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DATE: 6 October 2020

To: Members of the  
**PLANS SUB-COMMITTEE NO. 2**  
Councillor Peter Dean (Chairman)  
Councillor Michael Turner (Vice-Chairman)  
Councillors Mark Brock, Nicky Dykes, Simon Fawthrop, Colin Hitchins, Josh King,  
Neil Reddin FCCA and Richard Scoates

A meeting of the Plans Sub-Committee No. 2 will be held on

**THURSDAY 15 OCTOBER 2020 AT 6.00 PM**

**PLEASE NOTE: This is a 'virtual meeting' and members of the press and public can see and hear the Sub-Committee by visiting the following page on the Council's website –**

<https://www.bromley.gov.uk/councilmeetingslive>

**Live streaming will commence shortly before the meeting starts.**

MARK BOWEN

Director of Corporate Services

Members of the public can speak at Plans Sub-Committee meetings on planning reports, contravention reports or tree preservation orders. To do so, you must have:-

- already written to the Council expressing your view on the particular matter, and
- indicated your wish to speak by contacting the Democratic Services team by **no later than 10.00am on the working day before the date of the meeting.**

These public contributions will be at the discretion of the Chairman. They will normally be limited to two speakers per proposal (one for and one against), each with three minutes to put their view across.

To register to speak please e-mail [rosalind.upperton@bromley.gov.uk](mailto:rosalind.upperton@bromley.gov.uk) (telephone: 020 8313 4745) or [committee.services@bromley.gov.uk](mailto:committee.services@bromley.gov.uk)

If you have further enquiries or need further information on the content of any of the applications being considered at this meeting, please contact our Planning Division on 020 8313 4956 or e-mail [planning@bromley.gov.uk](mailto:planning@bromley.gov.uk)

Information on the outline decisions taken will usually be available on our website (see below) within a day of the meeting

*Copies of the documents referred to below can be obtained from*  
<http://cds.bromley.gov.uk/>

## A G E N D A

### 1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

### 2 DECLARATIONS OF INTEREST

### 3 CONFIRMATION OF MINUTES OF MEETING HELD ON 20 AUGUST 2020 (Pages 1 - 6)

### 4 PLANNING APPLICATIONS

Report No.	Ward	Page No.	Application Number and Address
4.1	Petts Wood and Knoll	7 - 14	(20/02734/PLUD) - 39 Silverdale Road, Petts Wood, Orpington, BR5 1NH
4.2	Clock House	15 - 38	(20/01037/FULL6) - 6 Queens Road, Beckenham, BR3 4JW
4.3	Bickley	39 - 58	(19/05362/FULL1) - 9 Brookmead Avenue, Bickley, Bromley, BR1 2JX.
4.4	Kelsey and Eden Park	59 - 74	(20/02339/FULL1) - 94a Wickham Road, Beckenham, BR3 6QH
4.5	Bickley	75 - 90	(20/00495/FULL1) - Ellesmere Lodge, 34 Sundridge Avenue, Bromley, BR1 2QD

### 5 CONTRAVENTIONS AND OTHER ISSUES

Report No.	Ward	Page No.	Application Number and Address
	NO REPORTS		

### 6 TREE PRESERVATION ORDERS

Report No.	Ward	Page No.	Application Number and Address
6.1	Bickley Conservation Area	91 - 100	Confirmation of TPO 2693 at Land at The Beechins and 2 Wells Road, Bromley BR1 2AJ

6.2	Shortlands	101 - 108	Confirmation of TPO 2695 at 15 Den Close, Beckenham, BR3 6RP
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The Council's [Local Planning Protocol and Code of Conduct](#) sets out how planning applications are dealt with in Bromley.

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## PLANS SUB-COMMITTEE NO. 2

Minutes of the meeting held at 6.00 pm on 20 August 2020

### Present:

Councillor Peter Dean (Chairman)  
Councillor Michael Turner (Vice-Chairman)  
Councillors Mark Brock, Nicky Dykes, Simon Fawthrop,  
Josh King, Tony Owen, Neil Reddin FCCA and Richard Scoates

### 5 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

An apology for absence was received from Councillor Colin Hitchins and Councillor Tony Owen attended as his substitute.

### 6 DECLARATIONS OF INTEREST

There were no declarations of interest reported.

### 7 CONFIRMATION OF MINUTES OF MEETING HELD ON 5 MARCH 2020, THE NOTES OF DECISIONS TAKEN UNDER DELEGATED POWERS FOR THE CANCELLED MEETING OF 30 APRIL 2020 AND THE MINUTES OF MEETING HELD ON 25 JUNE 2020.

**RESOLVED** that the Minutes of the meeting held on 5 March 2020, the Notes of Decisions taken under Delegated Powers for the cancelled meeting of 30 April 2020 and the Minutes of the meeting held on 25 June 2020 be confirmed and signed as a correct record.

### 8 PLANNING REPORTS

Application No. and Address of Property

#### 8.1 SHORTLANDS

**(19/02719/ELUD) - 77 Cumberland Road,  
Shortlands, Bromley, BR2 0PL**  
Description of application – Residential and  
childminding on ground and first floor Lawful

Development Certificate (existing).

Oral representations in objection to and in support of the application were received at the meeting. This matter had not been “called in” by Ward Councillors but had been reported to a Planning Sub-Committee as a direct Officer referral due to its complexity and high profile. Comments and photographs had been received from Ward Member, Councillor Mary Cooke, in objection to the application and had been circulated to Members. Fellow Ward Member, Councillor Aisha Cuthbert also objected to the application.

Members having considered the report, objections and representations, **RESOLVED** that **THE PROPOSED DEVELOPMENT/USE IS NOT LAWFUL** and a **CERTIFICATE OF LAWFULNESS BE REFUSED** as recommended, for the reason set out in the report of the Assistant Director, (Planning and Building Control).

## 8.2 BICKLEY

### **(19/03683/OUT) - Phoenix Lodge, 14A Woodlands Road, Bickley, Bromley, BR1 2AP**

Description of application – Demolition of existing dwelling and erection of a three storey building comprising 12 flats with associated parking, amenity space, refuse/cycle store and landscaping. **OUTLINE APPLICATION.** (Amended drawings and description).

Councillor Simon Fawthrop informed Members that local residents had been concerned with overlooking. Members having considered the report and objections, **RESOLVED that PERMISSION be GRANTED SUBJECT TO THE PRIOR COMPLETION OF A LEGAL AGREEMENT for HEADS OF TERM HEALTH, EDUCATION AND CARBON OFFSETTING**, as recommended, and subject to the conditions and informatives set out in the report of the Assistant Director, (Planning and Building Control).

## 8.3 CHELSFIELD AND PRATTS BOTTOM CONSERVATION AREA

### **(19/05044/FULL1) - Chelsfield Primary School, Warren Road, Orpington BR6 6EP**

Description of application – Replacement single storey classroom building at rear.

Members having considered the report and objections, **RESOLVED that PERMISSION be**

**GRANTED** as recommended, subject to the conditions set out in the report of the Assistant Director, (Planning and Building Control).

**8.4  
PETTS WOOD AND KNOLL**

**(20/00693/FULL6) - 10 Derwent Drive, Petts Wood, Orpington, BR5 1EW**

Description of application - Single storey side/rear extensions, conversion of garage to habitable room, enlargement of existing porch entrance, and enlargement of roofspace incorporating hip to gable extension, rear dormer and front roof lights.

Oral representations in objection to and in support of the application were received at the meeting. An email dated 19 August 2020 with attached photographs had been circulated to Members. The applicant confirmed that he had not lived in the property.

Ward Member, Councillor Tony Owen, referred to the dismissed appeal decision dated 17 October 2019 (Appeal Reference: APP/G5180/D/19/3233737). He had been the Vice-Chairman of Plans Sub-Committee No. 3 on 6 June 2019 when application 18/005592/FULL6 had been considered and refused on the grounds of design, scale and bulk that would result in an overdevelopment of the site resulting in a detrimental visual impact and loss of light to the neighbouring property and incongruous impact on the prevailing character of the area. He referred to the reasons the Inspector gave for the dismissed appeal and his opinion was that the Inspector had overlooked the harm to the living conditions of 8 Derwent Drive. Councillor Owen's view was that this application was a re-submission of the dismissed appeal and he moved to refuse the application and Councillor Fawthrop seconded the motion and the vote for refusal was unanimous.

Members having considered the report, objections and representations, **RESOLVED that PERMISSION BE REFUSED** as recommended, for the following reason:-

1. The proposed development, by reason of its overall scale and form, would unbalance the pair of semi-detached bungalows and would appear out of keeping with that of other dwellings in the vicinity, resulting in harm to the character and appearance of

the host dwelling and its surroundings and a loss of residential amenity to the occupiers of No. 8; thereby contrary to Policy 7.4 of the London Plan, Policy 37 of the Bromley Local Plan and the Bromley Supplementary Planning Guidance 1 General Design Principles and Bromley Supplementary Planning Guidance 2 Residential Design Guidance.

**8.5  
BROMLEY COMMON AND  
KESTON**

**(20/01126/FULL1) - 47 Lakes Road, Keston, BR2  
6BN.**

Description of application – Demolition of the existing house and erection of two detached five bedroom houses.

Oral representations in support of the application were received at the meeting.

Members having considered the report, objections and representations, **RESOLVED that PERMISSION be GRANTED** as recommended, subject to the conditions and informatives set out in the report of the Assistant Director, (Planning and Building Control) with an amendment to Condition 6 and a further condition to read:-

“6. (a) Prior to commencement of above ground works, details (including samples) of the materials to be used for the external surfaces of the building which shall include roof cladding, wall facing materials and cladding (with particular reference to 45 Lakes Road), window glass, door and window frames, decorative features, rainwater goods and paving where appropriate shall be submitted to and approved in writing by the Local Planning Authority.

(b) The development shall be carried out in accordance with the approved details.

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.

20. Before the development hereby permitted is first occupied, the solar panels as indicated on approved drawing no.'s 1106-03 and 1106-05 shall be installed in accordance with these drawings and permanently maintained as such.

REASON: In the interest of promoting sustainable design and to comply with Policy 123 of the Bromley



Local Plan and Policies 5.2 and 5.3 of the London Plan.”

**8.6  
FARNBOROUGH AND  
CROFTON**

**(19/04372/FULL1) - 1 Crofton Lane, Orpington BR5  
1HH**

Description of application – Demolition of existing bungalows (1 Crofton Lane and 132A Crofton Road) and erection of a block of two storeys plus accommodation in the roof space to provide 16 residential units and provision of car and cycle parking, refuse storage, landscaping and boundary treatment.

Oral representations in objection to the application were received at the meeting.

Comments and photographs had been received in objection to the application from a neighbour and also the purchaser of 3 Crofton Lane. It was reported that Ward Member, Councillor Charles Joel, agreed that the appeal should be contested on the suggested grounds.

Members having considered the report, objections and representations, **RESOLVED that the APPEAL BE CONTESTED**, as recommended, for the reasons set out in the report of the Assistant Director, (Planning and Building Control) with a further reason to read:-

REASON 4: The proposed development would lead to an unacceptable intensification of the existing vehicular accesses, which would be detrimental to highway safety and therefore contrary to Policy 32 of the Bromley Local Plan and Policy 6.3 of the London Plan,

A recommended condition regarding electrical vehicle charging in line Policy T6.1 of the Draft London Plan shall be sent to the Planning Inspectorate.

**9 CONTRAVENTIONS AND OTHER ISSUES**

**9.1  
DARWIN**

**(HPR2020/019) Direct Action - Evergreen, Jail  
Lane, Biggin Hill.**

Members having considered the report, **APPROVED THE REQUEST FOR DIRECT ACTION TO REMEDY**

**THE BREACH WITH COSTS RECOVERY IN THE EVENT OF NON-COMPLIANCE**, as recommended, in the report of the Assistant Director, (Planning and Building Control).

The Meeting ended at 6.57 pm

Chairman

# Agenda Item 4.1

<b>Committee Date</b>	15.10.2020	
<b>Address</b>	39 Silverdale Road Petts Wood Orpington BR5 1NH	
<b>Application Number</b>	20/02734/PLUD	<b>Officer</b> - Nicholas Trower
<b>Ward</b>	Petts Wood And Knoll	
<b>Proposal</b>	Hip to gable loft conversion with rear dormer and window to gable end elevation (Proposed Lawful Development Certificate)	
<b>Applicant</b>	<b>Agent</b>	
Mr And Mrs Cox	Mrs J Keeley	
39 Silverdale Road Petts Wood Orpington BR5 1NH	Little Plumpton House Hinxhill Ashford TN25 5NT	
<b>Reason for referral to committee</b>	<b>Councillor call in</b>	
	Call-In	Yes

<b>RECOMMENDATION</b>	Proposed Use/Development is Lawful
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<p>KEY DESIGNATIONS</p> <p>Area of Special Residential Character Biggin Hill Safeguarding Area London City Airport Safeguarding Smoke Control SCA 4</p>
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<b>Land use Details</b>		
	Use Class or Use description	Floor space (GIA SQM)
Existing	C3	Not specified

Proposed	C3 (no change proposed)	31sqm (approximately) created in loftspace

<b>Vehicle parking</b>	Existing number of spaces	Total proposed including spaces retained	Difference in spaces (+ or -)
Standard car spaces	2	2	0
Disabled car spaces	0	0	0
Cycle	0	0	0

<b>Electric car charging points</b>	0
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<b>Representation summary</b>	Neighbour letters issued – 06.08.2020	
Total number of responses	1	
Number in support	0	
Number of objections	1	

## 1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposed development falls within the scope of Class B of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The proposed development would not constitute an alteration or addition to the front roofslope that would be prohibited by the Article 4 Direction in place for the Petts Wood Area of Special Residential Character.

