

Item No. 7.1	Classification: OPEN	Date: 9 May 2017	Meeting Name: Planning Sub-Committee A
Report title:	Development Management planning application: Application 16/AP/4915 for: Full Planning Application Address: 81 SYDENHAM HILL, LONDON SE26 6TQ Proposal: Removal of existing garden walls and installation of a temporary timber gate for a maximum period of two years to allow for tree removal and replanting works. At the end of the two year period (which commenced from the date of planning permission 16/AP/0562, and is therefore no later than 21 March 2018), the temporary gate is to be removed and the garden walls reinstated to match.		
Ward(s) or groups affected:	College		
From:	Director of Planning		
Application Start Date 07/12/2016		Application Expiry Date 01/02/2017	
Earliest Decision Date 28/01/2017		Time Extension date: 20/03/2017	

RECOMMENDATION

1. That planning permission is granted until 21 March 2018.

BACKGROUND INFORMATION

Site location and description

2. The application relates to a section of the set-back front garden wall of a detached residential dwelling-house, dating from the 1940s.
3. The application site is located within the Dulwich Wood Conservation Area. The nearby site of 'Beltwood House', 41 Sydenham Hill ((1855-63, remodelled c1895) is a grade II listed building; the listing and curtilage was designated in 1993, post-dating the construction of 81 Sydenham Hill (the application site). The application site is not listed and does not lie within the curtilage of the listed building, although it was once within the historic estate of Beltwood House.
4. Neighbouring properties are: 41, 77, 79, and 83 Sydenham Hill; 30, 40, 42, 44 and 46 Crescent Wood Road.

Details of proposal

5. This application is for retrospective approval for the demolition of an approximately 4m-long section of garden walling (at the front of the property, but set-back from the street frontage) and the temporary retention of its replacement plywood double-gate. Approval is sought to allow for the completion of tree replanting works in the rear garden of the property previously consented under planning permission 16/AP/0562.

These tree replanting works have to be completed by December 2017, and the garden walls reinstated to match their previous appearance by 21 March 2018, which is the end of the two year period set under 16/AP/0562.

6. This application responds to three actions that have taken place on site, action 1 does not require planning permission, as demonstrated below, but actions 2 and 3 do:-

a) The demolition of an approximately 4m long section of low, brick, front-garden wall opening onto Sydenham Hill. The conservation area guidance notes state that planning permission must be obtained for '*demolition of a wall greater than 1 metre in height fronting a highway or open space, or 2 metres in height elsewhere*'. The 4m section of demolished front garden wall was less than 1m in height; the adjoining wall piers are over 1m in height but have been retained. Therefore, the demolition of the front garden wall is not a material planning consideration and planning permission is not required for this action.

b) Retrospective approval for the demolition of a second, approximately 4m long section of higher, brick, garden wall set-back from the street frontage. This section was above 1m in height and its demolition does require planning consent within a conservation area.

c) The application is also for retrospective approval for and temporary retention of plywood double-gates, replacing the higher section of walling. The gates are above 1m high and require planning permission.

7. These combined works would facilitate vehicular access from Sydenham Hill into the rear garden of the property. The works have already taken place and were to allow vehicular access to the rear of the property for tree works, which were previously consented under consent reference 16/AP/0562. The two diseased trees required felling for safety reasons, and have been removed under the 2016 permission, but access is still required to install the new replacement trees under the existing consent, and fulfil the outstanding requirements and conditions of that consent. The replanting element of the works has to be completed by December 2017. After the replanting works required under 16/AP/0562 are completed, the temporary gates are to be removed and the garden walls reinstated on a like-for-like basis. The 2016 consent allows until 21 March 2018 for completion of the works, which is adequate time to replace the set-back section of wall.

8. Planning history

15/AP/3980 Application type: Tree Works in Conservation Area (TCA) G1. G2. G3 and additional Leylandii tree - carefully dismantle to as close to ground level as possible; T1- 1 x Apple containing major decay to carefully dismantle to as close to ground level as possible; T2- 1 x Bay to carefully dismantle to as close to ground level as possible; G4- 2 x Spotted Laurel & 1 x Rhododendron to carefully dismantle to as close to ground level as possible Decision date 09/11/2015 Decision: Works acceptable - no intervention (TCAA)
16/AP/0562 Application type: Tree Preservation Order - works related (TPO) T1: Beech (Fagus sylvatica) - Located on raised border approximately 3.5m from neighbouring property. Dangerous condition and high risk to neighbours - Fell to ground level T2: Beech (Fagus sylvatica) - Located on raised border approximately 9m from neighbouring property. Dangerous condition and high risk to neighbours - Fell to ground level.

