

SECTION '2' – Applications meriting special consideration

Application No : 19/01513/FULL1

Ward:
Penge And Cator

Address : Land Adjacent 2 Torr Road Penge
London

Objections: Yes

OS Grid Ref: E: 535721 N: 170183

Applicant : Mr A Tsiaoukkas

Description of Development:

Creation of a studio flat

Key designations:

Biggin Hill Safeguarding Area
London City Airport Safeguarding
Open Space Deficiency
Smoke Control SCA 1

Proposal

Permission is sought to erect a studio flat on land adjacent to No.2 Torr Road, Penge. The plot was formerly the rear garage of No. 28 Green Lane which has now been severed but both lie within the applicant's ownership.

The current application is a resubmission of a previously refused application for a similar development.

Location

The application site comprises a vacant garage/former joinery workshop situated in between No.2 Torr Rd and the rear garden of No.28 Green Lane. The surrounding locality is predominantly residential in nature, although there are some commercial units which front Green Lane to the north.

Consultations

Nearby owners/occupiers were notified of the application and several letters of representation was received, which can be summarised as follows:-

- Sewers: Whilst remodelling our garden at no 28 - which adjoins the site on Torr Road - our builders discovered that the applicant had tapped into our sewers for the Torr Road site. We have been told that this is illegal. In the process they also broke the sewerage pipe on our land, which lead to waste entering into our garden underneath the flagstones, which we had to fix at significant cost. We are extremely concerned that they will seek to use this

outlet causing us, and our neighbours, issues. This is something I have tried to get assurances on but the owner and applicant has not responded.

- Shared wall: As a result of how the applicant divided up the land which had previously formed the full garden/ property at number 28 Green Lane, our garden wall runs over the boundary onto their new property. This wall was not renovated when the applicant remodelled number 28 and is very fragile. We are extremely concerned that in the plan submitted the wall will need to be cut into for the new gate. Previously, our builders have stated that almost certainly the wall will fall down, which will also impact our garden gate which is attached. Again, we have reached out to the applicant to reach an agreement but they have not responded.
- General Build Quality: Having now lived at number 28 for 3.5 years we have concerns about the build quality of any project undertaken by the applicant. We have discovered numerous structural build faults, and have had to pay in excess of £10k repairing them. These include: not properly installing the joists for our kitchen floor extension and utility room (which we have had to pull up and re-lay); Significant number of internal/external wall build gaps which have caused issues with vermin; Not putting on coping stones on the extension which cost us significantly in terms of rain damage; Faults with internal wiring; Faulty installation of a bathroom ceiling vent which has caused significant rain damage; Failure to properly install extraction fans in bathrooms; Laying garden patios above the specified height and failure to install a damp proof course properly; Poor felting on the roof and failure to close off the chimneys; Issues with the waste pipe which was not properly attached leading to water coming down the pipe; damage to the water pipe which connected to the mains caused when they were fixing the front garden which led to significant leakage and reduced water pressure; failure to seal the exit fume pipe from the boiler which caused internal rain damage; failure to properly screw down floors, as well as the damage to the sewerage pipe. Whilst other aspects - such as general roofing work and loft conversion - were done well, we have discovered many cut corners which give us significant cause for concern.
- Loss of privacy will be severely impacted with two large windows/doors looking directed into our garden.
- The development will be a tall imposing building.
- The "back garden" of the development is adjacent to our land, and currently there is no secure boundary between each parcel of land. A (semi-permanent fence) should be erected to ensure that the building work does not impact, encroach or damage our garden and that our privacy is maintained throughout the building work.
- The boundary shown in the plans is not entirely clear, and the back garden may be smaller than shown on plans.
- We would like assurance that our garden will not be built on, and erection of a fence to clearly demarcate the agreed boundary before development begins.
- We consider the proposed site to be too small for a residential building with a pitched roof, as previously there was a low-level workshop.

Comments from Consultees

Highways - The site is located to the west of Torr Road. The site is located in an area with high PTAL rate of 5 (on a scale of 1 - 6, where 6 is the most accessible).

No car parking would be provided; however as the transport accessibility is good a reduction in the parking requirement may be justified as the site is considered accessible to public transport links, being within walking distance of bus routes and a Rail Station. Therefore I raise no objection to the development.

Furthermore a covered and secure cycle storage facility would be provided to encourage cycling as a sustainable transport alternative.

