

SECTION '4' – Applications recommended for REFUSAL or DISAPPROVAL OF DETAILS

Application No : 11/00795/FULL6

**Ward:
Hayes And Coney Hall**

**Address : Old Hurst Cottage Pickhurst Green
Hayes Bromley BR2 7QS**

OS Grid Ref: E: 539736 N: 166965

Applicant : Mr Michael Nevard

Objections : YES

Description of Development:

Formation of pedestrian access

Key designations:

Biggin Hill Safeguarding Birds
Biggin Hill Safeguarding Area
London City Airport Safeguarding
Sites of Interest for Nat. Conservation
Tree Preservation Order
Urban Open Space

Proposal

This proposal is for the formation of a pedestrian access to the rear of Old Hurst Cottage which would be accessed via Sedgewood Close and which would be 1m in width. At present there is an existing double gate at the site which is currently subject to enforcement action.

Location

The property is located to the south of Pickhurst Green which is an unmade road and is a recently constructed two storey detached single family dwellinghouse with detached garage. The application site is in close proximity to the woodlands and playing fields of Pickhurst Infants School and the neighbouring semi-detached and detached properties at Pickhurst Green and Sedgewood Close. The proposed pedestrian access would be via the private ancillary parking area and detached garages to the north of Sedgewood Close which is a cul-de-sac of approximately 18 single family dwellinghouses.

Comments from Local Residents

Historically a significant number of representations have been made in relation to any access via Sedgewood Close. Nearby owners/occupiers were notified of the application of the current application and representations were received which can be summarised as follows:

- the residents of Sedgewood Close require the opening to be permanently removed for security reasons which was part of the planning application when permission was granted for Old Hurst Cottage.
- pedestrian access would mean the applicant and visitors will park in the parking area of the close bringing more traffic and pressure on parking in an already congested Sedgewood Close.
- unsure why this additional entrance/exit is required as there are currently two at the site.
- the proposal would result in the loss of two parking spaces in front of the gates in an area which already has limited spaces and parking issues.
- concerns that given previous applications and refusals at the site that the applicant would use the pedestrian access for the parking of vehicles as there would be no benefit of using Sedgewood Close as an entry to Old Hurst Cottage on foot as opposed to using Pickhurst Green.
- the use of Sedgewood Close which is a small cul-de-sac by vehicles not associated with the houses would be noticeable and intrusive, detracting from the quality of the environment of the close.
- concerns the applicant's use of the Close would not be occasional as in the past it has been used by the applicant on a nearly daily basis.
- there would be an adverse effect on the amenities of the occupiers of Sedgewood Close.
- no proof has been produced that the applicant has been granted right of way to drive onto the garage area which is private land where the residents are liable for maintenance costs.
- assurances were made by the applicant that the wall would be completed as promised once the house had been built as access via Sedgewood Close was a major concern when objecting to the original permission to build the house.
- planning permission for Old Hurst Cottage was granted in 2006 with the condition that on completion of the development the temporary access into Sedgewood Close (granted for lorries during the house construction) should be permanently closed and would not have been granted without this condition and was not intended to facilitate subsequent access to/from the Close for the domestic use of the new house. The matter should be settled as since February 2009 Condition 11 has been constantly appealed against and dismissed.
- there is already adequate access to Old Hurst Cottage, pedestrian access will mean that visitors to Old Hurst Cottage will inevitably want to park their cars in Sedgewood Close near the access gates before entering on foot.
- if the area leading to the garage compound, where the access gate is situated, is used by the general public it could cause problems for any future

maintenance required, for which the residents of Sedgewood Close are responsible.

- in Appeal Decision dated 24/12/2009 the Inspector said “Sedgewood Close is a cul-de-sac. It is a self-contained and relatively safe environment (as cul-de-sacs are generally designed to be)”. It is therefore felt that it is very undesirable to have access which could encourage strangers to walk in and out of a private area that is unlit and not visible from the houses in the Close.
- the property has been completed in terms of construction since the summer of 2008 and the applicant has subsequently been in breach of Condition 11 since as the applicant has continued to use the gated access to/from the Close for domestic purposes and despite being refused by the Council and Planning Inspector at appeal remains open and used by the applicant and his family.
- the maximum parking standards for Old Hurst Cottages have been reached the property has the benefit of a garage and off-street parking for up to 3 vehicles.
- access via Sedgewood Close does not provide closer access to anywhere (such as local shops or other amenities) if travelling on foot, making it of no benefit for pedestrian or bicycle travel.
- the applicant has acceptable, useable and unobstructed pedestrian and vehicular access to Old Hurst Cottage from Pickhurst Lane/Pickhurst Green.