## 2. LOCATION

- 2.1 The application site comprises a two storey semi-detached dwellinghouse located on the north-western side of Silverdale Road, Petts Wood. The property, which is not listed, is subject to an Article 4 direction and lies within the Petts Wood Area of Special Residential Character (ASRC).

2.2 There are restrictions upon 'permitted development' rights at the property due to the adopted Article 4 Direction that covers the Petts Wood Area of Special Residential Character. The Article 4 Direction specifically relates to alterations and additions to the front elevation and states in effect that any alteration or addition to any front roofslope (that facing the public highway) that is currently permitted by Class B or Class C of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) would require planning permission.

2.3 Site Location Plan:



### 3. PROPOSAL

3.1 The application seeks a Lawful Development Certificate for roof alterations to incorporate a hip to gable roof enlargement, rear dormer extension and window to gable end elevation. The gable roof enlargement would be set back from the front roofslope.

### 3.2 Existing elevations:



### 3.3 Proposed elevations:



## 4. RELEVANT PLANNING HISTORY

- 4.1 99/02765/FULL1 - Single storey rear extension (for conservatory) – Application Permitted.
- 4.2 13/03690/FULL6 - Single storey front/side extension – Application Permitted.
- 4.3 18/05024/FULL6 - Single storey rear extension – Application Permitted.

## 5. CONSULTATION SUMMARY

### 5.1 Local Groups

- 5.2 Petts Wood Residents Association:

- The property is situated within the Petts Wood Area of Special Residential Character.
- An Article 4 Direction has been in place since 2018 which has removed permitted development rights from any alteration to the front roof slope.
- The wording clearly states that 'any alteration to any front roof slope that is currently permitted by Class B or Class C....would require planning permission'.
- As PD rights have been removed in respect of changes to the front roof slope, should the applicant/agent have submitted a full planning application?

5.3 Please note that the full text of all representations received can be read in full on the Council's website.

5.4 The proposed development was amended after the above representation was received (drawings received 31.08.2020). The front rooflight has now been removed and the gable roof enlargement has been set back from the front roof slope.

## **6. POLICIES AND GUIDANCE**

6.1 The application requires the Council to consider whether the proposal falls within the parameters of permitted development under Class B of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) and specifically whether any limitations/conditions of the Order are infringed.

6.2 Of relevance to the application is a recent appeal decision in relation to 40 Manor Way, Petts Wood (ref. APP/G5180/X/18/3212541) which proposed a similar roof enlargement with a setback gable roof enlargement, and had been refused by the Council as being in contravention with the Article 4 Direction in force in the area. The Appeal was allowed, with the Inspector finding that the appeal proposal would not constitute an "addition" to the front roof slope even though it enlarged the volume of the roof overall. Likewise the Inspector did not consider that the proposal would constitute an "alteration" to the front roof slope as it makes no changes to it even though the front elevation of the property would appear differently.

## **7. ASSESSMENT**

7.1 Class B permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. In this instance, the proposed hip and rear dormer extensions would fall within the scope of Class B and are considered to be permitted development for the following reasons:

7.2 The property is a single dwellinghouse and has not benefitted from any change of use under class M, N, P or Q.

7.3 The extension will not exceed the height of the highest part of the existing roof.

7.4 The extension would not extend beyond the plane of the existing roof slope which forms the principal elevation and fronts a highway.

- 7.5 The resulting extensions volume is 42.2 cubic metres which falls within 50 cubic metres allowed in the case of a semi-detached dwelling.
- 7.6 The proposal does not consist of or include a veranda, balcony or raised platform.
- 7.7 The house is not sited within a conservation area.
- 7.8 The materials proposed for the exterior are shown to be similar in appearance to those used in the construction of the roof of the existing dwellinghouse.
- 7.9 The dormer provides a minimum 0.2m, separation from the eaves of the dwelling.
- 7.10 The window located within the flank wall of the proposed is shown to be obscure glazed and non-opening below 1.7m from the internal floor level.
- 7.11 The proposal does not include the installation, alteration or replacement of a chimney, flue or soil and vent pipe.
- 7.12 The property is located within the Petts Wood Area of Special Residential Character, so the Article 4 Direction for the area does need to be considered, however it is not considered that the proposed hip to gable enlargement would constitute an alteration or addition to the front roofslope that would be prohibited by the Direction and this is consistent with the Inspectors decision in respect of 40 Manor Way. The proposed development is to the side roofslope and set back from the front roofslope, therefore this is outside of the permitted development rights which have been removed.

## **8. CONCLUSION**

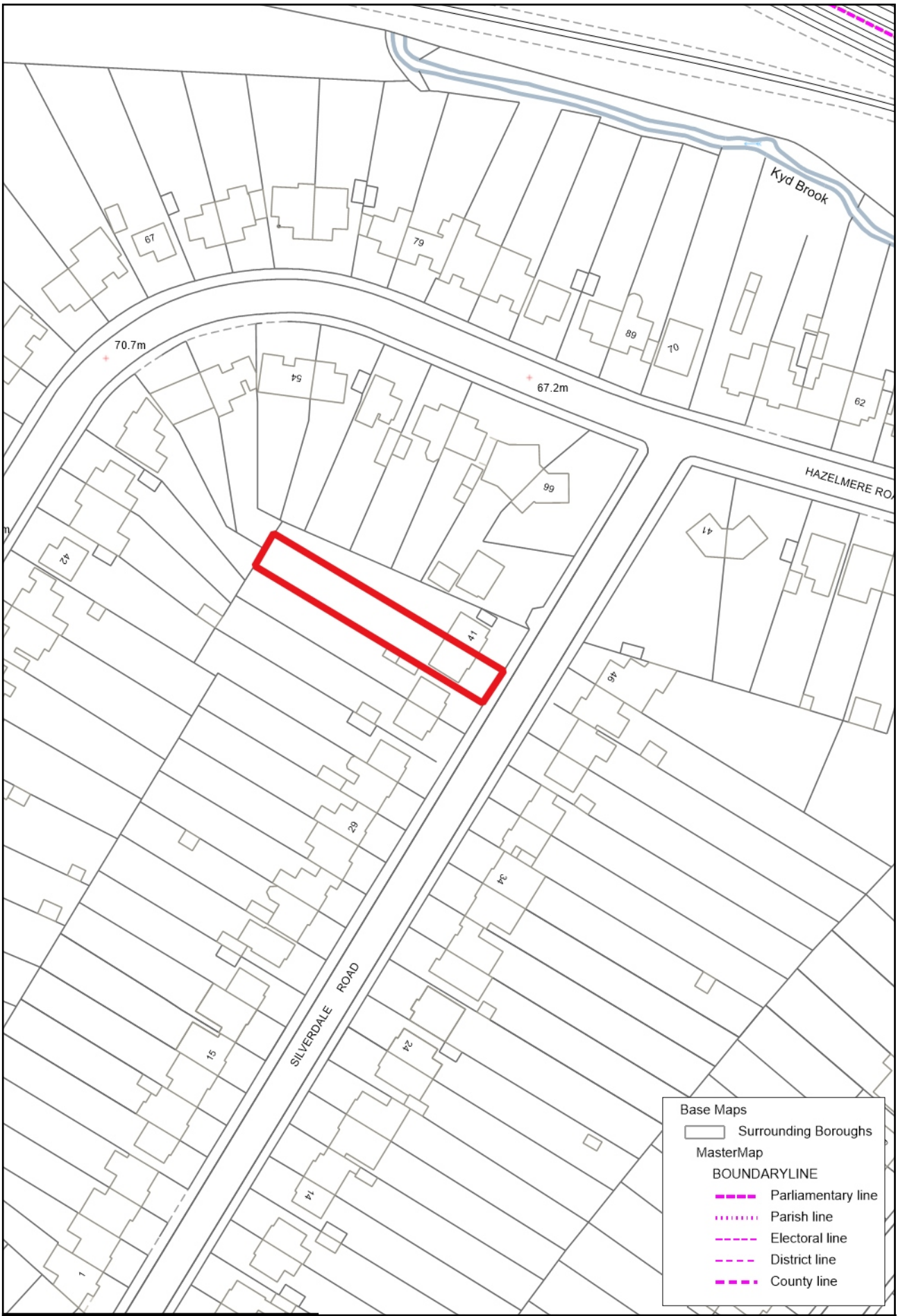
- 8.1 The proposed development falls within the scope of Class B of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 8.2 The proposed development would not constitute an alteration or addition to the front roofslope that would be prohibited by the Article 4 Direction in place for the Petts Wood Area of Special Residential Character.
- 8.3 It is therefore considered that the certificate be granted.

**RECOMMENDATION:** Certificate be Granted

As amended by documents received on 31.08.2020

The proposal as submitted would constitute permitted development by virtue of Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.





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Ordnance Survey 100017661.



39 Silverdale Road- 20/02734/PLUD



06 October 2020

1:1250



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# Agenda Item 4.2

<b>Committee Date</b>	17.10.20		
<b>Address</b>	6 Queens Road Beckenham BR3 4JW		
<b>Application Number</b>	20/01037/FULL6	<b>Officer</b> - Joanna Wu	
<b>Ward</b>	Clock House		
<b>Proposal</b>	Single storey rear extension (RETROSPECTIVE)		
<b>Applicant</b>	<b>Agent</b>		
Mr Simon Coleman	Mr Gary Edwards		
6, Queens Road Beckenham BR3 4JW	83 Clock House Road Beckenham BR3 4JU United Kingdom		
<b>Reason for referral to committee</b>	<b>Councillor call in</b>		
	Controversial		No

<b>RECOMMENDATION</b>	<b>PERMISSION</b>
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<p>KEY DESIGNATIONS</p> <p>Biggin Hill Safeguarding Area          London City Airport          Safeguarding Open Space          Deficiency          Smoke Control SCA 15</p>
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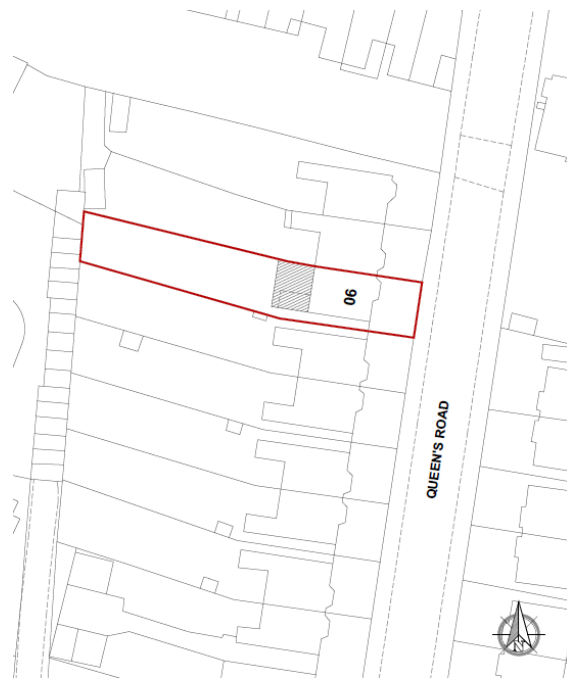
<b>Representation summary</b>	Neighbouring properties were notified of the application by letter dated 23.03.2020 and 17.09.20	
	23.03.20	17.09.20
Total number of responses	5	1
Number in support	4	0
Number of objections	1	1

## **SUMMARY OF KEY REASONS FOR RECOMMENDATION**

- Prior approval (planning ref: 18/04031/HHPA) has previously been granted for an extension and this is a material consideration for this retrospective application;
- The development would not result in a harmful impact on the character and appearance of the area.