Please include the following with any permission:

AG12 (Cycle parking)

Trees - There is potential for significant impact on the health and appearance of the off site tree T1 Leyland cypress. However, since we would not object to the tree's removal if it were proposed, we have no objection. In the event of permission being granted I would recommend the following condition and informative:

Tree Protection

Prior to the commencement of the development hereby approved (including demolition and all preparatory work), tree protection measures shall be installed in accordance with the approved Tree Protection Plan (AITPP-01). Such measures shall not be moved or removed, but shall be retained in situ until completion of the development and all materials and machinery have been removed from the site, unless otherwise agreed in writing by the LPA.

Reason: Required prior to the commencement of development in order that the Local Planning Authority may be satisfied that the trees to be retained will not be damaged during development works and to ensure that, as far as is possible, the work is carried out in accordance with the approved details pursuant to section 197 of the Town and Country Planning Act 1990 in accordance with Policies 37, 73 and 74 of the Bromley Local Plan.

Informative

Prior to commencing the development hereby approved, the applicant should consider the potential impact on the structural stability of any trees in neighbouring properties. Whilst a right exists under common law for A to cut back any parts of neighbour B's trees to the boundary line, A also has a duty of care to B and should therefore not undertake works that could make a tree unstable or raise the risk of it failing. Therefore, it is prudent to discuss works the tree owner and seek professional arboricultural advice.

Environmental Health - I have considered the above and have no objections within the grounds of consideration, subject to the following.

I would recommend a PC23 (Land Contamination Assessment) condition is attached.

The application site is within an Air Quality Management Area declared for NOx. I would therefore recommend that the following conditions are attached:

The application site is located within an Air Quality Management Area declared for NOx: In order to minimise the impact of the development on local air quality any gas boilers must meet a dry NOx emission rate of <40mg/kWh (To minimise the effect of the development on local air quality within an Air Quality Management Area in line with NPPF p124 and Policy 7.14 of the London Plan).

I would also recommend that the following informative:

Before works commence, the Applicant is advised to contact the Pollution Team of Environmental Health & Trading Standards regarding compliance with the Control of Pollution Act 1974 and/or the Environmental Protection Act 1990. The Applicant should also ensure compliance with the Control of Pollution and Noise from Demolition and Construction Sites Code of Practice 2017 which is available on the Bromley web site.

Drainage - Please impose PC06.

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 24th July 2018. According to paragraph 48 of the NPPF decision takers can also give weight to relevant policies in emerging plans according to:

- a) The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- b) 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

C) The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF

The development plan for Bromley comprises the Bromley Local Plan (2019) and the London Plan (March 2016).

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

London Plan Policies

- 3.3 Increasing Housing Supply
- 3.4 Optimising Housing Potential
- 3.5 Quality and Design of Housing Developments
- 3.8 Housing Choice
- 3.9 Mixed and Balanced Communities
- 3.10 Definition of affordable housing
- 5.1 Climate change mitigation
- 5.2 Minimising Carbon Dioxide Emissions
- 5.3 Sustainable Design and Construction
- 5.7 Renewable Energy
- 5.10 Urban Greening
- 5.11 Green Roofs and Development Site Environs
- 5.12 Flood Risk Management
- 5.13 Sustainable Drainage
- 5.14 Water quality and wastewater Infrastructure
- 5.15 Water use and supplies
- 5.16 Waste self-sufficiency
- 5.17 Waste capacity
- 5.18 Construction, excavation and demolition waste
- 6.3 Assessing Effects of Development on Transport Capacity
- 6.5 Funding Crossrail and other strategically important transport infrastructure
- 6.9 Cycling
- 6.13 Parking
- 7.1 Lifetime Neighbourhoods
- 7.2 An Inclusive Environment
- 7.3 Designing Out Crime
- 7.4 Local Character
- 7.5 Public Realm
- 7.6 Architecture
- 7.14 Improving Air Quality
- 7.15 Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes
- 7.19 Biodiversity and Access to Nature
- 7.21 Trees and Woodlands
- 8.3 Community Infrastructure Levy

Bromley Local Plan

- 1 Housing supply
- 4 Housing design
- 8 Side Space
- 30 Parking
- 32 Road Safety
- 33 Access for All
- 34 Highway Infrastructure Provision
- 37 General design of development
- 73 Development and Trees
- 77 Landscape Quality and Character