Comments from Consultees

The Highways Division were consulted who stated that the applicant indicates that he has a private right to access the property from the garage area in Sedgewood Close, however, no evidence has been provided to that effect. This needs to be established prior to any planning consent.

From a trees perspective, there is a protected oak tree close to the proposed pedestrian access but no objections were raised, subject to conditions.

Planning Considerations

The application falls to be determined in accordance with the following policies of the Unitary Development Plan and the London Plan:

BE1 Design of New Development

Planning History

In 2006 under planning ref. 06/02827, outline planning permission was granted for a two storey detached house and 2 car parking spaces with access to Pickhurst Lane which was granted subject to a number of conditions including:

“Condition 10: There shall be no pedestrian or vehicular access to the dwelling hereby permitted from the adjacent garage compound.

Reason: In the interests of the visual amenities of the adjoining properties.

Condition 11: Building materials for construction of the dwellings hereby permitted shall be delivered via Sedgewood Close and on completion of the development, the access to Sedgewood Close shall be permanently closed and maintained as such thereafter.

Reason: In the interests of the visual amenities of the area”.

In 2006 under planning ref. 06/04033, details of the external appearance, design, car parking and slab levels pursuant to conditions 1, 3 and 9 of outline permission ref. 06/02827 granted for two storey detached house and 2 car parking spaces with access to Pickhurst Lane were approved.

In 2008 under planning ref. 08/01491, planning permission was granted for a detached garage.

In 2009 under planning ref. 09/00376, a variation of Condition 11 of approved application 06/02827 was refused by Decision Notice dated 08/04/2009 on the following grounds:

“The proposed establishment of a permanent second vehicular access from the property would be prejudicial to the principle of the original grant of permission and would result in a loss of parking and an over intensive use of the parking/garaging area contrary to Policies T3 and BE1 of the Unitary Development Plan.

The proposed variation of condition 11 of the permitted application ref. 06/02827 would be in conflict with the provisions allowed to construct the dwelling and avoid undue pressure by contractor’s vehicles over the unmade principle access that serves this property”.

This refusal was appealed against which was dismissed by Appeal Decision dated 09/12/2009 which stated:

“Although the appellant wishes to retain the rear access for occasional use only, variation of the condition so as to restrict the access to occasional use only would not, in my view, be feasible. I have to bear in mind therefore that, were I to allow the appeal, more than occasional, and possibly considerable, use might be made of the access by the appellant, and/or future occupiers of the property. Sedgewood Close is a cul-de-sac it is self-contained and relatively safe environment (as cul-de-sacs are generally designed to be). The effect of my allowing the appeal would be to encourage additional traffic, unrelated to the houses in Sedgewood Close, to come into the cul-de-sac and through to the rear of it, using the narrow access which connects the garage court with the main part of the close. It seems to me that some associated parking and manoeuvring of vehicles within the garage court would be inevitable, particularly as there is no hardstanding within the appellant’s rear garden. I consider, as a consequence, that there would be a detrimental impact on the self-contained and safe environment of the close. I accordingly conclude... that the access to Sedgewood Close, if retained, would have an adverse effect on the amenities of the occupiers of

Sedgewood Close. Although the main access to Oldhurst is an unmade track, I saw that this is serviceable. I appreciate that there may be benefits for the appellants in having a rear access (he refers particularly to its usefulness in case of emergency or extreme weather conditions), but I consider that these are outweighed by the harm I have identified”.

In 2010 under planning ref. 10/01598, a variation of Condition 11 of planning permission 06/02827 to permit the retention of vehicular access to Sedgewood Close and to include for associated hardstanding which was refused by Decision Notice dated 11/02/2009:

“The proposed establishment of a permanent second vehicular access from the property would be prejudicial to the principle of the original grant of permission and would result in a loss of parking and an over intensive use of the parking/garaging area contrary to Policies T3 and BE1 of the Unitary Development Plan.