### **1. LOCATION**

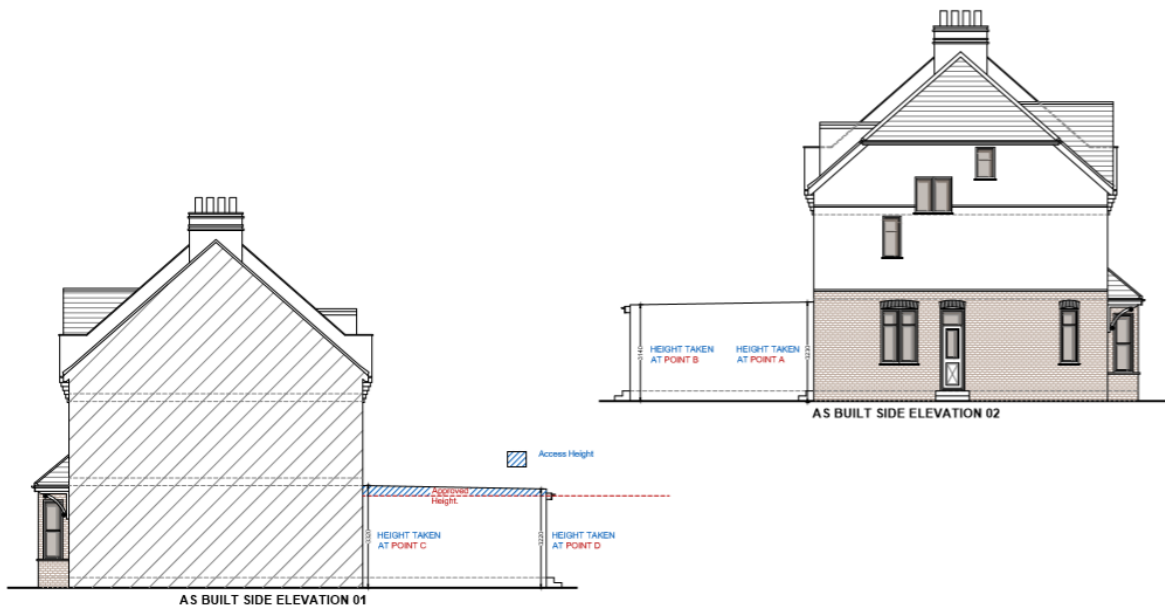
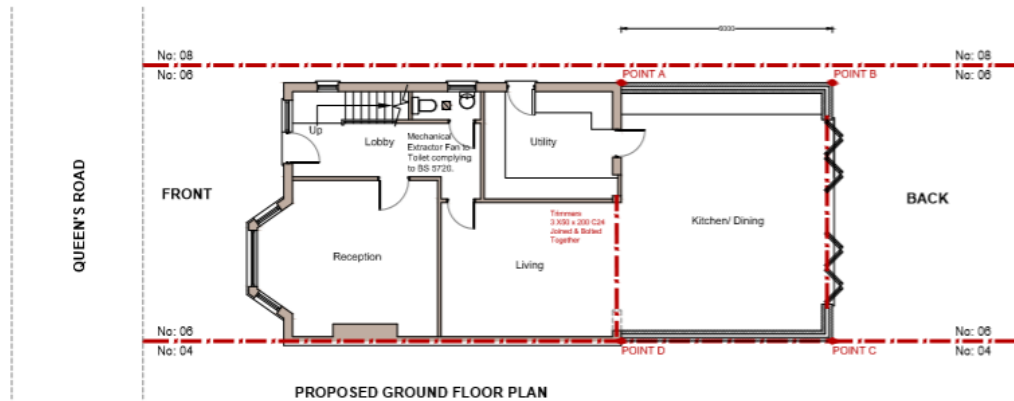
- 1.1 The application site includes a three storey end-of-terrace dwelling which is located on the west side of Queens Road Beckenham. The existing extension has a depth of 6m, a width of 7.3m, and a total height of 3.2m with a retaining wall of 3.5m high.
- 1.2 The extension was built following submission of a prior approval application (planning ref: 18/04031/HHPA) for a single storey rear extension with a depth of 6m and a maximum height of 3m which received no neighbouring objections at the time and therefore was able to be built without the need for further assessment by the council's planning service. The site does not lie within any conservation area and the property is not a listed building. The character of the area is residential in nature.



## 2 PROPOSAL

- 2.1 This is a retrospective planning application for the retention of the single storey rear extension, measuring 6m deep, 7.3m wide and 3.2m high with a 2 rooflights. This has been submitted as the extension as built is taller than the permitted height. The extension was subject to enforcement action as a result of this discrepancy as a result of which the applicant is required to submit this retrospective application for consideration.
- 2.2 In the revised submitted drawings, the applicants have confirmed that the existing parapet element of the retaining wall which faces No. 4 will be removed. This will reduce the height of the wall by 0.18m from the rear of the host dwelling to 0.28m at the rear of the extension. Due to the ground level at No. 4's rear garden being lower than on the application site, the overall height of the extension facing No. 4 will be reduced from 3.5m to 3.32m at its highest point.
- 2.3 In terms of the drainage arrangement after the removal of the parapet wall, the applicants have confirmed that a small lip would be incorporated to the north elevation along the shared boundary with No.4 so to guide rainwater to the western end of the extension. This measure, combined with the slope of the roof, would prevent rainwater overflowing onto the neighbouring property. The height of the roof lip, as suggested by the Council's Building Control Officer, would be 4cm, so that the maximum height of the roof, including the roof lip, would be 3.36m.

2.4 The council's enforcement officers have been out on site and can confirm that the height of the retaining wall along the shared boundary with No. 4 is 3.5m, measuring from the ground floor level of the neighbour's rear garden to the highest point of the wall.



### **3 RELEVANT PLANNING HISTORY**

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

3.2 Under planning ref. 18/04031/HHPA, a prior approval permission was granted for a single storey rear extension, extending beyond the rear wall of the house as existing by 6m, for which the maximum height would be 3m, and for which the height of the eaves would be 2.75m.

### **4 CONSULTATION SUMMARY**

#### **A) Statutory**

No requirement to consult any statutory consultees due to the nature of this application.

#### **B) Non-statutory**

Building Control team commented that a proposed roof lip of 2cm in height would not be sufficient to channel the rainwater and they advised that they would normally accept a 5cm angle fillet to the edge of a roof so a 4cm-high roof lip should be sufficient because of the additional height already constructed.

Subsequently, the applicants have confirmed in an email dated 22<sup>nd</sup> of September that the height of the roof lip would be 4cm high.

#### **C) Local Groups**

No local groups were commented to the application.

#### **D) Adjoining Occupiers**

##### Objections

##### Notification dated 23.03.20

- Inaccuracy of the plans;
- Loss of light;
- Overbearing;
- the visual impact due to the overbearing size of the boundary wall;
- The prior approval/permitted development scheme can no longer form a fall-back position. Article 3(5) of The Town and Country Planning (General Permitted Development) Order 2015 (GDPO) clearly states that permitted development rights do not apply "if in the case of a permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful";
- Smaller rear extensions have been refused in the area;

Four letters of support were received after the neighbouring notification period.

Notification date 17.09.20

- A sunlight calculation has been submitted to demonstrate that the difference between the current height of the parapet wall and the height of the proposed extension would have a significant impact on the rear windows of No. 4's living room.
- The neighbours claim that the sunlight report demonstrates that there is loss of sunlight for their rear living room windows with a 3.37m-high extension in place compared to it being 3m tall
- Similar objections as raised during the previous neighbouring notification period.

## **5 POLICIES AND GUIDANCE**

- 5.1 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.
- 5.2 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.
- 5.3 The Development Plan for Bromley comprises the London Plan (March 2016) and the Bromley Local Plan (2019). The NPPF does not change the legal status of the development plan.
- 5.4 The 'Intend to Publish' version of draft London Plan (December 2019) is a material consideration in the determination of this planning application. Paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.
- 5.5 The draft New London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This was version of the London Plan which the Mayor intended to publish, having considered the report and



recommendations of the panel of Inspectors.

- 5.6 The London Assembly considered the draft new London Plan at a plenary meeting on 6 February 2020 and did not exercise their power to veto the plan.
- 5.7 After considering the 'Intend to Publish' Plan, on 13 March 2020 the Secretary of State for Housing, Communities and Local Government wrote to the Mayor identifying directed changes to a number of policies in the draft plan. The SoS considered these changes were necessary to address concerns regarding inconsistencies with national policy. The Mayor cannot publish the New London Plan until the directed changes have been incorporated, or until alternative changes to address identified concerns have been agreed with the SoS. This could affect the weight given to the draft plan with regard to the directed policies.
- 5.8 At this stage, the Council's up-to-date Local Plan is generally considered to have primacy over the draft London Plan in planning determinations. However, where no modifications have been directed the draft London Plan policies are capable of having significant weight (as seen in a recent SoS call-in decision in the Royal Borough of Kensington and Chelsea). Where specific draft London Plan policies have been given particular weight in the determination of this application, this is discussed in this report.
- 5.9 The application falls to be determined in accordance with the following policies:-

**5.10 National Policy Framework 2019**

**5.11 The London Plan**

- 7.4 Local character
- 7.6 Architecture

**5.12 Draft London Plan**

- D1 London's form and characteristics
- D4 Delivering good design
- D5 Inclusive design

**5.13 Bromley Local Plan 2019**

- 6 Residential Extensions
- 37 General Design of Development

**5.14. Bromley Supplementary Guidance**

- Supplementary Planning Guidance 1 - General Design Principles
- Supplementary Planning Guidance 2 Residential Design Guidance

## 6 ASSESSMENT

### 6.1 Principle of the development – Legal advice

- 6.1.1 The submission of this application follows the previous submission and approval of a prior approval application (planning ref: 18/04031/HHPA). The prior approval was for a single storey rear extension with a depth of 6m and a height of 2.75m with a flank parapet wall of 3m height. No neighbouring objections were received at the time of the application. However, the extension that has subsequently been built differs from the permitted development as the height of the extension is 3.2m, and a maximum of 3.5m (including the parapet wall), along the shared boundary with No. 4. In the revised plans submitted with the current application, the applicants show that the parapet wall will be removed, so that the total height of the extension, facing the rear garden at No. 4, would be reduced to 3.32m at its highest point. It is noted that the height of the extension is slightly higher than when measured on the application site due to the ground level at No. 4's rear garden being lower than the application site. Also, there would be a 4cm-high roof lip inserted over the extension along the shared boundary with No. 4 so that the total height of the extension to the north elevation would be 3.36m.
- 6.1.2 Under normal circumstances, a prior approval application is considered under the General Permitted Development Order (GPDO) 2015 in which the neighbouring amenity impacts would only be considered if neighbours object to the prior approval scheme during the statutory neighboring consultation period. Under the GPDO, a terrace dwelling is permitted to extend by a maximum depth of 6m and a maximum height of 3m in a single storey rear extension, subject to no neighbouring objections received during consultation. In this case, the prior approval application (planning ref: 18/04031/HHPA) did not receive any neighbouring objections from either No. 4 or No. 8 Queens Road and therefore, the prior approval application was granted.
- 6.1.3 For this current application, neighbouring objections have been received from No.4. As part of the submitted objections, the neighbour's solicitor has submitted a letter to the Council outlining their concerns about the extension. The neighbour considers that the existing extension should be regarded as "unlawful" development, given that it was not built in accordance with the approved plans submitted as part of the previous prior approval application (planning ref: 18/04031/HHPA). Their view is that this means that the previously approved scheme should not be considered as the "fallback" position.
- 6.1.5 The Council has sought Counsel's opinion on this application. The advice is attached in the Appendix A.

6.1.6 In summary, the legal advice states that the extension proposed in the Notification of a Proposed Larger Home Extension (ref 18/04031/HHPA) (“the Notification”) is capable of being a material consideration (as a fallback position). Also, the legal issues raised by the neighbours are considered to be without merit. It is not correct that the prior approval decision notification cannot be taken into account simply because an extension has been built which does not comply with the notification proposal.

## 6.2 Principle of the development - Planning assessment

6.2.1 The bulk and scale of the extension has been established in the approved scheme (planning ref: 18/04031/HHPA). The difference is that the height of the extension has been increased by 0.45m, from 2.75m to 3.2m plus a parapet wall. However, in this retrospective application, the supporting statement highlights that the applicants will remove the parapet wall to reduce the height. Therefore, the actual height difference between the existing extension as proposed to be modified and the permitted maximum height in the prior approval scheme would range between 0.2m to the south elevation and 0.32m to the north elevation, facing the rear garden at No.4. It is noted that a 4cm-high roof lip would be inserted over the extension along the shared boundary with No. 4 so that the total height of the extension facing No. 4 would be 3.36m (0.36m height difference to the north elevation).

6.2.2 The applicants also provided additional information to explain the circumstances of how the extension came to be built higher than shown in the plans and why they cannot reduce the height of the extension further from 3.2m to 3m.

*“As per our architects plans (Oct 2018), which show a 3m x 6m extension, this is what we set out and fully expected to build. The 6m depth was adhered to, and we had no desire or need (at the time) for a height of more than 3m. Unfortunately, due to a building error and the addition of warm deck insulation, the height exceeded the 3m limit.*

*We were unaware of this for two main reasons:*

- We did not measure the extension as it progressed – we trusted everything was in order. In fact, had our neighbours not flagged the breach I doubt we would be aware of it now.*
- Our eldest daughter was just out of hospital and our full attention was on her, not the height of the extension*

*When the breach was flagged to us by our neighbours we immediately addressed the matter and, at significant cost (extra steels, internal ceiling adjustments and labour), reduced the height as much as possible. Had it not been for the doors and kitchen, which*

*were already in manufacture based on the existing measurements, we would have been able to meet the 3m height. The main reason the height cannot be brought down to 3m is because of the floor to ceiling glass doors (see picture), which were already in production and couldn't be altered in size when the issue came to light. The doors are supported by the steel which sits directly above them as in the picture."*

*"We have done everything we can to reduce the height as much as possible, including fitting new steels. The only way to further reduce the height is to completely remove the roof and install smaller doors, along with part of the kitchen.*

*The estimated cost for this is upwards of £60k (approximately half of the original building cost) to allow for new doors, part of the kitchen, new skylights, and labour and materials, which we simply cannot afford.*

*If this was to happen the extension would be left without a roof and doors and would therefore be uninhabitable."*

- 6.2.3 Given that the prior notification approval decision is a material consideration, in assessing this planning application, Members will need to consider whether the additional height of the extension, i.e. 0.2m or 0.36m to the north elevation, facing No. 4, would be sufficiently adverse to warrant a refusal.
- 6.2.4 In summary, it is considered that the applicants have offered a sufficient remedy to reduce the height of the extension although it has not been possible to bring this down to the approved height without the need to carry out a substantial level of works.

### 6.3 Design – Layout, scale - Acceptable

- 6.3.1 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. The NPPF states that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.
- 6.3.2 London Plan and Bromley Local Plan policies further reinforce the principles of the NPPF setting out a clear rationale for high quality design.
- 6.3.3 London Plan Policy 7.4 requires developments to have regard to the form, function, and structure of an area. Policy 37 of the Bromley Local Plan states that all development proposals, including extensions to existing buildings, will be expected to be of a high standard of design

and layout. Policy 6 of the Bromley Local Plan requires that the design and layout of proposals for the alteration or enlargement of residential properties will be required to comply with the following: (i) the scale, form and materials of construction should respect or complement those of the host dwelling and be compatible with development in the surrounding area and (ii) space or gaps between buildings should be respected or maintained where these contribute to the character of the area.