- 112 Planning for Sustainable Waste management
- 113 Waste Management in New Development
- 115 Reducing flood risk
- 116 Sustainable Urban Drainage Systems (SUDS)
- 117 Water and Wastewater Infrastructure Capacity
- 119 Noise Pollution
- 120 Air Quality
- 122 Light Pollution
- 123 Sustainable Design and Construction
- 124 Carbon dioxide reduction, Decentralise Energy networks and Renewable Energy

Supplementary Planning Guidance

SPG1 - General Design Principles

SPG2 - Residential Design Guidance

Housing: Supplementary Planning Guidance. (March 2016)

Planning History

Under planning application ref:- 16/03628/FULL1 - Creation of a new studio flat - Application Refused - Date issued - 08.12.2016

Under planning application ref:- 15/03539/FULL1-Demolition of single storey workshop and construction of two storey detached two bedroom house with solar panels to roof (on land adjacent to No.2 Torr Road)- Application Refused- Date issued-09.10.2015.

Under planning application ref:- 15/02175/FULL1-Demolition of existing single storey workshop and construction of two storey detached two bedroom house.- Application Refused- Date issued-27.07.2015

Under planning application ref:- 14/02133/FULL2-Demolition of workshop, change of use from joinery workshop (Use Class B1) to residential dwelling (Use Class C3) with single storey rear extension and rear dormer extension- Application Permitted- Date issued-17.10.2014

Considerations

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

- Resubmission
- Design
- Standard of Residential Accommodation
- Highways and Traffic Issues
- Impact on Adjoining Properties
- Trees
- CIL

Resubmission

The site has a long planning history with the last four planning applications having been refused. The last application (Application Reference: 16/03628/FULL1) was refused for the following two reasons:

1. *The proposal represents a cramped overdevelopment of the site by reason of the constricted size of the plot, detrimental to the character of the area contrary to Policies BE1 and H7 of the Unitary Development Plan and Policy 3.5 of the London Plan*
2. *In the absence of a tree survey the proposal would result in the loss of existing trees on the site contrary to Policy NE7 of the UDP.*

It was noted when visiting the site and that of the neighbours (No.29 Green Lane) that the majority of the existing structure has now been demolished with just the front façade remaining.

Following the refusal of the last application the agent has submitted revised drawings, which allows a 0.8m gap to the boundary with the neighbouring gardens (No.28 & 29 Green Lane). An Arboricultural Report has been submitted with the application to assess the existing Cypress Tree located in the neighbour's garden.

Design

Housing is a priority use for all London Boroughs. Policy 3.3 Increasing Housing Supply, Policy 3.4 Optimising Housing Potential and Policy 3.8 Housing Choice in the London Plan (2015) generally encourage the provision of redevelopment in previously developed residential areas provided that it is designed to complement the character of surrounding developments, the design and layout make suitable residential accommodation, and it provides for garden and amenity space.

Policy 3 (Backland and Garden Land Development) & Policy 4 (Housing Design) requires that the new residential development would have no impact upon the character, appearance or context of an area and that the design would be of a high quality and to recognise as well as complement the qualities of the surrounding areas. Density ranges should be compliant with the Technical Housing Standards and levels of residential amenity should be compliant with the London Plan.

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.

Paragraph 127 of the NPPF (2018) requires Local Planning Authorities to ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history, including the

surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities). New development shall also establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

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

Policy 37 of the Local Plan requires new buildings to complement the scale, form, layout and materials of adjacent buildings and areas, and seeks to protect the amenities of neighbouring properties. Policy 4 requires the design of new residential development to be of a high quality and to recognise as well as complement the qualities of the surrounding areas. Density ranges should be compliant with the Technical Housing Standards and levels of residential amenity should be compliant with the London Plan.

The submitted plans indicate that the proposed dwelling would comprise a single storey studio flat located between the rear garden of No.28 Green Lane and No.2 Torr Road.

The site is located in a residential area where the Council will consider infill development provided that it is designed to complement the character of surrounding developments, the design and layout make suitable residential accommodation, and it provides for garden and amenity space. Any adverse impact on neighbouring amenity, conservation and historic issues, biodiversity or open space will need to be addressed. Therefore, the provision of an additional dwelling unit on the land needs to be considered in respect of the impact on the appearance/character of the surrounding area, the residential amenity of adjoining and future residential occupiers of the scheme, car parking and traffic implications, sustainable design and energy, community safety and refuse arrangements.

A material consideration to the determination of this application is No.2 Torr Road (which lies next to the site) which was granted planning permission in 2012 under planning application ref:- 12/02914/FULL1 for the conversion of a commercial unit to a two bedroom residential dwelling. The application currently lies before the Council is similar but also different; the same because it is for the same proposed use (residential) but different because the structure at No.2 was already in existence and the agent proved that the former commercial use had become redundant.