Replacement by 1 x Beech and 1 x Tulip trees, both semi mature size and in an appropriate location to be planted in the first suitable planting season.
A further 2 young Tulip trees to be planted in the same garden, to the satisfaction of Southwark Council.

Evergreen pleached trees of appropriate size and species alongside the fence with 79 Sydenham Hill to restore the natural screening offered by the Beech trees.
Decision date 21/03/2016 Decision: TPO consent granted (TPOG)

Planning history of adjoining sites

9. 04/AP/0759 83 SYDENHAM HILL, LONDON, SE26 6TQ
Application type: New Vehicular crossover extending the existing driveway at the front.
Decision: Granted 29/06/2004

KEY ISSUES FOR CONSIDERATION

Summary of main issues

10. The main issues to be considered in respect of this application are:
- a) Impact on amenity of adjoining properties and surrounding area;
 - b) Quality in Design;
 - c) Impact upon the character and appearance of the conservation area and the setting of listed buildings;
 - d) Impact on trees;
 - e) Transport impacts.

Planning policy

11. National Planning Policy Framework (the Framework)
Section 7 - Requiring good design
Section 12 - Conserving and enhancing the historic environment
12. The London Plan 2016
Policy 7.4 - Local Character
Policy 7.6 - Architecture
Policy 7.8 - Heritage assets and archaeology
13. Core Strategy 2011
Strategic policy 12 - Design and conservation
Strategic policy 13 - High environmental standards
14. Southwark Plan 2007 (July) - saved policies
Policy 3.2 - Protection of amenity
Policy 3.12 - Quality in design
Policy 3.13 - Urban design
Policy 3.15 - Conservation of the historic environment
Policy 3.16 - Conservation areas

Policy 3.17 - Listed buildings

Policy 3.18 - Setting of listed buildings, conservation areas and world heritage sites

Policy 5.2 - Transport impacts

15. The council's cabinet on 19 March 2013, as required by para 215 of the NPPF, considered the issue of compliance of Southwark Planning Policy with the National Planning Policy Framework. All policies and proposals were reviewed and the council satisfied itself that the policies and proposals in use were in conformity with the NPPF. The resolution was that with the exception of Policy 1.8 (location of retail outside town centres) in the Southwark Plan all Southwark Plan policies are saved. Therefore due weight should be given to relevant policies in existing plans in accordance to their degree of consistency with the NPPF.

16. Supplementary Planning Documents
2015 Technical Update to the Residential Design Standards SPD (2011)

Consultations

17. Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

Consultation replies

18. Details of consultation responses received are set out in Appendix 2.

Consultation Responses

19. The application has received consultation responses, during two periods of consultation. The first consultation was on the original application (29/11/2016), and then the council requested a rewording of the description of development, instigating a time extension for a second period of consultation (30/01/2017). In the second consultation some of the original consultees reiterated their concerns about the application, and one new objection was received from another individual.

20. The issues raised in the consultation responses are summarised below:

- The requirement for a vehicular access for the works to trees;
- Suggestion that the demolition of the garden wall was not necessary for the works to trees to take place;
- Suitability of the plywood gates;
- The suggestion that the council is considering an extension of time for the works to trees.
- The moving of the lamp-column outside the site;
- The current appearance of 81 Sydenham Hill within the conservation area;
- Alleged removal of a protected magnolia tree in the front garden;
- The possibility that the site would be redeveloped;
- Lack of enforcement by the council;
- Insufficient site notices were displayed by the council;
- A dropped kerb is required.

Principle of development

21. The use of the land has not changed and the principle of work to a garden wall is acceptable.

Consultation

22. Objectors have suggested that there were not enough site notices erected. A site notice was placed outside the application property in a visible location in accordance with the statutory requirement and that of the statement of community involvement.