The proposed variation of condition 11 of the permitted application ref. 06/02827 would be in conflict with the provisions allowed to construct the dwelling and avoid undue pressure by contractor’s vehicles over the unmade principle access that serves this property”

This refusal was appealed against which was dismissed by Appeal Decision dated 20/01/2011 which stated:

“Sedgewood Close is a cul-de-sac. It is self-contained, with an intimate and quiet atmosphere. The use of the road and garage court by vehicles not associated with the houses would be noticeable and intrusive, detracting from the quality of the environment. Although a hard surfaced area for parking would be provided within the garden of Oldhurst, the details of this are sketchy and it would not appear to provide a turning area. Therefore it would not prevent a driver having to make a reverse manoeuvre either into or out of garage court to access the parking space, and this would add further to its intrusive nature... There is no evidence that private access rights exist as contended by the appellant. Notwithstanding this, the Council were entitled to impose a condition restricting access as necessary to ensure that the development for the new house was acceptable in planning terms. All matters raised have been considered but none outweigh the aforementioned harm. The use of the access would have an adverse effect on the living conditions of the occupiers of Sedgewood Close contrary to London Borough of Bromley Unitary Development Plan policy BE1 which, among other things, seeks to protect neighbours’ amenities. On account of the harm, it is considered that condition 11 is necessary and reasonable and the appeal is dismissed”.

Conclusions

The main issues relating to the application are the effect that it would have on the amenities of the occupants of surrounding residential properties.

As previously mentioned the application site has a substantial planning history in relation to the retention of vehicular access at the property which was permitted solely for the delivery of building materials during the construction of the property and which was required to be permanently closed and maintained as such following completion of the development, as stipulated by Condition 11 of outline planning permission ref. 06/02827. The applicant has appealed this decision on two occasions, one application varied slightly as it included hardstanding within the curtilage of the property in an attempt to overcome the previous Inspector's decision. Both appeals were dismissed by the Planning Inspectorate who upheld the Council's refusal grounds that the access would be detrimental to the residential amenities of the occupiers of Sedgewood Close.

The current application is for the provision of pedestrian access as opposed to vehicular access as was the case with previous applications which primarily centred on Condition 11. However, when the original outline planning permission was granted in 2006 for the construction of the property an additional condition was attached which stated "there shall be no pedestrian or vehicular access to the dwelling hereby permitted from the adjacent garage compound". This condition was in order to protect the visual amenities of the adjoining properties and was considered to be a key reason in the granting of planning permission for the detached property. While the applicant has stated the principal requirement for this was owing to safety concerns when walking along Pickhurst Green in darkness, as previous Planning Inspectors have stated "I appreciate that there may be benefits for the appellants in having a rear access (he refers particularly to its usefulness in case of emergency or extreme weather conditions), but I consider that these are outweighed by the harm I have identified". As such the removal of Condition 10 of planning ref. 06/02827 is not considered to be acceptable and would result in a detrimental impact on the residential amenities of the occupants of Sedgewood Close which self-contained and safe environment.

In addition, given the planning history at the property and the numerous attempts made by the applicant to secure vehicular access to the rear of the property concerns were raised by local residents that were permission to be granted for pedestrian access, the garage area within Sedgewood Close would in fact be used for the parking of vehicles by the applicant and visitors to access the application site. The applicant has suggested that a condition could be attached stating that no parking of any vehicle belonging to Old Hurst Cottage be permitted within Sedgewood Close, however, this condition would be difficult to enforce particularly for those visiting the property as it would be difficult to differentiate those vehicles from that of Sedgewood Close but would still result in increased congestion and loss of car parking within the area. In addition, the car parking area within Sedgewood Close appears to be unlit and were pedestrian access allowed in could result in post-development pressure to provide additional lighting due to pedestrian safety concerns.

In summation, the proposal is considered to result in a loss of residential amenity for the occupants of Sedgewood Close and is contrary to Condition 10 of outline planning permission ref. 06/02827.

Background papers referred to during production of this report comprise all correspondence on files refs. 11/00795, 10/01598, 09/00376 and 06/02827, excluding exempt information.