The site was formerly the garage to No.28 Green Lane, which has now been severed and currently lies redundant. Taking account of the site and its immediate neighbour (No.2 Torr Road) it may be considered that a single storey detached

dwellinghouse would not look particularly out of context in the streetscene despite No.2 Torr Road being two storeys in height and Land Adj to No.2 single storey. New windows and doors would exist in the front, rear and flank elevations. The design of the building in terms of its height and width/proportions may be considered acceptable. The key materials are noted as white painted brickwork & render with blue painted window frames.

A 0.8m gap has been left to the boundary of the rear garden of No.28 Green Lane and a 0.6m gap to the rear garden of No.29 Green Lane. The plans indicate that this is to protect the roots of the neighbouring Cypress Tree and to make the property appear less cramped. An area of amenity space lies to the rear of the property which backs on the rear garden of No.30 Green Lane.

While the new plot would not be immediately characteristic of neighbouring sites and has already resulted in the shortening of the rear garden of No.28 Green Lane, on balance, it may be considered that the proportions of the site may now be acceptable in the context of London Plan guidance and with the varied residential character of the locality, the provision of an additional unit of residential accommodation on the site may be considered appropriate.

Standard of Residential Accommodation

Policy 3.5 of the London Plan (2016) Table 3.3 sets out the minimum space standards for new development.

The London Plan makes clear that ninety percent of new housing should meet Building Regulation requirement M4 (2) 'accessible and adaptable dwellings' and ten per cent of new housing should meet Building Regulation requirement M4 (3) 'wheelchair user dwellings', i.e. is designed to be wheelchair accessible, or easily adaptable for residents who are wheelchair users. The proposal is also M4(2) compliant making it an accessible and adaptable dwelling.

The Mayor's Housing SPG sets out guidance in respect of the standard required for all new residential accommodation to supplement London Plan policies. The standards apply to new build, conversion and change of use proposals. Part 2 of the Housing SPG deals with the quality of residential accommodation setting out standards for dwelling size, room layouts and circulation space, storage facilities, floor to ceiling heights, outlook, daylight and sunlight, external amenity space (including refuse and cycle storage facilities) as well as core and access arrangements to reflect the Governments National Technical Housing Standards.

It is considered that the proposed would provide residential accommodation of a satisfactory standard and have the required amenity space to serve the needs of prospective occupants.

Car parking

No parking is provided, although the site has a high PTAL of 5 and is within close proximity to Penge East and Kent House railway stations; while Green Lane to the north also has bus stops. Given the accessibility of the site, no highway objections are raised

Cycle parking

The applicant has provided details of cycle parking/storage.

Refuse

The applicant has provided details of refuse storage for the unit. The location point is considered acceptable.

Trees

Policy 73 of the Bromley Local Plan outlines that proposals for new development will be required to take particular account of existing trees on the site and on adjoining land, which in the interests of visual amenity are considered desirable to be retained.

There are a number of large established trees surrounding the proposed development - namely a Leylandi tree, a large Elder tree and a Beech. All of which are over 30ft in height and have a well-established roots, the trees as well as their visual attractiveness also offer a degree of screening.

The agent has provided an Arboricultural Report as part of the application submission which has been reviewed by the Council's Tree Officer. The Tree Officer has commented as follows; there is potential for significant impact on the health and appearance of the off site tree T1 Leyland cypress. However, since we would not object to the tree's removal if it were proposed, we have no objection. In the event of permission being granted a condition and informative have been recommended.

Impact on Neighbouring Properties

Policy 37 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.

Taking into consideration the reduction in height of the development from a two storey development (two applications refused in 2015) to single storey the proposed loss of outlook and privacy concerns raised previously in connection to the first floor bedroom windows are not considered to be relevant anymore. However, the height at 4.4m will be visible from neighbouring gardens; namely No.28, 29 & 30 Green Lane.

There is still a concern that the additional bulk, scale and mass of the structure will lead to a loss of outlook and visual amenities of neighbouring properties, however, Members may decide that sufficient gap between the structure and rear gardens of neighbours garden may be sufficient to overcome the previous grounds of refusal.

The single storey design is considered to reduce the impact to immediate neighbours and the quality of materials may seek to soften the impact of the development in this location.

