of the total area between his original boundary and the public footpath" and that the Inspector was "not convinced that, in this particular location, with the existing perimeter fence removed and the planting modified as appropriate the remainder of this landscaping area would not adequately fulfil its original function"

A further application (ref: 04/01672) which sought to enclose the larger strip of land was refused by the Council. Within this decision, the Council considered the site forms an important buffer zone to the bland car park and garage appearance adjacent to the north and connecting footpaths, and that the visual appearance and density of planting at the site is a considerable bonus which should not be enclosed by formal fences or walls.

The most recent application (ref: 18/04582/FULL6) sought to enclose the whole land, as per the fence which is currently present on site (and does not benefit from any permission). This application was refused on the grounds that;

1. The use of this amenity land as a private residential curtilage would remove from the original estate layout requirements that the land should remain as a communal landscaped area to preserve and enhance the visual amenities of the locality, and would have result in unacceptable harm to the visual appearance and spaciousness of the area, contrary to Policies BE1 and BE7 of the Unitary Development Plan and Policy 37 of the Emerging Local Plan.

The current application seeks to overcome the previous concerns by provided a separation distance of 0.5m from the fence to the northern flank boundary of the site, and through the addition of vegetation to be planted along its northern boundary adjacent to the pavement.

## Design and Principle

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

The planning statement submitted to accompany the application outlines that the height of the fence is required to provide privacy and security to a private garden, and also outlines that low boundary fences often attract anti-social behaviour such as fly-tipping and rubbish thrown into the garden.

It is noted from a previous appeal decision on the site (appeal ref: APP/G5180/A/00/1052816) that this land was sold by the Managers of the estate to the previous owner of No.5 and therefore it appears the land does fall within the ownership of No.5. It is therefore considered reasonable for a boundary enclosure to be erected to provide security and privacy, provided that it would not harm the character of the area and the estate.

The proposed height and appearance of the proposed fence is not considered unduly out of character with the general area in that there are a number of examples of fences within close proximity and across the estate. However, it is noted that these mainly enclose the rear gardens of properties, whilst the proposed fence would enclose a previously open strip of land between the host dwelling and footpath / car park which appears to previously have been part of the communal area.

Given the proximity of the fence to the boundary of the site it would appear more prominent. However, given the siting of the host dwelling away from the main road and that the fence would adjoin a public footpath adjacent to a residents car parking area it is considered that views of the fence would be largely limited to this area and the adjacent green, and that it would not impact significantly upon wider views from the estate and its main roads. This would limit the impact that the fence would have on the overall character of the area.

The current application proposed to set the fence in 0.5m from the northern boundary of the site to allow for the addition of landscaping and planting between the fence and the footpath. The submitted plans indicate that the planting would be of a similar height to the proposed fence. Further details of the exact planting are recommended to be sought by way of condition however in principle the addition of planting would provide a softer appearance to the development when viewed from the site. The addition of suitable planting would not be considered to harm the visual appearance of the site, which forms an important buffer zone to the bland car park and garage appearance adjacent to the north and connecting footpaths.

With regards to the principle of the enclosure of the site, this would still partially remain. However the improved design to incorporate vegetation on the flank boundary would enhance the visual appearance of the site. Furthermore there is a large green sited to the rear of the site that is considered to provide sufficient space and a better quality communal space than the grass verge sited between the host dwelling and car park. Given this and the design of the proposed development it is not considered that the enclosure of the land would have an unacceptable harm to the communal areas of the estate or its visual appearance and spaciousness.

Therefore it is considered on balance that, subject to a condition seeking additional details of the proposed landscaping, the current application would be sufficient to overcome the previous refusal grounds.

### Neighbouring amenity

Policy 37 of the Bromley Local Plan 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 proposed fence is not considered excessive in its overall height and given its siting there would be a significant distance to nearby residential properties. Therefore, having regard to the scale and siting of the development and the separation distance to nearby properties it is not considered that a significant loss of amenity with particular regard to light, outlook, prospect and privacy would arise.

### 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 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.

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 to which this permission relates must be begun not later than the expiration of 3 months, beginning with the date of this decision notice.**

**Reason: To comply with Section 91 of the Town and Country Planning Act 1990**

- 2 The development shall be retained strictly in accordance with the application plans, drawings and documents hereby approved.**

**Reason: To ensure that the development is retained in accordance with the approved documents, plans and drawings submitted with the application in the interest of the appearance of the building and the visual**

**amenities of the area and in order to comply with Policy 37 of the Bromley Local Plan**

- 3 The materials to be used for the external surfaces of the building shall be as set out in the planning application forms and / or drawings unless otherwise agreed in writing by the Local Planning Authority.**

**Reason: In order to comply with Policy 37 of the Bromley Local Plan and in the interest of the appearance of the building and the visual amenities of the area.**

- 4 Details of a scheme of landscaping shall be submitted within 3 months of the date of this decision and approved in writing by the Local Planning Authority.**

**Details shall include:**

**1. A scaled plan showing all existing vegetation to be retained and trees and plants to be planted which shall include use of a minimum of 30% native plant species of home grown stock (where possible) and no invasive species**

**2. A schedule detailing sizes and numbers of all proposed trees/plants**

**3. Sufficient specification to endure successful establishment and survival of new planting**

**The approved scheme shall be implemented in the first planting season following the approval of details and retained in perpetuity. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details**

**Reason: In order to comply with Policies 37, 73 and 74 of the Bromley Local Plan to secure a visually satisfactory setting for the development and to protect neighbouring amenity.**