- 6.3.4 The Council will normally expect the design of residential extensions to blend with the style and materials of the main building. Where possible, the extension should incorporate a pitched roof and include a sympathetic roof design and materials.
- 6.3.5 The rear extension would not be visible from the street and the extension has been finished in materials that match those of the host dwelling. It is noted that the extension is 6m deep and the retaining wall is 3.5m high with a flat roof of 3.2m height (at the application site). In the submitted Planning Statement, the applicants have confirmed that the parapet wall would be removed. Also, the depth of the extension has already been established in the previous planning application (planning ref: 18/04031/HHPA). Therefore, the proposal, on balance, is considered to be acceptable.
- 6.3.6 Having regard to the form, scale, siting and proposed materials it is considered that the extension as proposed to be modified would complement the host property and would not appear out of character with surrounding development or the area generally.

#### 6.4 Residential Amenity - Acceptable

- 6.4.1 Policy 37 of the Bromley Local Plan 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.
- 6.4.2 The neighbouring objections are noted. The neighbour has provided a sunlight report claiming that compared to the approved 3m-high extension, the proposal would result in the centre of the rear sitting room window receiving no sunlight for 6 months in autumn and winter, failing to meet the minimum requirement set out in BS 8206-2. The Building Research Establishment (BRE) guidance states that when assessing the potential loss of sunlight/ daylight impact, there are three measures of diffuse daylight (vertical sky component; average daylight factor; and, no-sky line), and one measure of sunlight. In this case, the neighbours only provide the sunlight assessment for the living room windows. Also, the BRE guidance recognises that sunlight is less important than daylight in the amenity of a room and is heavily influenced by orientation. North facing windows may receive sunlight

on only a handful of occasions in a year, and windows facing eastwards or westwards will only receive sunlight for some of the day. The rear living room window is a west-facing window. Therefore, given that there is no daylight assessment, it is considered that this sunlight report could not be used as a justification to refuse this application.

6.4.3 As discussed in section 6.1 above, it is considered that the previous prior approval application (planning ref: 18/04031/HHPA) should be taken into consideration. In that scheme, the proposal was approved for a single storey rear extension with a depth of 6m and a height of 2.75m with a flank parapet wall of 3m height. The current extension's existing parapet wall would be removed and the total height of the extension would be 3.2m (at the application site). To the north elevation, the height of the extension would be 0.36m higher than the permitted height allowance. It is acknowledged that the proposal would have some degree of loss of sunlight to the rear windows of No.4. However, it is considered that the proposal, on balance, would not have a significantly greater detrimental impact than the approved prior approval scheme that would justify the refusal of planning permission.

6.4.4 Having regard to the scale and design of the development, it is considered that a significant loss of amenity with particular regard to light, outlook, prospect and privacy would not arise.

## **7 CONCLUSION**

7.1 Having had regard to the above it is considered that the development in the manner proposed is acceptable in that it would not result in a significant loss of amenity to local residents nor impact detrimentally on the character of the area.

7.2 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:** Application Permitted

**Subject to the following conditions:**

- 1. The demolition of the parapet wall on the north flank elevation, facing No. 4 Queens Road, as shown on drawing no: WN12, should be carried out within 6 months from the date of this Decision Notice and shall subsequently be permanently retained in accordance as such. The height of the extension as modified shall not exceed 3.36m on the north elevation of the extension.**

**Reason:** In order to comply with Policies 6 and 37 of the Bromley Local Plan and in the interests of the residential amenities of the area.

**Any other planning condition(s) considered necessary by the Assistant Director of Planning**

***Encl. – Appendix 1  
Counsel Advice (Six Pump Court Chambers) on the 1<sup>st</sup> of July 2020***

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REGARDING AN APPLICATION FOR PLANNING PERMISSION FOR AN EXTENSION AT  
SIX QUEEN'S ROAD, BECKENHAM

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ADVICE, 1 JULY 2020

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**Introduction and summary of advice**

1. I am asked to advise the London Borough of Bromley (“the Council”) in respect of an application for retrospective planning permission for a rear extension at 6 Queen’s Road Beckenham (“the property”).
2. Specifically, I am asked to advise whether a previous notification by the Council that prior approval was not required to build a similar extension within the limits of Class A of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (“GPDO”) is a material consideration for this application and to advise on the legal issues raised in the objections submitted.
3. My advice can be summarised as follows:
  - a. A planning permission for the extension proposed in the Notification of a Proposed Larger Home Extension (ref 18/04031/HHPA) (“the Notification”) accrued or crystallised at the point the Council determined that prior approval was not required. That planning permission is capable of being a material consideration (as a fallback position). The weight to be given to it is a matter for the Council.
  - b. I have set out below the proper approach (as a matter of law) to the determination of the planning application.
  - c. I consider the legal issues raised by the neighbours to be without merit.

## Facts

4. The property is an end-of-terrace dwellinghouse.
5. On 5 September 2018 the Council received a Notification of a Proposed Larger Home Extension (ref 18/04031/HHPA) (“the Notification”). The drawings accompanying the proposal provided for a single storey rear extension with a depth of six metres and a height of three metres.
6. No objections to the proposal were received during the consultation period and consequently on 12 October 2018 the Council notified the applicants that it had determined that prior approval was not required for the application proposal (“the prior approval decision notification”).
7. Building commenced. At some point the Council received a complaint from the neighbouring property that the extension that was being built was not in compliance with the approved plans because it was higher than three metres and contained a parapet wall not shown on the plans. That extension has now been completed in a modified form (see paragraph 9 below).
8. The Council conducted an enforcement investigation which concluded that planning permission was required for the extension as built.
9. Consequently an application for retrospective planning permission has been received from the property owners. This differs from the approved plans in that the parapet wall has been removed and the height of the rear extension is 3.23 metres<sup>1</sup>.
10. The extension proposal is, because of its height, outside the scope of any permission which could be granted under the GPDO<sup>2</sup>. This is why an application for planning permission has been made.

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<sup>1</sup> There is some dispute about the actual height of the walls, but the application before the Council is for an extension of 3.23 metres in height.

<sup>2</sup> This is because of subparagraph (i) of paragraph A.1. of Part 1 of Schedule 2 to the GPDO, which stipulates that the maximum height of the eaves of any extension to the property must not exceed three metres. N.B. this excludes the height of any parapet wall, which must not exceed four metres in height Subparagraph (f) of paragraph A.1., and see page 12 of the ‘Technical Guidance on Permitted development rights for Householders’, Ministry of Housing, Communities and Local Government (September 2019).

11. The neighbours have objected to the application on various grounds and have also asserted that the Council cannot and should not take into account the prior approval decision when determining the application.

### **Material considerations in the determination of applications for planning permission**

12. It is helpful to first step back and consider the relevant legal principles.

13. The starting point is that, when determining applications for planning permission under Part III of the TCPA 1990, the local planning authority (“LPA”) must have regard to the provisions of the development plan, so far as material<sup>3</sup> and, *inter alia*, any other material considerations<sup>4</sup>, and the determination must be made in accordance with the development plan unless material considerations indicate otherwise<sup>5</sup>.

14. Whether or not a particular matter constitutes a material consideration is a question of law, but the weight to be given to any material consideration is a matter of planning judgment for decision maker, and, absent legal error, the Court will not interfere with that judgment<sup>6</sup>.

15. The planning history of the site, including previous grants and refusals of permission, may be a material consideration<sup>7</sup>. This would include previous decisions regarding the acceptability or otherwise of the same or a similar form of development, although the weight to be accorded to any particular decision will be a matter for the decision maker taking into account the particular facts and circumstances.

16. The fallback position is what could lawfully happen on the land if the planning application was not approved. This may be a material consideration to which a local authority shall have regard under section 70 (c) TCPA 1990 when determining an application for planning permission, provided that there is a possibility, understood to mean a real prospect as opposed to a merely theoretical possibility, that the fallback position will actually be

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<sup>3</sup> section 70 (2) (a) TCPA 1990

<sup>4</sup> section 70 (2) (c) TCPA 1990

<sup>5</sup> Section 38 (6) of the Planning and Compulsory Purchase Act 2004

<sup>6</sup> *Tesco v SSE* [1995] 1 WLR 759

<sup>7</sup> *North Wiltshire DC v SSE* [1993] 5 P & CR 137 per Mann LJ at 145

implemented<sup>8</sup> (a low bar). Permitted development rights may in principle constitute a fallback position<sup>9</sup>.

### **Permitted development rights under the GPDO**

17. Planning permission may be granted under the TCPA 1990 in various ways. These include on application to the LPA<sup>10</sup>, and under the GPDO<sup>11</sup>.
18. Pursuant to section 60 TCPA 1990, Article 3 (1) of the GPDO grants planning permission for certain classes of development, including Class A - the enlargement, improvement or other alteration of a dwelling house<sup>12</sup>.
19. Development under Class A is subject to any relevant exception, limitation or condition set out in paragraphs A.1. to A.4. of Class A, Part 1 of Schedule 2 to the GPDO. That means that in order to benefit from planning permission granted under the GPDO, such development must fall within the requirements of, and accord with, all other applicable limitations and conditions which apply to Class A<sup>13</sup>.

### **Smaller extension**

20. The applicants are entitled, in any event, and without prior approval, to build a single-story rear extension of up to three metres in length and three metres in height in accordance with the permitted development rights described in Class A, Part 1 of Schedule 2 to the GPDO<sup>14</sup>.
21. The existence of those permitted development rights is potentially a material consideration to which the LPA should have regard as a fallback position, depending on the LPA's view of the materiality of those permitted development rights to the present application (i.e.

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<sup>8</sup> *Samuel Smith Old Brewery (Tadcaster) v SSCGL* [2009] EWCA Civ 333, and see *Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314

<sup>9</sup> see e.g. *Mansell*

<sup>10</sup> Section 58 (1) (b) TCPA 1990

<sup>11</sup> Section 58 (1) (a) TCPA 1990

<sup>12</sup> Class A, Part 1 of Schedule 2 GPDO

<sup>13</sup> See, e.g. *Keenan c Woking BC and SSCLG* [2017] EWCA Civ 438 and *Pressland v LB Hammersmith and Fulham* [2016] EWHC 1763 (Admin)

<sup>14</sup> Subparagraphs (f) and (i) of A.1. of Part 1 of Schedule 2 to the GPDO

whether or not the LPA considers that permitted development rights for a three-meter extension affects its assessment of the acceptability of a six-meter extension). This will also affect the LPA's view of the relevance of decisions on other rear extensions nearby, as will the possibility of other fallback positions which might distinguish the present application from those decisions.

### **The prior approval decision notification**

22. The Notification in this case was, however, in respect of a single storey rear extension of no more than six metres in length and three metres height<sup>15</sup>, and thus the larger type of rear extension potentially permitted under Class A<sup>16</sup>. Permission under the GPDO for such development is subject to a prior approval process in accordance with the conditions in A.4. of Schedule 2.

23. The conditions in A.4. include that:

- a. development must not begin before one of three things have occurred: the receipt of written notice that prior approval was not required (this was the outcome here); the receipt of a notice of prior approval; or the expiry of 42 days without notification from the LPA that prior approval is given or refused<sup>17</sup>.
- b. Development must be carried out in accordance with the details provided (where prior approval is not needed) or approved (where prior approval has been given)<sup>18</sup>.

24. The procedure for making and determining applications for prior approval is set out in A.4 of Schedule 2. There does not appear to be any dispute that it was followed in this case.

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<sup>15</sup> See the description in the prior approval decision notification.

<sup>16</sup> In that it met the requirements of paragraph (g) of A.1. but exceeded the limitations in subparagraph (f) of A.1. of Part 1 of Schedule 2 to the GPDO.

<sup>17</sup> Subparagraph 10 of paragraph A.4.

<sup>18</sup> Subparagraph 11 of paragraph A.4.

25. In a prior approval case, planning permission under the GPDO accrues or crystallises for the development outlined in the application upon the developer's receipt of a favourable response from the planning authority as to its application<sup>19</sup>.
26. Such permission is not extinguished if the development on site is otherwise than in accordance with it<sup>20</sup>, unless that development has the effect of removing the qualifying basis on which those rights are founded (in this case, the dwelling house)<sup>21</sup>, or the permission has expired under section 91 TCPA 1990. Neither of those are the case here. Similarly, the likelihood that, if the Notification were made now, the neighbours would object, triggering the requirement for the LPA to assess amenity under subparagraph 5 of paragraph A.4. of Part 1 of Schedule 2 to the GPDO, does not affect the existence of this permission or its materiality as a fallback.
27. In short, planning permission under the GPDO for the extension that was the subject of the Notification accrued or crystallised on 8 October 2018 and remains extant, because the qualifying basis for that permission (the dwelling house) still exists, and the permission has not expired. Therefore, the planning permission that accrued or crystallised as a result of the prior notification approval decision is a material consideration to which the Council should have regard when determining the present application and its effect on neighbouring amenity, as a potential fallback position, in accordance with the principles set out at paragraphs 12 to 16 above. 'Potential' fallback position, because the Council must consider whether there is a real possibility (see paragraph 16 above) of the accrued planning permission being implemented. That is a question of judgment to be applied in

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<sup>19</sup> *Orange Personal Communication Services Limited v London Borough of Islington* [2006] EWCA Civ 157. The position is more complicated where an LPA has given prior approval or determined that none was needed, but the decision was in error because the application proposal does not in fact comply with the requirements set out in Class A, see *Marshall v East Dorset DC* [2018] EWHC 226 (Admin). I understand, however, that this issue does not arise here.