Impact on amenity of adjoining occupiers and surrounding area

23. Saved Policy 3.2 ('Protection of Amenity') of the Southwark Plan 2007 seeks to ensure an adequate standard of amenity for existing and future occupiers; Strategic Policy 13 ('High Environmental Standards') of the Core Strategy 2011 requires development to comply with the highest possible environmental standards, including in sustainability, flood risk, noise and light pollution and amenity problems. The 2015 Technical Update to the Residential Design Standards SPD (2011) also sets out the guidance which states that development should not unacceptably affect the amenity of neighbouring properties. This includes privacy, outlook, daylight and sunlight.
24. The works have not unacceptably harmed neighbour amenity with regard to privacy through overlooking, neighbour access to sunlight/daylight as a result of massing (i.e. height and depth) relative to the boundary, ground levels and orientation, or the neighbour's sense of openness as a result to massing relative to proportions of neighbouring amenity spaces.
25. The plywood gates are set back from the street frontage and are entirely contained within the front garden of 81 Sydenham Hill. Also, the proposal is temporary in nature and the garden wall would be reinstated by 21 March 2018 to match its pre-demolition appearance. This would mitigate the temporary impact on visual amenity while allowing a reasonable time for the works approved by 16/AP/0562 (to fell the two unsafe trees and for replacement planting) to be completed.

Quality in design

26. Good design is indivisible from good planning. It should reinforce a sense of place and conform to the council's current guidance on design. Where a development may affect a heritage asset or its setting it should conserve or enhance its importance and its setting avoiding harm to its features and spaces.
27. The suburban character of the area would be preserved. The reason for this is because the plywood gate is temporary and the garden wall will be reinstated.
28. The alteration of a garden wall into a plywood double gate is in compliance with the Householder Design Guidance or Residential Design Standards and it does not cause harm to the host building.

Impact upon the character and appearance of the conservation area and the setting of listed buildings

29. The Dulwich Wood Conservation Area is located to the southeast of Dulwich Village, and its woods and commons make up the largest expanse of predominantly open space in the borough. The line of Sydenham Hill forms the southern limit of the conservation area. Buildings in the conservation area tend to be around the perimeters of the open space, including some good quality Victorian houses in substantial grounds, although much has been demolished to make way for a number of 20th century residential estates. This part of the conservation area is characterised by the suburban development of late Victorian and 20th century houses, primarily large detached dwellings.

30. Objectors have referred to the fact that the present appearance of 81 Sydenham Hill is affecting the conservation area. The removal of the section of brick garden wall has caused some harm to the conservation area, but this harm would be temporary should planning permission be given, as the wall would be reinstated. This, coupled with the replacement planting would address the harm.

Impact on trees

31. The trees are protected by TPO ref 492 made 17/12/2015. Planning and TPO consent was given for the tree works under 16/AP/0562 with a replacement planting condition, the permission stated that these replanting works were to be completed by December 2017. Objectors have suggested that this application may provide an extension of the deadline for the tree consent order, this is not the case. The planting works would need to be completed by December 2017 and should planning permission be granted, the wall would need to be reinstated by 21 March 2018.
32. The 2016 works - under 16/AP/0562 - were in response to a report by an accredited arboricultural consultant, dated November 2015, showing that both trees had suffered substantial decay such that their safety could not reasonably be assured in the short to medium term, and that the risk of collapse was foreseeable. This was especially the case owing to the nature of the two types of fungus identified, which were known to cause extensive root decay resulting in potentially sudden structural failure. A safety risk of potential collapse of one or both the trees onto adjacent properties, pedestrians, road users, was identified as a safety risk to residents requiring action.
33. The council recognised in 2016 that the proposed felling would affect the amenity of the area and adjoining neighbours. The removal of mature boundary trees is an incremental loss to the character and appeal of the conservation area and the value of the garden setting within which the property is built. The loss of the trees would be adequately mitigated by the replacement planting approved under 16/AP/0562.
34. Refusal of the application could potentially have a negative impact on trees, as it may not be possible to install the replacement trees which are still required under planning application 16/AP/0562. These works are still outstanding; the council's Urban Forester has concluded that it is not unreasonable for the applicant to require vehicle access to the rear garden to facilitate the requirements of the 2016 planning consent. The new trees will be large trees, needing to meet specifications concerning girth and root protection systems, etc. vehicle delivery is not an unreasonable strategy for implementing the works.
35. The council's urban forester confirms that there has not, to date, been a negative impact on trees in relation to these works. The two diseased trees have been felled and the Urban Forester confirms that the magnolia trees in the front garden have not been adversely affected by the works.

