

LONDON BOROUGH OF BROMLEY

TOWN PLANNING RENEWAL AND RECREATION DEPARTMENT

DELEGATED DECISION on 7th October 2019

19/02643/FULL1 17 Ullswater Close
Robin Evans Bromley
 BR1 4JF

Description of Development

Demolition of detached garage. Erection of three storey side extension and subdivision of plot to form new 3 bedroom family dwelling with associated parking. (Amended description).

Proposal

Planning permission is sought for demolition of existing detached garage, subdivision of the plot and erection of an attached three storey dwelling with associated access and parking.

This application does not formally include the front porch and single storey rear extension to the existing host dwelling; previously permitted under the Lawful Development Certificate 19/02119/PLUD, although they are shown on the application drawings for completeness.

The application was supported by the following documents:

- o Application form
- o Application drawings
- o Design and Access Statement
- o Accessible/Adaptable Homes Statement
- o Flood Risk Statement
- o Tree Survey and Arboricultural Report

Location and Key Constraints

The application site relates to No. 17 Ullswater Close, Bromley, a three storey townhouse located at the end of a terraced row along the northern side of the highway. There is an integral single garage and a detached single garage to the northern elevation. The application site is predominantly level although the land to the immediate north east is a wooded verge sloping down towards Bromley Hill. The area is residential in nature and Ullswater Close is characterised by long rows of terrace three storey townhouses; also seen to the south west in Coniston Road and in areas on the opposite north eastern side of Bromley Hill. They all originally had integral single garages although many have been converted to habitable rooms and parking is general provided via single forecourt bays or on-street. The dwelling is not locally or statutorily listed and the area is not a Conservation Area or an Area of Special Residential Character however it is subject to a number of area Tree Preservation Orders.

Planning History

The relevant planning history relating to the application site is summarised as follows:

19/02119/PLUD - Conversion of a garage into a habitable room, construction of front porch and single storey rear extension was granted a lawful development Certificate on 19 June 2019.

Other relevant history

19 Ullswater Close

15/02592/FULL1 - Demolition of the existing garage to the side of 19 Ullswater close and the construction of a three storey 3 bedroom house and associated parking was refused on 7 September 2015 on the following grounds:

1. cramped form of development, harmful to the character, appearance and spacious standards of the of the area,
2. inadequate parking provision leading to an unacceptable increase in on-street parking demand,
3. a visually dominant and un-neighbourly form of development, harmful to the visual amenities of Nos. 15-17 Ullswater Close.

However the Appeal Inspector concluded that:

1. the proposal would be in general harmony, in terms of its overall scale and appearance, with the host dwelling, it would not unacceptably reduced the spatial standards of the area and it would be a logical addition that would not appear overly incongruous within the street scene,
2. the level of parking provided in any development should be no greater than the relevant standards; i.e. they specify a maximum provision, and that the provision of 1 parking space per dwelling would be acceptable,
3. that the degree of separation between the new dwelling and neighbouring properties is such that it would not be unduly overbearing or harmful in overshadowing upon their occupants,

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 19th February 2019. The development plan for Bromley comprises the London Plan (March 2016) and the Bromley Local Plan (January 2019). The NPPF does not change the legal status of the development plan.

London Plan Policies

Policy 3.4 Optimising Housing Potential

Policy 3.5 Quality and Design of Housing Developments

Policy 7.4 Local Character
Policy 7.6 Architecture
Policy 7.19 Biodiversity and access to nature
Policy 7.21 Trees and Woodlands

Bromley Local Plan

Policy 1 Housing Supply
Policy 4 Housing Design
Policy 8 Side Space
Policy 30 Parking
Policy 32 Road Safety
Policy 37 General Design of Development
Policy 73 Development and Trees
Policy 74 Conservation and Management of Trees and Woodlands

Supplementary Planning Guidance

Bromley's SPG No.1 - General Design Principles
Bromley's SPG No.2 - Residential Design Guidance

Comments from Local Residents and Groups

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

Comments from Consultees

LBB Drainage Engineer: No objection subject to submission of surface water drainage details (Condition PC06).