<sup>20</sup> That was precisely what happened in *Orange*. The approach of Mr Justice Crane (in the decision that was the subject of the appeal) was that "*as a matter of law, the fact that here there was an unlawful installation makes no [difference]. The point would be the same in law if there had been no attempt to carry out the work*", paragraph 42 of the judgment cited at paragraph 12 of the appeal judgment. Neither the parties, nor the Court of Appeal, took issue with this part of the judgment.

<sup>21</sup> See *Arnold -v- Secretary of SSCLG* [2015] EWHC 1197 (Admin). The neighbour has misunderstood the meaning of Article 3 (5) GPDO which provides that permitted development rights acquired in connection with a building do not apply if that building is itself unlawful.

the facts and circumstances of this case. The weight to be given is a matter of planning judgment for the Council.

### **The neighbours' objections**

28. It is not correct that the prior approval decision notification cannot be taken into account simply because an extension has been built which does not comply with the notification proposal<sup>22</sup>. That is wrong in law, see paragraph 26 above.

29. It is also incorrect to state that '*for a fall back under the larger householder extension right to be material as a 'realistic' fall back, the applicant would need, inter alia, to prove all relevant neighbours would not object*'<sup>23</sup>; that analysis ignores the accrued planning permission as a result of the prior approval notification decision, see paragraphs 25 and 26 above.

30. Neither *Keenan* nor *Winters v SSCLG* [2017] PTSR 568<sup>24</sup> assist the neighbours, or the LPA with its determination of this application. Both were concerned with whether development which did not meet the requirements of GPDO at the time it was commenced could become permitted development if those requirements were subsequently complied with. That is not the issue here.

### **Conclusion**

31. Thank you for instructing me. If you have any questions or would like clarification on any of the matters set out in this advice please do not hesitate to contact me by email or telephone.

**Laura Phillips**

**Six Pump Court Chambers**

**1 July 2020**

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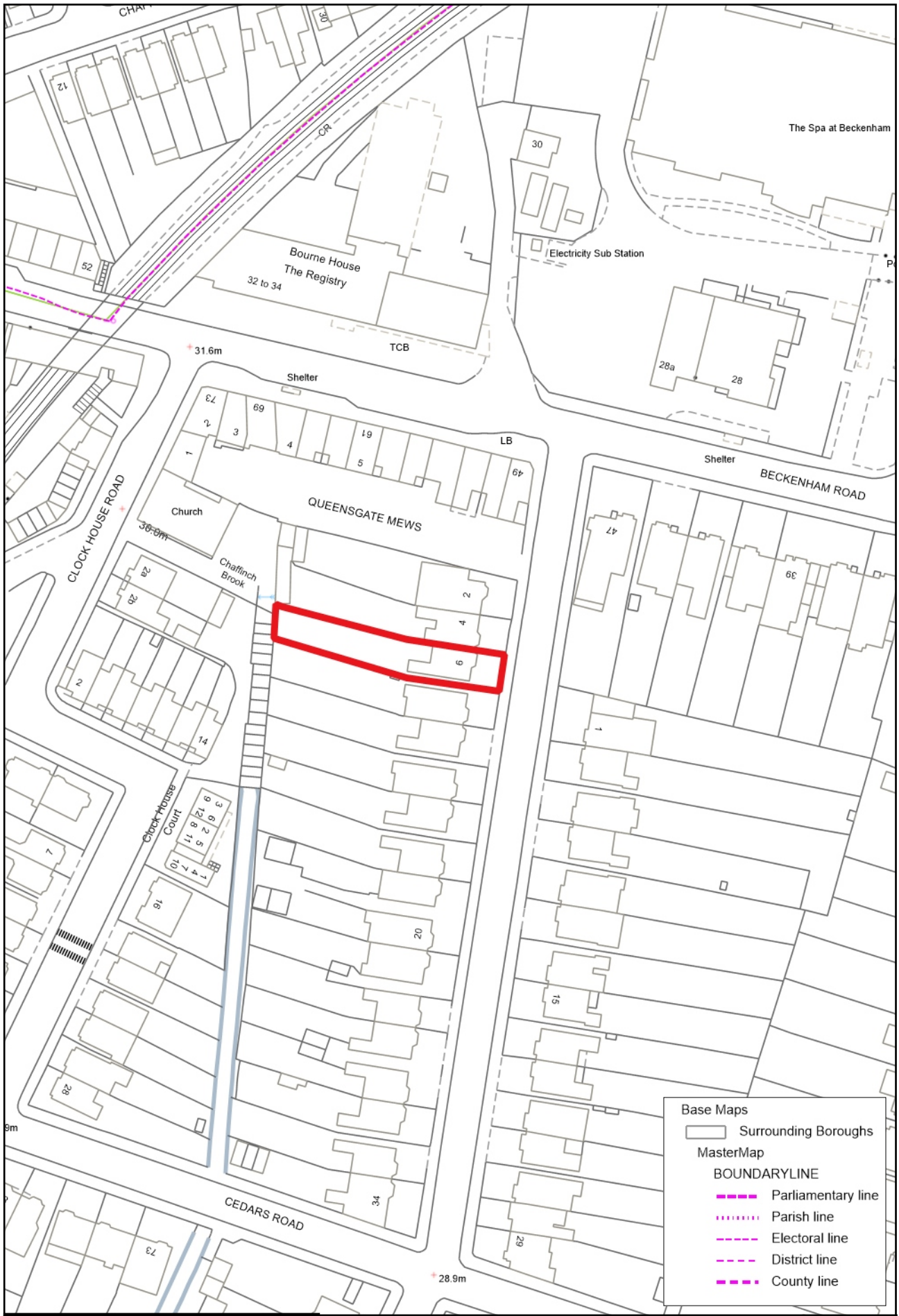
<sup>22</sup> This appears to be the argument made by the neighbours, see letter of 23 June 2020 and section 3 of Mr Yang's Personal Statement dated April 2020

<sup>23</sup> See the penultimate paragraph of the letter to Mr Yang from Mr Kingsley-Smith dated 5 June 2020

<sup>24</sup> see paragraph 4 of the letter from Mr Kingsley-Smith dated 7 May 2020

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Base Maps

- Surrounding Boroughs

MasterMap

BOUNDARYLINE

- Parliamentary line
- Parish line
- Electoral line
- District line
- County line

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Ordnance Survey 100017661.



6 Queens Road- 20/01037/FULL6



06 October 2020      1:1250



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# Agenda Item 4.3

<b>Committee Date</b>	15.10.2020	
<b>Address</b>	9 Brookmead Avenue Bickley Bromley BR1 2JX	
<b>Application Number</b>	19/05362/FULL1	<b>Officer</b> - Jacqueline Downey
<b>Ward</b>	Bickley	
<b>Proposal</b>	Demolition of garage and construction of new detached 4 person 3 bedroom two storey dwelling with parking and bin stores and retention of adjacent existing house with loft conversion incorporating pitched roof extension, side dormer and rooflights, elevational alterations and new front porch demolition of pedestrian link and subdivision of the site curtilage	
<b>Applicant</b>	<b>Agent</b>	
Ms Eriona Bajrakurtaj	Mr Andrew Macswayed	
9 Brookmead Avenue Bickley Bromley BR1 2JX	196 High Road Wood Green London N22 8HH	
<b>Reason for referral to committee</b>	<b>Councillor call in</b>	
	Call-In	Yes

<b>RECOMMENDATION</b>	Application Permitted
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<p><b>KEY DESIGNATIONS</b></p> <p>Biggin Hill Safeguarding Area London City Airport Safeguarding Smoke Control SCA 13 Smoke Control SCA 12</p>
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<b>Land use Details</b>		
	Use Class or Use description	Floor space (GIA SQM)
Existing	1 Dwellinghouse	172.1sqm
Proposed	2 Dwellinghouses	Existing dwelling – 162.8sqm Proposed dwelling - 113.5sqm

<b>Vehicle parking</b>	Existing number of spaces	Total proposed including spaces retained	Difference in spaces (+ or -)
Standard car spaces	2	4	+2
Disabled car spaces			
Cycle	0	Yes (No. not specified)	

<b>Representation summary</b>	Neighbour letters were sent 21.01.2020 with further letters sent on 21.07.2020 and 06.08.2020
Total number of responses	38
Number in support	0
Number of objections	38

## 1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

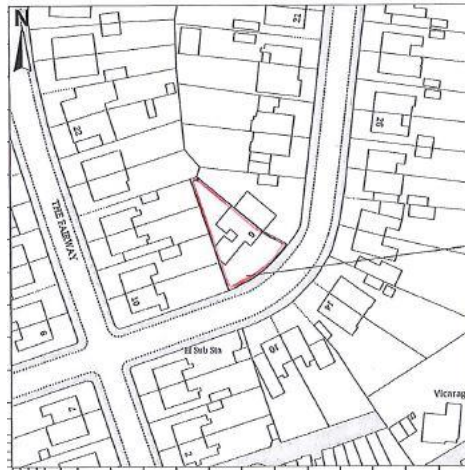
- The development would not result in a harmful impact on the character and appearance of the area
- The development would not adversely affect the amenities of neighbouring residential properties
- No unacceptable Highways impacts would arise

## 2 LOCATION

2.1 The application site forms garden land to the side of the semi-detached dwelling at No. 9 Brookmead Avenue which is situated on the north west side of Brookmead Avenue and on the corner near to the junction with The Fairway. The site abuts the

rear gardens of properties on The Fairway to the west flank. There is currently an attached garage and link porch of No. 9 on the plot.

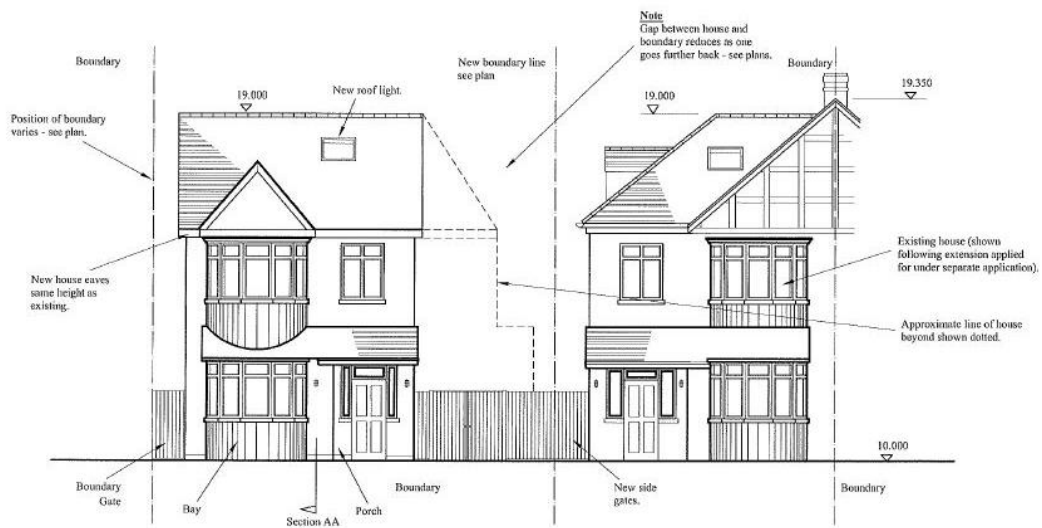
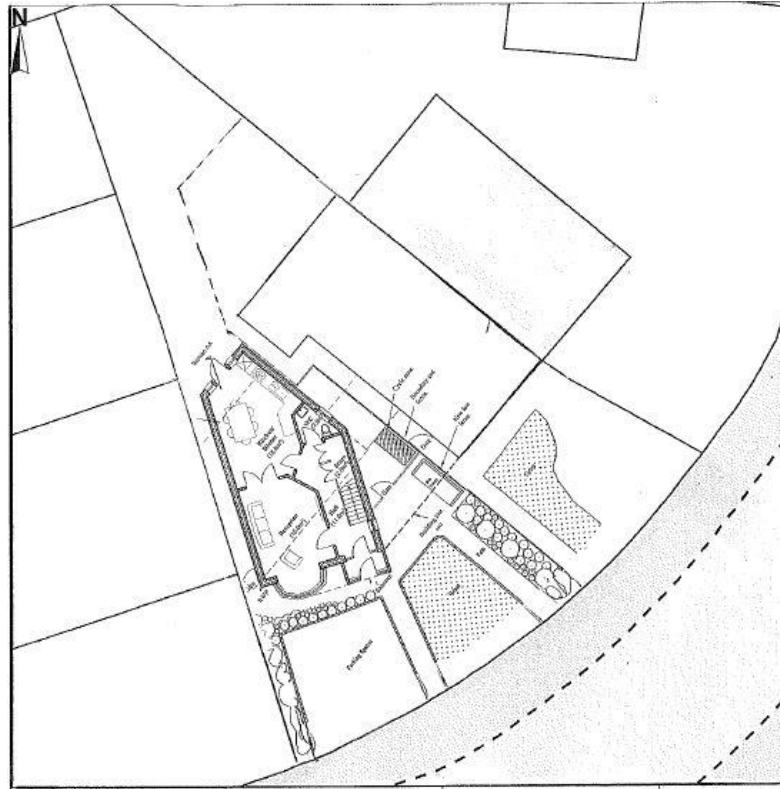
- 2.2 The area has a suburban character featuring dwellings set back from the highway on large plots with predominantly semi-detached dwellings.
- 2.3 The site is not located in a conservation area nor is the building listed.