Transport issues

36. Saved policy 5.2 of the Southwark Plan seeks to ensure that developments do not result in adverse highway impacts and to consider servicing requirements. Consultation has taken place with the council's Transport department, who advise that consideration of this application does not involve transport issues.
37. The removal and re-siting of the lamp-column outside 81 Sydenham Hill, while a reason for objection from residents, is not something that required planning permission and does not form part of this application.

38. A dropped kerb is required for lawful vehicle access to the site. Consultation with the Highways department, with regard to this application, concludes that granting temporary approval to allow a hi-ab or similar large-tyred vehicle to drive across the footway is a reasonable response in these circumstances. This is a one-off operation solely to allow vehicle access and egress to deliver the new trees for replanting, this single action can take place in lieu of a dropped kerb. Any damage occasioned during the course of the tree-delivery large-tyred vehicle driving onto the footway will need to be repaired, and this will have to be undertaken swiftly and at the applicant's cost.

Sustainable development implications

39. The proposal demonstrates that it conforms to the principles of sustainable development. It complies with current policy; respects the amenity of neighbouring properties; and the proposal will ensure good design to a set-time scale and is recommended for approval.

Other matters

40. A planning enforcement investigation has commenced, and this application was invited as a result of that investigation. The investigation is awaiting the outcome of this application before any further steps are considered.

Conclusion on planning issues

41. The council identified in 2016 that the loss of the two trees was a safety requirement, but affected the amenity of the area and adjoining properties and has had a detrimental effect on the character and appeal of the conservation area which is defined by the presence of large trees and wooded areas.
42. This can be mitigated with replacement planting as proposed and detailed in the planning and TPO consent given under 16/AP/0562, these works must be completed by 21 March 2018. The loss of the garden wall can be mitigated by replacement of the wall once the tree works are completed on-site.
43. There is sufficient information to establish that the development is not likely to cause such harm as to justify refusal of planning permission, and in order to ensure that these works are carried out, a condition is required relating to the reinstatement of the garden wall on a like-for like basis.
44. The outstanding requirements of 16/AP/0562 still need to be complied with.

Community impact statement

45. In line with the council's community impact statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process.

Human rights implications

46. This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.

47. This application has the legitimate aim of replacing trees lost to disease. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

48. Consultations have taken place with Southwark's Enforcement, Highways and Traffic teams.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/2345-43 Application file: 16/AP/4915 Southwark Local Development Framework and Development Plan Documents	Chief Executive's Department 160 Tooley Street London SE1 2QH	Planning enquires telephone: 020 7525 5403 Planning enquires email: planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 5410 Council website: www.southwark.gov.uk

APPENDICES

No.	Title
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Recommendation

AUDIT TRAIL

Lead Officer	Simon Bevan, Director of Planning	
Report Author	Gillian King, Senior Planner Archaeology	
Version	Final	
Dated	30 March 2017	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	No	No
Strategic Director of Environment and Social Regeneration	No	No
Strategic Director of Housing and Modernisation	No	No
Director of Regeneration	No	No
Date final report sent to Constitutional Team	26 April 2017	

APPENDIX 1

Consultation undertaken

Site notice date: 05/01/2017

Press notice date: 15/12/2016

Case officer site visit date: 21/04/2017

Neighbour consultation letters sent: n/a

Internal services consulted:

n/a

Statutory and non-statutory organisations consulted:

n/a

Neighbour and local groups consulted:

77 Sydenham Hill London SE266TQ
40 Crescent Wood Road London SE266RU
22 Crescent Wood Road London SE266RU

22 Crescent Wood Road London Se266ru
40 Crescent Wood Road London SE26 6RU
44 Crescent Wood Road London SE26 6RU

Re-consultation: n/a

APPENDIX 2

Consultation responses received

Internal services

None

Statutory and non-statutory organisations

None

Neighbours and local groups

22 Crescent Wood Road London SE266RU
22 Crescent Wood Road London Se266ru
40 Crescent Wood Road London SE26 6RU
40 Crescent Wood Road London SE266RU
40 Crescent Wood Road London SE266RU
40 Crescent Wood Road London SE266RU
40 Crescent Wood Road London SE266RU
40 Crescent Wood Road London SE266RU
44 Crescent Wood Road London SE26 6RU
77 Sydenham Hill London SE266TQ
77 Sydenham Hill London SE266TQ