LBB Highways: There is limited on-street parking in the area. The one proposed parking space for a three bedroom dwelling would be insufficient and two should be provided as required by the Council's parking standard.

LBB Trees: The application is supported by an Arboricultural Report; detailing the tree constraints and a Tree Protection Plan (TPP) including precautionary measures to be employed. The oak tree in front of the dwelling/detached garage and the group of trees on the embankment aside the A21 contribute towards the character of the area and the screening between the A21 and the residential area. The trees are subject to competition between each other and individually they may have limited scope to reach higher British Standard categorisation than that awarded to them. Nonetheless they have a high group amenity value, they are all protected by the Tree Preservation Order (BB 9 1960), and the low categorisation does not reduce the amenity or importance of the tree(s). The application site is currently occupied by a single detached garage and the driveway/forecourt leading to it lies within the RPA of the protected Oak; leading to some localised subsidence and uneven surfaces. The oak tree should be afforded adequate space for its continued long-term wellbeing. The proximity and height of the proposed dwelling to the oak tree would lead to some significant future pressure to prune and/or to fell the tree and the trees on the embankment would also be at risk of continual pruning during and following the construction of the proposed dwelling. For these reasons the proposal would have a significantly harmful impact on the condition and wellbeing of the protected trees.

LBB Waste Services: No comments received

Thames Water: No comments received

Transport for London: Given the scale, nature and location of the proposal TfL has no objections.

Considerations

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

- o Principle and location of development
- o Design and landscaping
- o Standard of residential accommodation and neighbouring amenity
- o Highways
- o Sustainability

Principle and location of development

The NPPF (2019) sets out in paragraph 11 a presumption in favour of sustainable development. In terms of decision-making, the document states that where a development accords with an up to date local plan, applications should be approved without delay. Where a plan is out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

The site lies within the urban and built up area of Bromley where there is no objection in principle to new residential development. The proposal is subject to an assessment of the impact of the proposal on the appearance/character of the building, the surrounding area, the residential amenity of the adjoining and future residential occupiers of the scheme and car parking and transport implications. Although the proposal is for a new build dwelling most of the spirit of Policy 9 also applies to this proposal. There was also no objection in principle to the erection of a new dwelling at No. 19 Ullswater Close which is a relevant consideration.

A planning appeal decision was issued on 26th June 2019 that has implications for the assessment of planning applications involving the provision of housing. The appeal at Land to the rear of the former Dylon International Premises, Station Approach Lower Sydenham SE26 5BQ was allowed. The Inspector concluded that the Local Planning Authority cannot support the submission that it can demonstrate a five year housing land supply having given his view on the deliverability of some Local Plan allocations and large outline planning permissions. According to paragraph 11(d) of the NPPF in the absence of a 5 year Housing Land Supply the Council should regard the Development Plan Policies for the supply of housing including Policy 1 Housing Supply of the Bromley Local Plan as being 'out of date'.

In accordance with paragraph 11(d), for decision taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

This application includes the provision of one additional dwelling, which would represent a minor contribution to the supply of housing within the Borough. This aspect of the proposal will be considered in the overall planning balance set out in the conclusion of the report having regard to the presumption in favour of sustainable development.

Design and landscaping

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.

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

As mentioned Ullswater Close is characterised by rows of terraced three storey townhouses with forecourt parking in front. The proposed dwelling would essentially add one additional dwelling on to the end of the existing row; in the place of an existing detached garage and in general terms this would not conflict with the overall character of the area. The existing dwelling is positioned at the end of the existing row and the given its set back position and relationship with the row from Nos. 19A-33 its perspective is somewhat obscured and it consequently does not have a particularly prominent position within the street scene. As such the inclusion of an additional unit at the northern end would also have a fairly discrete presence in the locality.

Although the existing integral garages are an original feature many have been converted and indeed there is a lawful development certificate to convert the existing garage at No. 17; although it has not been implemented it is an extant consent. The existing detached garage is not a common feature in the area, it is not of particular architectural merit and there is no objection to its demolition. The proposed design of

the new dwelling and its external materials would also be in keeping with that of the existing row of dwellings.