### 3 PROPOSAL

- 3.1 Planning permission is sought for the erection of a two storey three bedroom dwellinghouse on land to the side of No. 9 Brookmead Avenue.
- 3.2 This comprises a two storey dwelling, totalling 111m<sup>2</sup> GIA. The building measures 9m in maximum height, 12m maximum depth and 6m maximum width. Two off-street parking spaces are proposed for the new dwelling and two parking spaces for the existing dwelling are also proposed. The new dwelling would utilise the existing vehicular access to the garages the dwelling would replace and a new crossover is proposed for the existing dwelling at No. 9. Garden amenity spaces are indicated for both resultant dwellings. A bin store and cycle store are also proposed.
- 3.3 Materials are indicated as part brick part render and tiled roof.
- 3.4 Additional extensions and alterations are also proposed to the existing house at No. 9 which would involve a loft conversion incorporating a pitched roof extension which would be hipped and would have a ridge height of 9m to replace the existing flat roof of the two storey side element, a side dormer with a width of 1.3m and pitched roof with a height of 1.6m and front and rear rooflights. The demolition of the side porch which links the main dwelling and garage and erection of a front porch which would have a forward projection of 1.1m, a width of 2.6m and would have a mono pitched roof with a height of 3.5m maximum. The pitched roof would span the full width of the front elevation forming a canopy. Elevational alterations are proposed including

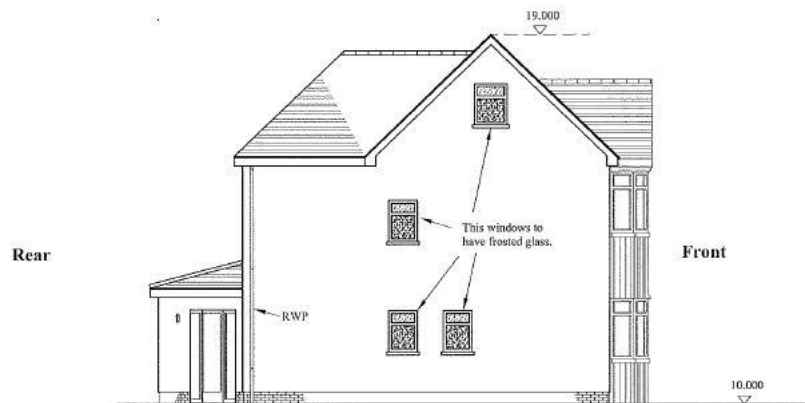
removing and infilling windows in the flank elevation and a new second floor rear window is proposed. These alterations/extensions have previously been approved under a previous permission ref. 19/04993/FULL6 and it is proposed to incorporate these into the current proposal.



**Front Elevation**



**Rear Elevation**



**Side Elevation A As Proposed**

**West side elevation facing The Fairway**

**4 RELEVANT PLANNING HISTORY**

- 4.1 87/00098/FUL - Single storey side and rear extensions first floor side extension semi-detached house – Permitted
- 4.2 19/04993/FULL6 - Loft conversion incorporating pitched roof extension, side dormer and rooflights and new front porch - Permitted

**5 CONSULTATION SUMMARY**

**A) Statutory**

Highways – No objection

- Revised plans were received 20/07/20
- Highways would be happy with that plan. The new crossover location isn't ideal on the bend, however the existing one is more of an issue so on this occasion, they would find it hard to add an objection from highways point of view.

Drainage – No objection

- No objections subject to a standard condition

### Trees – No objection

- Due to the paving over of the existing garden and the increased mass of built structures that would result if permission is to be granted, I would recommend the inclusion of a soft landscaping condition to specifically require the planting of at least one new tree of a minimum size at the front of each plot.

### **C) Adjoining Occupiers**

- **Impact on neighbouring amenity - points addressed in paragraph 7.5**
  - Impact on privacy immensely to how close it is to their border, siting and window
  - Revised plans, Still overlooks their garden
  - Are frosted windows fixed shut
  - Loss of privacy to windows and rear gardens
  - Rear windows will look directly into kitchen, daughter's bedroom and gardens
  - Loss of light an overshadowing to extent that will not get enough natural daylight
  - Have a right to light
  - Overbearing and out of scale
  - Loss of views
  - Quiet family area
  - Noise generation will increase due to more cars
- **Design, siting and scale - points addressed in paragraph 7.2**
  - House design not consistent with other properties
  - Other properties have semi-detached chalet houses with sloped roof and front doors to side
  - No properties with modern appearance or crammed into restricted space
  - Will not match a single house of this and adjoining roads
  - Spoils unique charm of this road
  - Space between existing house and planned house will appear mismatched
  - Density of the site is an overdevelopment
  - Falls under 'garden grabbing'
  - Entirely inappropriate
  - Whilst design of the house is better, the area is still not suitable for a HMO
  - Build too big for ground space
  - Not in character with the rest of the road
  - Are would be overpopulated to cram a house in
  - Garden is already very small
  - Wouldn't object to expansion of existing structure
  - The design of the front, how the house gets wider at the back disregards the character of Brookmead and adjoining roads
  - Spoils unique charm of this road



- Development is beyond building line and would set a precedent for the future
- **Highways - points addressed in paragraph 7.4**
  - Impact on parking which is already a major problem at most times of day, even though there is parking on site
  - Parking on bend is already hazardous
  - Poor lighting and visibility is bad in this road
  - Adverse to convenience of road users
  - Extra residents will generate much higher level of traffic
  - This road is a nice quiet safe road
  - Major concerns with increased traffic of lorries and vans etc
  - Their drive is used as a turning point for cars/vans/lorries resulting in my wall being knocked down twice
  - Accident stats at the council for last 4 years 10 metres each side of this proposed house will see the devastating number and this would only increase.
  - Not in interest of highways safety for house built on sharp bend
  - Pulling out of their drive opposite with builder's vans, skips etc. and more cars will lead to accidents
  - Increases parking problem
- **Security - points addressed in paragraph 7.5**
  - The low level fence and gate would allow easy access to rear of properties and fear of crime. Currently no easy access from the road
  - Security risk
  - Concerned with access path along their back garden
- **Concern for use as HMO - points addressed in paragraph 7.5**
  - Proposed bin store would hold large number of bins and therefore assume new house is planned to have multiple occupancy which supports previous objections
  - HMO potentially a risk of noise and added security concerns
- **Trees - points addressed in paragraph 7.6**
  - Would involve taking down trees at the back of the houses in the Fairway

## 6 POLICIES AND GUIDANCE

- 6.1 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.

- 6.2 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.
- 6.3 The development plan for Bromley comprises the Bromley Local Plan (Jan 2019) and the London Plan (March 2016). The NPPF does not change the legal status of the development plan.
- 6.4 The 'Intend to Publish' version of draft London Plan (December 2019) is a material consideration in the determination of this planning application. Paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.
- 6.5 The draft New London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This was version of the London Plan which the Mayor intended to publish, having considered the report and recommendations of the panel of Inspectors.
- 6.6 The London Assembly considered the draft new London Plan at a plenary meeting on 6 February 2020 and did not exercise their power to veto the plan.
- 6.7 After considering the 'Intend to Publish' Plan, on 13 March 2020 the Secretary of State for Housing, Communities and Local Government wrote to the Mayor identifying directed changes to a number of policies in the draft plan. The SoS considered these changes were necessary to address concerns regarding inconsistencies with national policy. The Mayor cannot publish the New London Plan until the directed changes have been incorporated, or until alternative changes to address identified concerns have been agreed with the SoS. This could affect the weight given to the draft plan with regard to the directed policies.
- 6.8 At this stage, the Council's up-to-date Local Plan is generally considered to have primacy over the draft London Plan in planning determinations. However, where no modifications have been directed the draft London Plan policies are capable of having significant weight (as seen in a recent SoS call-in decision in the Royal Borough of Kensington and Chelsea). Where specific draft London Plan policies have been given particular weight in the determination of this application, this is discussed in this report.
- 6.9 The application falls to be determined in accordance with the following policies:
- 6.10 **National Policy Framework 2019**
- 6.11 **NPPG**
- 6.12 **The London Plan**
- 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
- 5.21 Contaminated land
- 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
- 8.3 Community Infrastructure Levy

### 6.13 Draft London Plan

- D1 London's form and characteristics
- D4 Delivering good design
- D5 Inclusive design

### 6.14 Mayor Supplementary Guidance

The Mayor's Housing Supplementary Planning Guidance (March 2016)

### 6.15 Bromley Local Plan 2019

- 1 Housing Supply
- 3 Backland and Garden Land Development
- 4 Housing Design

8	Side Space
30	Parking
32	Road Safety
33	Access for All
34	Highway Infrastructure Provision
37	General design of development
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
118	Contaminated Land
119	Noise Pollution
120	Air Quality
122	Light Pollution
123	Sustainable Design and Construction
124	Carbon dioxide reduction, Decentralise Energy networks and Renewable Energy

## 6.16 Bromley Supplementary Guidance

DCLG Technical Housing Standards (March 2015)  
 Supplementary Planning Guidance 1 - General Design Principles  
 Supplementary Planning Guidance 2 - Residential Design Guidance

## 7 ASSESSMENT

### 7.1 Principle of development – Acceptable

7.1.1 The current position in respect of Bromley's Five Year Housing Land Supply (FYHLS) was agreed at Development Control Committee on 24<sup>th</sup> September 2020. The current position is that the FYHLS (covering the period 2020/21 to 2024/25) is 2,690 units, or 3.31 years supply. This is acknowledged as a significant undersupply and for the purposes of assessing relevant planning applications means that the presumption in favour of sustainable development will apply.

7.1.2 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.

7.1.3 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.

7.1.4 Policy 3.3 Increasing housing supply, Policy 3.4 Optimising housing potential and Policy 3.8 Housing choice in the London Plan 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.

7.1.5 Policies including 3.3 of The London Plan 2016 and Policy 1 of the Bromley Local Plan have the same objectives. The London Plan's minimum target for Bromley is to deliver 641 new homes per year until 2025. The new/intended to published London Plan's minimum target for Bromley will be increased to 774 new homes a year.

7.1.6 This application includes the provision of 1 residential dwelling and would represent a minor contribution to the supply of housing within the Borough. This will be considered in the overall planning balance set out in the conclusion of this report, having regard to the presumption in favour of sustainable development.

7.1.7 As such it can be considered that the principle of the development may be acceptable if the development is able to satisfy the criteria set out in Policy 3;

a) There is no unacceptable impact upon the character, appearance and content of an area in relation to the scale, design and density of the proposed development;

b) There is no unacceptable loss of landscaping, natural habitats, or play space or amenity space;

c) There is no unacceptable impact on the residential amenity of future or existing occupiers through loss of privacy, sunlight, daylight and disturbance from additional traffic;

d) A high standard of separation and landscaping is provided.

7.1.8 The following sections will assess these issues.

## **7.2 Design – Layout, scale height and massing – Acceptable**

- 7.2.1 The site is situated within a residential location and the Council would consider new residential development provided that it is designed to complement the character of surrounding developments, the design and layout make it suitable residential accommodation and that it provides adequate outdoor amenity space. Any adverse impact on neighbouring amenity, biodiversity or open space would also be considered.
- 7.2.2 Policy 3 of the BLP (Backland and Garden Land Development) requires, amongst other aspects, that should have no unacceptable impact upon the character, appearance and context of an area and provide a high standard of separation and landscaping. Policy 8 which requires a minimum of 1m to be provided to the side boundary of the site for the full height and length of the building, and a more generous side space where higher standards of separation already exist.
- 7.2.3 Policy 4 of the Bromley Local Plan details that all new housing developments will need to achieve a high standard of design and layout whilst enhancing the quality of local places respecting local character, spatial standards, physical context and density. To summarise the Council will expect all of the following requirements to be demonstrated: The site layout, buildings and space around buildings be designed to a high quality, recognising as well as complimenting the qualities of the surrounding areas; compliance to minimum internal space standards for dwellings; provision of sufficient external, private amenity space; provision of play space, provision of parking integrated within the overall design of the development; density that has regard to the London Plan density matrix whilst respecting local character; layout giving priority to pedestrians and cyclists over vehicles; safety and security measures included in the design and layout of buildings; be accessible and adaptable dwellings.
- 7.2.4 Policy 8 of the Local Plan details that when considering applications for new residential development, including extensions, the Council will normally require for a proposal of two or more storeys in height, a minimum 1 metre space from the side boundary of the site should be retained for the full height and length of the building or where higher standards of separation already exist within residential areas, proposals will be expected to provide a more generous side space.
- 7.2.5 Policy 37 of the Bromley Local Plan details that all development proposals, including extensions to existing buildings, will be expected to be of a high standard of design and layout. To summarise developments will be expected to meet all of the following criteria where they are relevant; be imaginative and attractive to look at, of a good architectural quality and should complement the scale, proportion, form, layout and materials of adjacent buildings and areas; positively contribute to the existing street scene and/or landscape and respect important views, heritage assets, skylines, landmarks or landscape features; create attractive settings; allow for adequate daylight and sunlight to penetrate in and between buildings; respect the amenity of occupiers of neighbouring buildings and those of future occupants; be of a sustainable design and construction; accessible to all; secure; include; suitable waste and refuse facilities and respect non designated heritage assets.