CIL

The Mayor of London's CIL is a material consideration. CIL would be payable on this proposal

Background papers referred to during production of this report comprise all correspondence on the file ref(s) 19/01513/FULL1 and any other applications on the site 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 years, beginning with the date of this decision notice.**

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

- 2 The materials to be used for the external surfaces of the development hereby permitted shall as far as is practicable match those of the existing building.**

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.

- 3 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 37 of the Bromley Local Plan and in the interests of visual and residential amenity.

- 4 (a) Details of arrangements for bicycle parking (including covered storage facilities where appropriate) shall be submitted to and approved in writing by the Local Planning Authority prior to construction of any above ground works**

(b) The arrangements as approved under part (a) shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.

Reason: In order to comply with Policy 6.9 of the London Plan and in order to provide adequate bicycle parking facilities at the site in the interest of reducing reliance on private car transport.

- 5** Prior to the commencement of the development hereby approved (including demolition and all preparatory work), tree protection measures shall be installed in accordance with the approved Tree Protection Plan (AITPP-01). Such measures shall not be moved or removed, but shall be retained in situ until completion of the development and all materials and machinery have been removed from the site, unless otherwise agreed in writing by the LPA.

Reason: Required prior to the commencement of development in order that the Local Planning Authority may be satisfied that the trees to be retained will not be damaged during development works and to ensure that, as far as is possible, the work is carried out in accordance with the approved details pursuant to section 197 of the Town and Country Planning Act 1990 in accordance with Policies 37, 73 and 74 of the Bromley Local Plan.

- 6** (a) Prior to commencement of the development hereby approved (excluding any ground clearance or demolition) a scheme for the provision of surface water drainage shall be submitted and approved in writing by the local planning authority.

(b) Before the details required to satisfy Part (a) are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system (SuDS) to ground, watercourse or sewer in accordance with drainage hierarchy contained within the London Plan Policy 5.13 and the advice contained within the National SuDS Standards.

(c) Where a sustainable drainage scheme is to be provided, the submitted details shall:

i. provide information about the design storm period and intensity, the method employed to delay (attenuate) and control the rate of surface water discharged from the site as close to greenfield runoff rates (8l/s/ha) as reasonably practicable and the measures taken to prevent pollution of the receiving groundwater and/or surface water

(d) The drainage scheme approved under Parts a, b and c shall be implemented in full prior to first occupation of the development hereby approved

Reason: Details are required prior to the commencement of any new operational development in order to ensure that a satisfactory means of surface water drainage, to reduce the risk of flooding can be achieved before development intensifies on site and to comply with the Policy 5.13 of the London Plan and Policies 115, 116 and 117 of the Bromley Local Plan

You are further informed that :

- 7** You should consult the Street Naming and Numbering Section at the Civic Centre on 020 8313 4742 or e-mail: address.management@bromley.gov.uk

regarding Street Naming and Numbering. Fees and application forms are available on the Council's website at www.bromley.gov.uk

- 8** Before works commence, the Applicant is advised to contact the Pollution Team of Environmental Health & Trading Standards regarding compliance with the Control of Pollution Act 1974 and/or the Environmental Protection Act 1990. The Applicant should also ensure compliance with the Control of Pollution and Noise from Demolition and Construction Sites Code of Practice 2017 which is available on the Bromley web site.
- 9** Prior to commencing the development hereby approved, the applicant should consider the potential impact on the structural stability of any trees in neighbouring properties. Whilst a right exists under common law for A to cut back any parts of neighbour B's trees to the boundary line, A also has a duty of care to B and should therefore not undertake works that could make a tree unstable or raise the risk of it failing. Therefore, it is prudent to discuss works the tree owner and seek professional arboricultural advice.
- 10** You are advised that this application may be liable for the payment of the Mayoral Community Infrastructure Levy under the Community Infrastructure Levy Regulations (2010) and the Planning Act 2008. The London Borough of Bromley is the Collecting Authority for the Mayor and this Levy is payable on the commencement of development (defined in Part 2, para 7 of the Community Infrastructure Levy Regulations (2010)). It is the responsibility of the owner and /or person(s) who have a material interest in the relevant land to pay the Levy (defined under Part 2, para 4(2) of the Community Infrastructure Levy Regulations (2010)). If you fail to follow the payment procedure, the collecting authority may impose surcharges on this liability, take enforcement action, serve a stop notice to prohibit further development on the site and/or take action to recover the debt. Further information about Community Infrastructure Levy can be found on attached information note and the Bromley website www.bromley.gov.uk/CIL