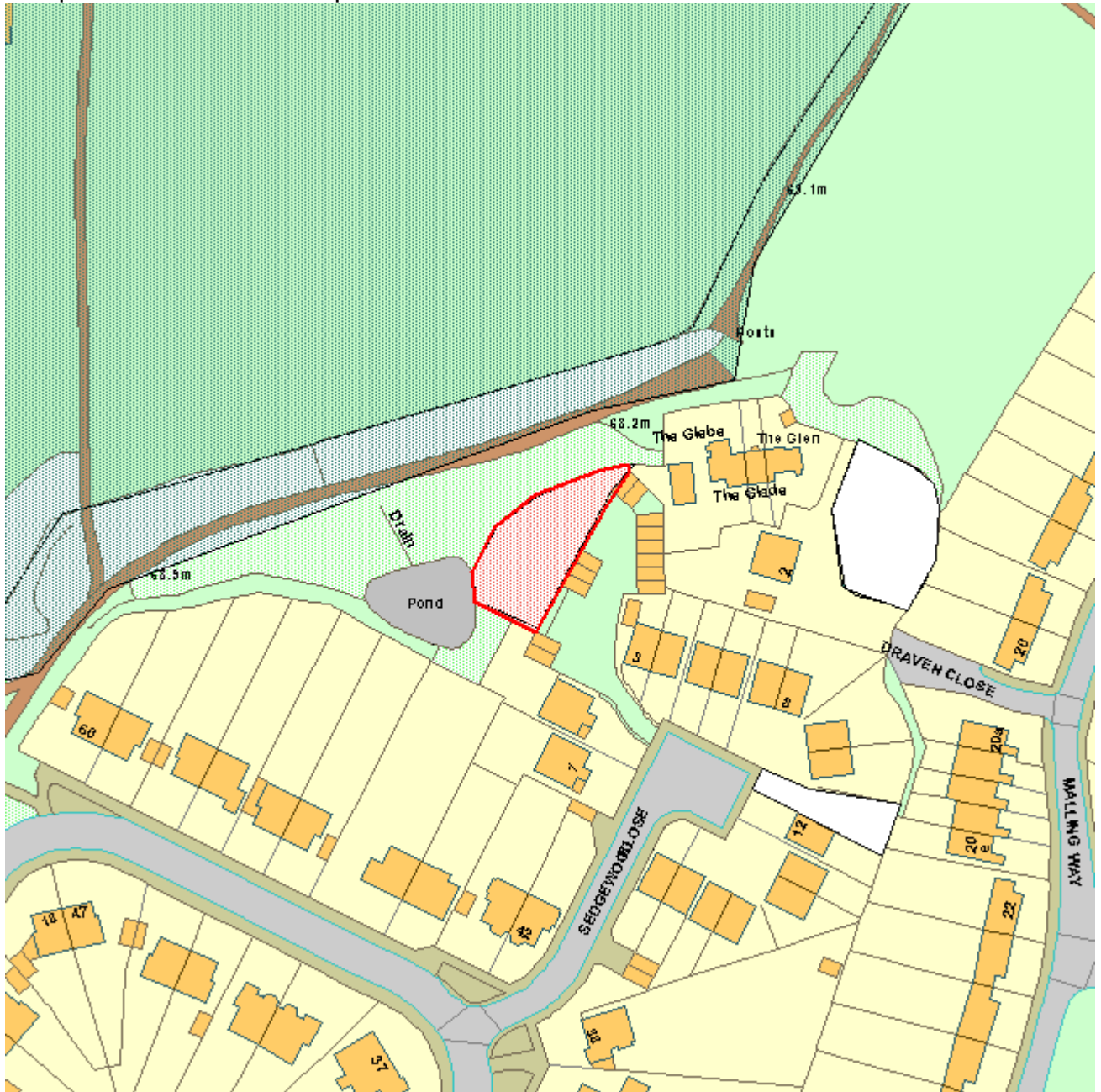
RECOMMENDATION: PERMISSION BE REFUSED

The reasons for refusal are:

- 1 The proposed establishment of a permanent pedestrian access from the property via Sedgewood Close would be prejudicial to the principle of the original grant of permission and would result in a detrimental impact on the residential amenities of the occupants of Sedgewood Close, contrary to Policy BE1 of the Unitary Development Plan.

Further recommendation: Enforcement action to be taken.

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Address: Old Hurst Cottage Pickhurst Green Hayes Bromley BR2 7QS
Proposal: Formation of pedestrian access



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