- 7.2.6 The proposed dwelling would provide a separation of between 5.1m and 0.8m to the flank boundaries. Although this technically does not comply with the minimum side space requirements under policy 8 of 1m separation, the side abuts the rear gardens of the adjoining properties on the Fairway and therefore there would continue to be a significant separation between the proposed dwellings and these neighbouring properties. As for the separation to the existing property at No. 9, the property is on an angular plot and is principally positioned parallel to the western flank boundary and therefore there is a significant separation to the front at this side which would maintain a spacious appearance in the street scene, reducing to the gap of 1.2m and then 0.9m between the existing property and the proposed dwelling. The narrowest part is sited adjacent to a single storey side extension of the existing dwelling on the site, and a 2m separation would therefore be maintained between the proposed dwelling and the two storey aspects of the existing property which would comply with the aims of Policy 8 of maintaining a gap between first floor development.
- 7.2.7 The layout of the proposed plot of the new dwelling would be relatively awkward in its layout with the dwelling having an irregular footprint and the garden comprising of a narrow area to the rear of the property, widening to a garden area to the rear of the site. Nevertheless, the overall size of the garden would comply with the London Plan standards of a minimum of 7-8sqm having regards to the possible number of occupiers and it would provide a patio area immediately to the rear of the dwelling with a garden area further back which would indicate that the site is not overdeveloped.
- 7.2.8 Therefore, it is not considered that the proposal would appear cramped in the street scene and it would not be harmfully out of character with the plot sizes and pattern of the development in the local area.
- 7.2.9 With regards to the design of the proposed dwelling itself, Policy 4 requires new developments to compliment the qualities of surrounding areas. The properties within Brookmead Avenue are fairly uniform in their appearance, with the area predominately characterised by two storey semi-detached dwellings with gable frontages incorporating cat slide roofs, albeit some of the dwellings have been extended to the side, losing some of the cat slide roof features including the existing dwelling at No.9 which has a flat roof first floor extension replacing the catslide element. The proposed dwelling would incorporate a front bay window with a gable roof which would reflect the character of the existing property and surrounding dwellings and it would have a high quality appearance with its architectural features and use of materials. The proposed dwelling would have a flank gables roof design which is not typical of the road as most properties have a front facing gable feature. However, given that the property is of a different type, being detached, and has included element which reflect the local character as stated previously in this report, it is considered that the proposed dwelling would not appear harmfully out of character with the area or impact detrimentally on the visual amenities of the streetscene.
- 7.2.10 In terms of the extension and roof and elevational alterations to the existing property, there have previously been approved under planning permission ref.

19/04993/FULL6 and therefore have already been considered acceptable in principle. It is not considered that the proposed dwelling would result in any changes which would render these extensions and alterations unacceptable.

7.2.11 In summary, it is considered that the proposed dwelling and extensions/alterations to the existing dwelling would be in-keeping with the character of the local area and would not result in a significantly harmful impact on the local spatial standards or visual amenities of the area.

### **7.3 Standard of residential accommodation - Acceptable**

7.3.1 The floor space size of the house is approximately 113.5m<sup>2</sup> (or 100.5m<sup>2</sup> excluding the floorspace in the loft which is below head-height). The nationally described space standard requires a Gross Internal Area of 99m<sup>2</sup> for a three bedroom 5 person dwelling house on three levels. On this basis the floorspace provision would meet the minimum standards and is considered acceptable.

7.3.2 The shape, room size and layout of the rooms in the proposed building is considered satisfactory. None of the rooms would have a particularly convoluted layout which would limit their use. All habitable rooms are considered to have satisfactory levels of light and outlook.

7.3.3 All units must benefit from private amenity space which must comply with the requirements set out in the SPG. A minimum of 5sqm of private outdoor space should be provided for 1-2 person dwellings and an extra 1sqm should be provided for each additional occupant. Dwellings on upper floors should all have access to a terrace, roof garden, winter garden, courtyard garden or balcony.

7.3.4 In terms of amenity space, the layout of the proposed plot of the new dwelling would be relatively awkward with the garden comprising of a narrow area to the rear of the property, widening to a garden area to the rear of the site. Nevertheless, the overall size of the garden would comply with the London Plan standards of a minimum of 8sqm having regards to the possible number of occupiers and it would provide a patio area immediately to the rear of the dwelling with a garden area further back. There is also further space to the side and front of the dwelling. The existing dwelling would retain a more regular rear amenity space in form and it would also provide a sufficient sized garden for the dwelling. Therefore, on balance the proposal would provide an adequate outdoor amenity space for the new and existing dwelling.

### **7.4 Highways – Acceptable**

#### **7.4.1 Car parking**

7.4.2 Two adequately sized parking space is provided for the dwelling within the front curtilage utilising the existing crossover for the garage with two spaces provided for the existing dwelling with a new vehicular crossover. The Council's Highways



Officer has not raised objection to the level of provision and new access. The proposed crossover to the donor property is not ideal in its location on the bend in the road however, it is in a more favourable location than the existing crossover (which serves the existing garage) as it is slightly further back from the bend therefore on balance the Highways Officers would not object to the proposed new access to the donor property subject to a condition restricting the height of any front boundary enclosures.

#### 7.4.3 Cycle parking

7.4.4 Cycle parking is required to be two spaces for the dwellings proposed. The applicant has indicated a location and structure for lockable cycle storage adjacent to the car parking space which appears to be of a reasonable size to accommodate a number of bicycles.

#### 7.4.5 Refuse

7.4.6 All new developments shall have adequate facilities for refuse and recycling. The applicant has indicated a refuse storage location and has provided details of the store which would have adequate space for the refuse and recycling bins.

### 7.5 **Neighbourhood Amenity - Acceptable**

7.5.1 Policy 37 of the Bromley Local Plan seeks to respect the amenity of occupiers of neighbouring buildings and those of future occupants, providing healthy environments and ensuring they are not harmed by noise and disturbance, inadequate daylight, sunlight, privacy or by overshadowing.

7.5.2 Policy 4 of the Bromley Local Plan also 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.

7.5.3 In terms of outlook, the fenestration arrangement will provide front, rear and flank outlook to habitable rooms generally overlooking amenity space or overlooking the street, thus maintaining a suitable level of privacy to existing neighbouring property. It is not considered the outlook from the flank windows that will face The Fairway will cause any undue loss of privacy given the windows are proposed to be obscure glazed, the level of separation and the outlook is directed towards the rearmost part of the adjoining gardens and to the streetscene. To ensure that there is no significant loss of privacy conditions are suggested to ensure the flank windows are obscure glazed and top opening only, together with directional opening on the flank and rear first and second floor windows.

7.5.4 To the west and south, the separation of the proposed dwelling would be at least 19m from the neighbouring properties which is considered sufficient to prevent a

harmful level of overshadowing or loss of light or outlook to the neighbouring dwellings.

- 7.5.5 The proposed dwelling would not project beyond the ground floor rear elevation of No. 9. At first floor, the proposal would project 2.1m beyond the first floor rear elevation of No. 9. There would be a separation of 2.2m between the proposed dwelling and existing dwelling and this neighbouring property has its first floor rear set back to the other side of the property. As such, it is not considered that a harmful loss of outlook, light or prospect would result to the rear fenestration or amenity space of this neighbouring dwelling.
- 7.5.6 There are however flank windows within the first floor of No. 9 currently which serves a bedrooms, however as part of the proposed alterations to this dwelling,(under ref: 19/04993/FULL6) the flank window would be relocated to the rear elevation therefore proposed dwelling would not result in a harmful loss of outlook and daylight to the flank windows. The front bedroom also benefits from a front facing window and it would be converted to a bathroom as part of the proposal therefore the proposal would not impact on the habitable rooms of this neighbouring property.
- 7.5.7 Objections have been raised by local residents including security concerns due to side access, parking pressure and hazards, loss of views, HMO potential, construction vehicles and loss of trees to the rear of The Fairway. The application proposes a side gates either side of the site, to access the rear garden. This is a common arrangement in a suburban setting and is not therefore considered to be of significant safety concerns out of the ordinary. The comments refer a access path however it is part of the private rear garden and not a public access, nevertheless a condition relating to boundary enclosers has been suggested to ensure that there is security for both the proposed dwelling and the properties in The Fairway . The agent has confirmed that the property is not proposed to be used as a HMO and the property does not feature a large number of bedroom (3 are proposed). The proposal involves two onsite parking space for the existing and proposed dwelling therefore it would not have a significant impact on on-street parking. The development site is not considered to be backland as it would be fronting onto Brookmead Avenue whilst is recognised the site is garden land. The proposed dwelling is set back from the boundary shared with rear gardens of The Fairway which would lessen its impact on the adjoining trees/vegetation and the Tree Officer has not raised any objections to the proposal. The Highways Officer has not raised any concerns with regards to the access for construction vehicles in this case.

## **7.6 Trees – Acceptable**

- 7.6.1 By reason of the increase built form and hardstanding on the site, the Tree Officer has recommended that a soft landscaping condition be imposed which would require the planting of a new tree of a minimum size to compensate for the development. Subject to this condition, the Tree Officer has not raised any objections to the proposal.

## 7.7 CIL

7.7.1 The Mayor of London's CIL is a material consideration. CIL is payable on this application and the applicant has completed the relevant form.

## 8. CONCLUSION

8.1 Having had regard to the above it is considered that the development in the manner proposed is acceptable in that it would not result in a significant loss of amenity to local residents nor impact detrimentally on the character of the area or on highways safety and on street parking and the proposed dwelling would provide a minor contribution to the Council's 5 year housing supply.

8.2 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:** Application Permitted

As amended by documents received on 20/07/20

**Subject to the following conditions:**

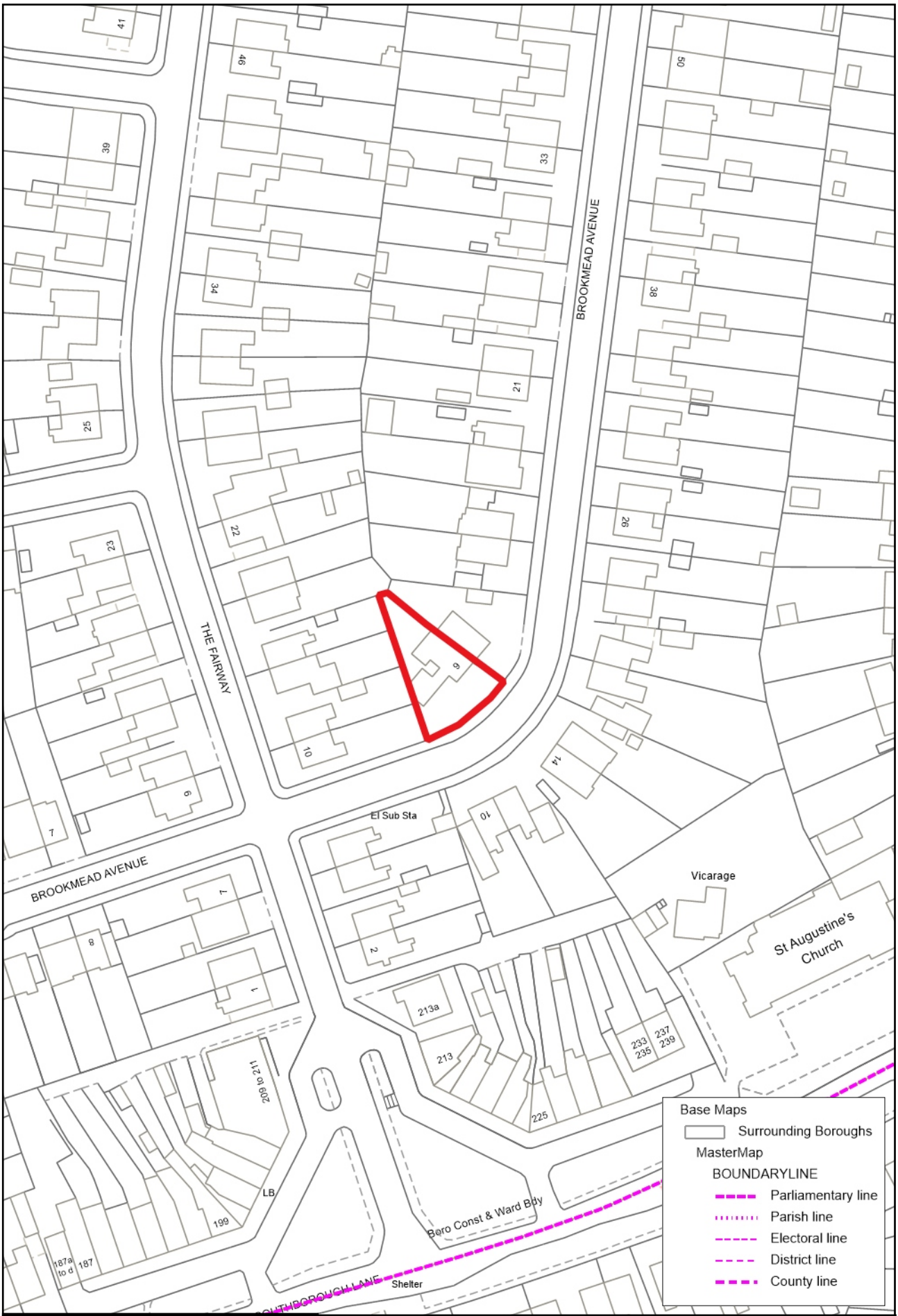
1. **Standard time limit**
2. **Standard compliance with plans**
3. **Scheme for surface water drainage**
4. **Slab levels required**
5. **Details of boundary treatments**
6. **Landscaping**
7. **Car parking details to be implemented**
8. **Obscure glazing fixed shut windows first and second storey flank elevations**
9. **Directional opening for flank and rear first and second floor windows**
10. **Materials in accordance with plans**
11. **No boundary treatment on front or first 2.5m exceed 1m in height**
12. **Remove PD rights A and B**

**Any other planning condition(s) considered necessary by the Assistant Director of Planning**

**Informatives:**

1. **Crossover**

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Ordnance Survey 100017661.



