

Committee	PLANNING COMMITTEE C	
Report Title	165 UPPER BROCKLEY ROAD SE4 1TG	
Ward	Brockley	
Contributors	John Miller	
Class	PART 1	22 February 2018

Reg. Nos. DC/17/103945

Application dated 06.10.2017

Applicant Bolans Architects on behalf of Klear Limited.

Proposal An application submitted under section 73A of the Town & Country Planning Act 1990 for a minor-material amendment to application reference DC/14/88637 (as amended by DC/15/91814) for the construction of a part single, part two-storey three bedroom house with associated landscaping and provision of bins and bicycle stores on land south of Upper Brockley Road SE4 (sited to the rear of 163 Upper Brockley Road). In order to allow for:

A. Increased massing of the building

Applicant's Plan Nos. Statement in support of amendments to approved scheme received 6 September 2017;
BA16546AE101 Rev A; BA16546AP102;
BA16546AP103; BA16546AP104; BA16546AE102 Rev B

Background Papers

- (1) Case File DC/104/161/TP
- (2) Core Strategy (2011) Development Management Local Plan (2014)
- (3) Local Development Framework Documents
- (4) The London Plan

Designation Brownfield Site
Brockley Conservation Area
Article 4

Screening N/A

1.0 Introduction

- 1.1 The application was presented at Planning Committee C on 23 November 2017, were Members resolved that the decision be deferred pending further details. Members requested that additional information be supplied regarding the non-opening blank opaque recesses on the south elevation facing Geoffrey Road with specific regards to;
- a) The definition of opaqueness;
 - b) Whether or not an opening mechanism is in place and;

- c) Whether previous proposals allowed for an opening window in the third bedroom and if the third bedroom had non-opening windows, would it comply with Building Regulations

1.2 A copy of the original committee report is provided in Appendix A.

2.0 Planning Considerations

Provided below is further site history regarding the windows and responses on each of the three deferral reasons and responses from the applicant.

- 2.1 The original permission (DC/14/88637) approved December 2014 contained blank and opaque recesses on the south elevation of the building facing towards 161 Upper Brockley Road. The Minor Material Amendment (DC/15/091814) application was approved in September 2015 with the same 'blank and opaque recesses' albeit in a different location concentrated to the eastern side of the building to accommodate a third single bedroom. These were conditioned to be obscure glazed and fixed shut. A condition removing the Permitted Development rights on the windows was also added.
- 2.2 The recesses in question were subject to enforcement action (EN/16/00277) for which a case was opened in September 2016. The subject of enforcement was that the recesses on the south elevation were in fact opening, whereas the previously amended permission allowed for non-opening opaque recesses. Officers went on site and noted that the recesses were operating as openable glazed panels, although opaque glazed. Following discussions with the applicant the opaque panels were replaced with fixed shut opaque panels as approved, which was confirmed by Council Planning and Enforcement Officers at a site visit in July 2017.
- 2.3 In response to a) opaque glazing constitutes glazing that allows light to pass through, but is not transparent so that objects can be clearly seen through the glazing. For the purpose of planning opaque and obscure glazed are one and the same. The applicant has advised that the opaque windows in question allow 40 percent of light to penetrate the glass compared to a clear glazed window of a similar size.
- 2.4 In relation to b) the applicant has confirmed and provided photographs to demonstrate that there are no mechanism levers or handles that would allow the windows to be opened in accordance with the approved minor amendment application.
- 2.5 For the reasons above officers are satisfied that the recesses would not permit any overlooking, as they are appropriately opaque, and that there is no opening mechanism. Notwithstanding this, a condition relating to the above is provided on the consent, which if not accorded with would warrant enforcement action.
- 2.6 Also for the avoidance of doubt, the opaque non-opening recesses remain the same as previously approved under DC/15/91814.
- 2.7 As noted above the both the original application and minor material amendment application approved opaque glazed recesses, with the minor material amendment providing the third bedroom with no openable windows. This was

considered under planning legislation and not building control, however the applicant has confirmed that the property has received building control approval.

Conclusion

- 2.8 Officers have considered the particular circumstances of the application against relevant planning policy set out in the Development Management Local Plan (2014), the Core Strategy (2011), London Plan (March 2016) and the National Planning Policy Framework (2012).
- 2.9 After further assessment following the deferral of the determination of the application it is considered that proposed non-opening opaque recesses on the south elevation of the building would not cause unacceptable levels of harm to the amenity of nearby occupiers in terms of overlooking, consistent with previous approvals. It is considered that as with the previous enforcement action there are conditions, which could reasonably be imposed to mitigate the issues arising. However an additional condition is proposed to protect the amenity of adjoining properties and avoid changes to openable windows in the future.
- 3.0 **RECOMMENDATION:** APPROVE PLANNING PERMISSION. in accordance with the conditions as set out in appendix 1 of this report and add the following conditions;

17)The recessed panels installed in the south elevation (facing the rear garden of 161 Upper Brockley Road) at first floor level hereby approved shall be fitted as opaque panels, sealed shut and retained as such in perpetuity.

INFORMATIVES

Positive and Proactive Statement: The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive discussions took place, which resulted in further information being submitted.