The proposed dwelling would be separated from the northern side flank boundary by 1m and although it would have a narrower front elevation than the existing host dwelling and its entrance would be positioned at the side it would nonetheless generally retain the character and appearance of the existing dwelling, the row and the spatial standards of the locality; particularly when taking into account the context of the approved dwelling No. 19A (15/02592/FULL1). Furthermore, and notwithstanding the partial enclosure of the side space the proposal it would generally retain views to the wooded verge to the northeast side thereby maintaining the overall impression of this location and as such the proposal would not appear to overdevelop the site or result in a cramped appearance. Notwithstanding this, although the proposed dwelling would be considered acceptable in its current form and in relation to the site context and its surroundings; including the neighbouring dwellings, it is possible that it could be substantially further extended through permitted development rights and this could be significantly harmful to the character of the area and/or the amenities of neighbouring properties and therefore it would be prudent to remove the permitted development rights through planning condition.

Policy 73 of the Bromley Local Plan states 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 and/or wildlife habitat, are considered desirable to be retained.

Policy 77 of the Bromley Local Plan states that development proposals will seek to safeguard the quality and character of the local landscape and seek the appropriate restoration and enhancement of the local landscape through the use of planning obligations and conditions.

As mentioned above the application site and neighbouring land contain some prominent and attractive trees that contribute towards the spacious and sylvan character and appearance of the area and provide some screening between the A21 Bromley Hill and the neighbouring residential area. They have a high group amenity value and they are all protected by the area Tree Preservation Order (BB 9 1960). The oak tree (T7) in front of the existing detached garage is a particularly prominent feature within Ullswater Close with high public amenity value. The existing detached garage and the driveway leading to it lie below the canopy and within the root protection area (RPA) of the tree and appear to have had some effect on the ground stability around the tree. Any further encroachment and/or ground works and hard surfacing around the tree would be likely to increase the harm and adversely affect its wellbeing and in light of this any further incursion into the RPA should be avoided and the existing space around it should be maintained in order to preserve its long-term wellbeing. The proposed dwelling (positioned on the footprint of the existing garage) and hardsurfacing is likely to involve further incursion into the RPA of the protected tree; which is discouraged by the British Standard 5837:2012 Trees in relation to demolition, design and construction. Furthermore, the proximity and height of the proposed building to the Oak and to the trees on the embankment is also likely to require the constant future pruning of those tree(s); which may detract from their appearance and diminish their public amenity value and it may lead to the future pressure to fell them entirely. The significant reduction of the amenity value of these trees through pruning and/or their complete removal would have an unacceptable effect on the character and appearance of the area and would be contrary to Policies 37, 73 and 74 of the Bromley Local Plan 2019.

Standard of residential accommodation and neighbouring amenity

In March 2015 the Government published The National Technical Housing Standards. This document prescribes internal space within new dwellings and is suitable for application across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height. The Gross Internal Areas in this standard will not be adequate for wheelchair housing (Category 3 homes in Part M of the Building Regulations) where additional internal area is required to accommodate increased circulation and functionality to meet the needs of wheelchair households.

Policy 4 of the Bromley Local Plan sets out the requirements for new residential development to ensure a good standard of amenity. 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 Housing Standards.

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 relevant category of Building Control Compliance should be secured by planning conditions.

Policy 3.5 of the London Plan and the Housing SPG (2016) Standard 24 states the minimum internal floorspace required for residential units on the basis of the level of occupancy that could be reasonably expected within each unit should comply with Technical housing standards - nationally described housing standard (2015).
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/524531/160519_Nationally_Described_Space_Standard____Final_Web_version.pdf

According to the submitted details the proposal would provide a 3 bedroom 4 person (3b4p) dwelling over three storeys measuring approximately 93sqm and this would exceed the Nationally Described Space minimum requirement of 90sqm. It would provide the appropriately sized and proportioned double and single bedrooms and room heights. In addition to the technical requirements the proposal would provide a general well-proportioned building. The dwelling would have a dual aspect and the individual rooms would have a single aspect and this would reflect the arrangement and orientation of the host dwelling and the other dwellings in the row.

The outdoor amenity space would replicate the depth of the existing garden albeit that it would be divided in two to serve the host and new dwellings however this would provide a suitable size and layout for family dwellings and it would reflect the gardens of the other dwellings in the row.

Policies 6 and 37 of the Bromley Local Plan seek 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 building; positioned at the far northern end of the terraced row would be well removed all of the immediately neighbouring dwellings; with the nearest being the host dwelling itself. Given the siting of the building; its proximity to neighbouring properties, and its size and scale the proposal would not have a significantly more harmful impact on the amenities of neighbouring properties by reason of overshadowing or overbearing effect. The main outlook would continue to be towards the north west and south east; replicating that of the host dwelling, which is not an uncommon arrangement and would not be significantly more harmful to immediately neighbouring amenities. The insertion of any side flank windows, particularly upper floor windows which could be more harmful to neighbouring amenities, would be managed by the permitted development rights.

The consented single storey extensions to the existing host dwelling (19/02119/PLUD) would be modest in size and scale and would not detract from the amenities of the future occupants of the new dwelling. Similarly the rearward projection of the new dwelling, its height and scale would not be significantly harmful to the occupants of the host dwelling in the event that they decide not to construct the lawful extensions.

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

There is no objection from TfL in relation to the effect of the proposed development on its transport network which serves the main access into Ullswater Close.

The TfL WebCAT shows that the site has a PTAL score of 2 (low), and is surrounded by areas with a (lower) 1b score, and therefore has low/poor access to public transport services and a higher dependency on private transport; leading to a higher level of car ownership amongst the occupants of the existing host dwelling and the proposed new dwelling. The Council's current parking standard for a 1b-2 PTAL rating is for a minimum of 1.5 spaces per dwelling. This proposal would provide 1 space per dwelling and this would conflict with the parking standard. The Council notes the Appeal Inspector concluded that 1 space for the host and 1 space for the new dwelling would be acceptable at No. 19 however that scheme was assessed against the former UDP whereas the current proposal at No. 17 was assessed against the current Local Plan and its corresponding Parking Standard. Nonetheless, the current proposal would

appear to be provide additional space if it is necessary to accommodate another vehicle in the future, however the provision of that space may lead to further conflict with the RPA of the protected Oak. For these reasons it has not been demonstrated that the proposal would provide sufficient parking for the host and new dwellings and that such parking would be acceptable in relation to trees.

Sustainability

The NPPF requires Local Planning Authorities to adopt proactive strategies to mitigate and adapt to climate change. London Plan and Draft Local Plan Policies advocate the need for sustainable development. All new development should address climate change and reduce carbon emissions.

Policy 5.3 Sustainable Design and Construction of the London Plan states that the highest standards of sustainable design and construction should be achieved in London to improve the environmental performance of new developments and to adapt to the effects of climate change over their lifetime. Policy 5.2 Minimising Carbon Dioxide Emissions of the London Plan states that development should make the fullest contribution to minimising carbon dioxide emissions in accordance with the hierarchy; Be Lean: use less energy; Be clean: supply energy efficiently and Be green: use renewable energy.

Local Plan Policy 123 states that all applications for development should demonstrate how the principles of sustainable design and construction have been taken into account.

The proposal is not for major development, where carbon dioxide saving mechanisms are required, however it would involve the comprehensive redevelopment of this parcel of land and erection of a new dwelling and as such it would offer the opportunity to incorporate energy efficient construction measures such as glazing, insulation, water supply features and renewable energy generating technology to reduce carbon dioxide emissions; provide cost savings to the occupants and improvements to the environment and the developer to be encouraged to incorporate these features accordingly.

Conclusion

In this particular case there are no areas under protection or assets of particular importance and therefore NPPF paragraph 11 d) i. does not apply. In this particular case, as discussed in the preceding paragraphs, it is concluded that there would be significantly adverse effects of granting permission for the current scheme. In this particular case this proposal would provide one additional unit which would not contribute substantially towards the Borough's housing supply and therefore it would provide a marginal benefit. As such in this case the adverse effects of granting permission would significantly and demonstrably outweigh the marginal benefits of granting permission and therefore the proposal would conflict with paragraph 11 d) ii. of the NPPF.

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 BE REFUSED

The reasons for refusal are:

Decision

Application Refused

For conditions or grounds of refusal please refer to the Decision Notice