9 Brookmead Avenue-  
19/05362/FULL1



06 October 2020

1:1250



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# Agenda Item 4.4

<b>Committee Date</b>	15.10.2020		
<b>Address</b>	94A Wickham Road Beckenham BR3 6QH		
<b>Application Number</b>	20/02339/FULL1	<b>Officer</b> - Louisa Bruce	
<b>Ward</b>	Kelsey And Eden Park		
<b>Proposal</b>	Sub-division of the existing duplex apartment into 2 x two bedroom flats and the construction of a rear, second floor dormer extension.		
<b>Applicant</b>	<b>Agent</b>		
P. Patel	Andrew Pegley RIBA		
94A Wickham Road Beckenham BR3 6QH	78 York Street Westminster London W1H 1DP		
<b>Reason for referral to committee</b>	Call-In	<b>Councillor call in</b> Yes	

<b>RECOMMENDATION</b>	Application Permitted
-----------------------	-----------------------

<p>KEY DESIGNATIONS</p> <p>Biggin Hill Safeguarding Area London City Airport Safeguarding Smoke Control SCA 18</p>
----------------------------------------------------------------------------------------------------------------------------

Land use Details		
	Use Class or Use description	Floor space (GIA SQM)
	C3	First and second floors

Existing		124sqm
Proposed		158sqm

**Residential Use – See Affordable housing section for full breakdown including habitable rooms**

	Number of bedrooms per unit				
	1	2	3	4 Plus	Total / Payment in lieu
Market		2			
Affordable (shared ownership)					
Affordable (social rent)					
Total					

Vehicle parking	Existing number of spaces	Total including retained	proposed spaces	Difference in spaces (+ or -)
Standard car spaces	0	2		
Disabled car spaces				
Cycle				

<b>Electric car charging points</b>	0
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<b>Representation summary</b>	Neighbours were consulted on 21 <sup>st</sup> July 2020	
Total number of responses	0	
Number in support	0	
Number of objections	0	



## 1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The development would not result in a harmful impact on the character and appearance of the area
- The development would not adversely affect the amenities of neighbouring residential properties

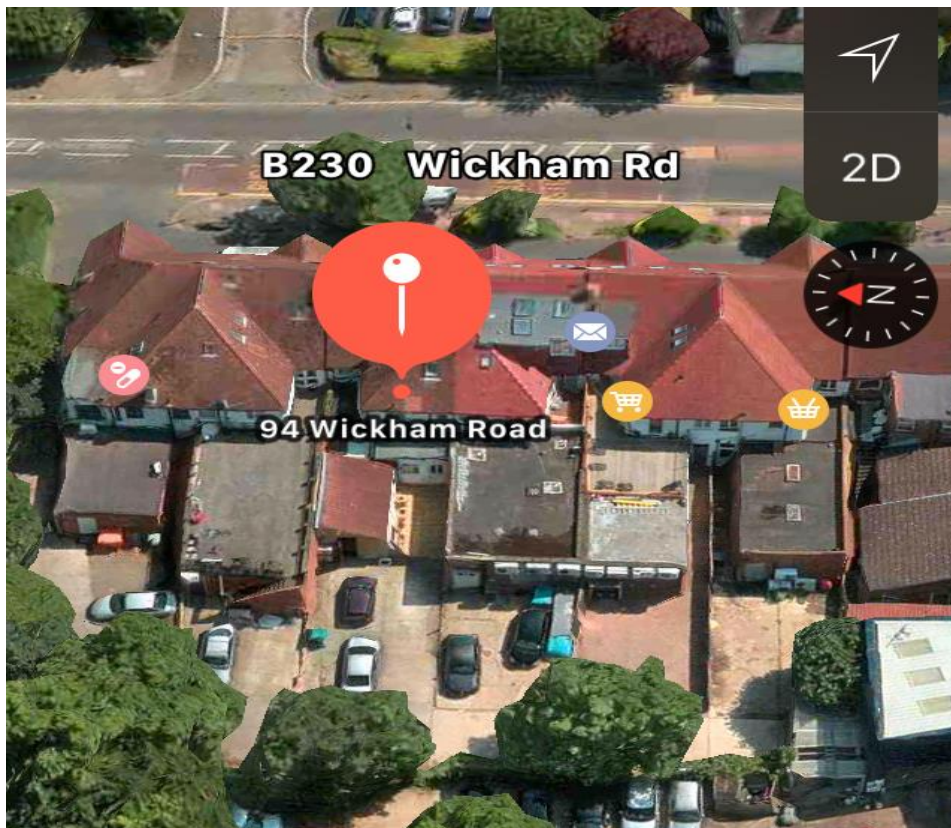
## 2 LOCATION

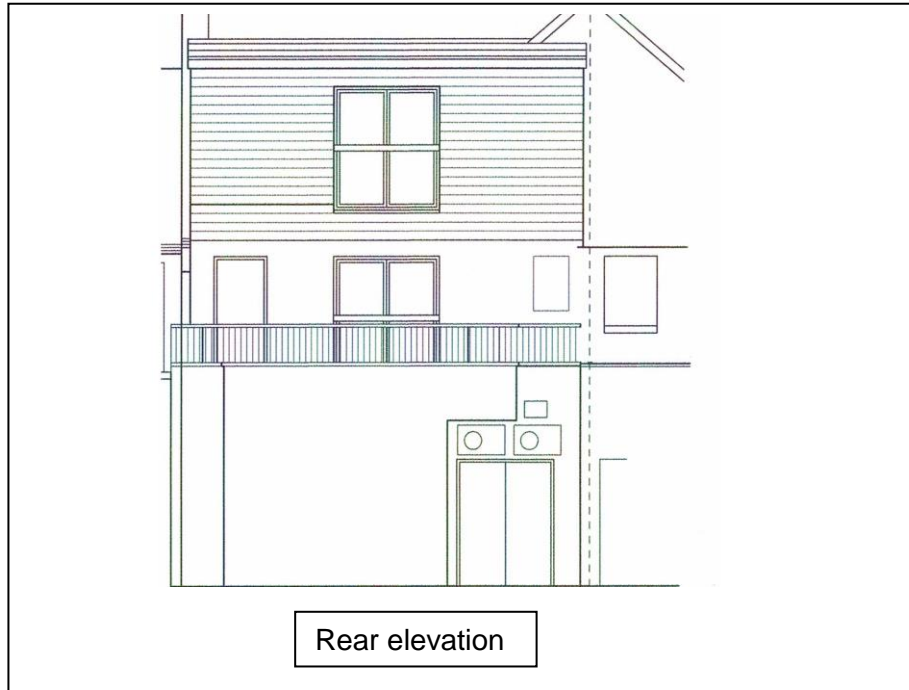
2.1 No.94 Wickham Road operates as a delicatessen and coffee house (Parc Françaises) on the ground floor with separate living accommodation above. The premises lie in the middle of a local parade of nine similar two storey premises close to the busy roundabout where Wickham Road meets Stone Park Avenue, South Eden Park Rd, Wickham Way and Hayes Lane. The parade is set back from Wickham Road behind a service road used for parking. There is an unmade track at the side/rear giving access to the back of the shops and in some instances to the residential accommodation above them. There is a bus stop in front of No.94/96 with a service to Beckenham.



### 3 PROPOSAL

- 3.1 Planning permission is sought to sub-divide the existing 1 x 2 bedroom duplex apartment into 2 x 2 bedroom flats and the construction of a first floor rear and second floor dormer extension. Two off-street parking spaces are shown to the rear.
- 3.2 The existing commercial premises on the ground floor operates as a French delicatessen and coffee house. A small rear extension and concrete yard provide parking at the back. Access to the first floor flat is also from the rear. Planning permission was granted on 2<sup>nd</sup> June 2020 for the demolition of existing store building (at rear) and erection of a single storey rear extension to form preparation area and corridor. Formation of a rear courtyard area with outdoor seating. New stairs to rear elevation to allow roof access to first floor flat through new door opening and railings. Shopfront alterations to include new awning and bi-folding windows. Two car parking spaces and cycle spaces to rear.





#### **4 RELEVANT PLANNING HISTORY**

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

4.2 Under ref: 20/00732/FULL1 planning permission was granted for demolition of existing store building (at rear) and erection of a single storey rear extension to form preparation area and corridor. Formation of a rear courtyard area with outdoor seating. New stairs to rear elevation to allow roof access to first floor flat through new door opening and railings. Shopfront alterations to include new awning and bi-folding windows. Two car parking spaces and cycle spaces to rear.

4.3 Under ref. 03/01623/FULL1 planning permission was granted for continued use of ground floor as retail shop/food and drink premises without complying with conditions 01, 02 and 03 of permission 96/0396 to permit opening 8 a.m. - 7 p.m. every day, use of microwave and bread oven for cooking/heating of food and to increase number of tables from 5 to 13.

4.4 Under ref. 96/00396/FUL planning permission was granted for continued use of ground floor as retail shop/food and drink premises Class A1 and A3 (Retrospective Application).

4.5 Under ref: 95/00077/FUL planning permission was refused for change of use of ground floor from retail shop Class A1 to Pizza Delivery Class A3.

#### **96 Wickham Road, Beckenham**

4.6 Also of relevance are the following two planning applications, at the next door property. Under ref: 19/00963/FULL1 planning permission was granted on 21<sup>st</sup> April 2020 for a Change of Use from Retail (Use Class A1) to Retail/Café/Restaurant (Use Class A1/A3). Under ref: 20/01550/FULL1 planning permission was granted for the construction of a new rear canopy.

## **5 CONSULTATION SUMMARY**

### **A) Statutory**

#### **Highways – No objection**

The development will provide two off street parking spaces; furthermore, there free parking spaces available in the surrounding roads. Therefore, on balance I raise no objection.

If minded to approve; please include the following with any permission:

CONDITION

AG12 (Cycle parking)

PC17 (Construction Management Plan)

#### **Drainage**

No response at the time of writing.

## Thames Water

No response received at the time of writing.

## Environmental Health (Pollution)

Raised possible concerns about noise impact of any extraction unit but following the additional information from the agent I would just add the following condition:

*At any time the combined plant noise rating level shall not exceed the measured typical background L90 level at any noise sensitive location. For the purposes of this condition the rating and background levels shall be calculated fully in accordance with the methodology BS4142:2014. Furthermore, at any time the measured or calculated absolute plant noise level shall not exceed 10dB below the typical background noise level (LA90 15 minute) in this location. All constituent parts of the new plant shall be maintained and replaced in whole or in part as often is required to ensure compliance with the noise levels.*

### **B) Local Groups**

None

### **C) Adjoining Occupiers**

No letters of representation from neighbours have been received.

## **6 POLICIES AND GUIDANCE**

6.1 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.

- 6.2 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.
- 6.3 The National Planning Policy Framework was published on 24 July 2018 and updated on 19 February 2019.
- 6.4 The development plan for Bromley comprises the Bromley Local Plan (Jan 2019) and the London Plan (March 2016) and Draft London Plan (2019). The NPPF does not change the legal status of the development plan.

#### Draft New London Plan

- 6.5 The 'Intend to Publish' version of draft London Plan (December 2019) is a material consideration in the determination of this planning application. Paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.
- 6.6 The draft New London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This was version of the London Plan which the Mayor intended to publish, having considered the report and recommendations of the panel of Inspectors.
- 6.7 The London Assembly considered the draft new London Plan at a plenary meeting on 6 February 2020 and did not exercise their power to veto the plan.
- 6.8 After considering the 'Intend to Publish' Plan, on 13 March 2020 the Secretary of State for Housing, Communities and Local Government wrote to the Mayor identifying directed changes to a number of policies in the draft plan. The SoS considered these changes were necessary to address concerns regarding inconsistencies with national policy. The Mayor cannot publish the New London Plan until the directed changes have been incorporated, or until alternative changes to address identified

concerns have been agreed with the SoS. This could affect the weight given to the draft plan with regard to the directed policies.

6.9 At this stage, the Council's up-to-date Local Plan is generally considered to have primacy over the draft London Plan in planning determinations. However, where no modifications have been directed the draft London Plan policies are capable of having significant weight (as seen in a recent SoS call-in decision in the Royal Borough of Kensington and Chelsea). Where specific draft London Plan policies have been given particular weight in the determination of this application, this is discussed in this report.

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

Policy D4 Delivering good design

6.11 The London Plan

6.13 Parking  
7.4 Local character  
7.5 Public realm  
7.6 Architecture

6.12 Draft London Plan

D1 London's form and characteristics  
D4 Delivering good design  
D5 Inclusive design

6.13 Bromley Local Plan 2019

Policy 6 Residential Extensions  
Policy 30 Parking  
Policy 37 General Design of Development  
Policy 101 Shopfronts and Security Shutters  
Policy 119 Noise Pollution  
Policy 121 Ventilation and Odour Control  
Policy 123 Sustainable Design and Construction

6.14 Bromley Supplementary Guidance

## **7 ASSESSMENT**

### **7.1 Design – Layout, scale – Acceptable**

- 7.1.1 The main change will be to the rear of the property will be the demolition of the existing store and construction of a single storey ground floor rear extension which will incorporate an outdoor courtyard area, corridor and preparation area. The rear extension measures 12.5m in depth x 7m in width x 3.8m in height. This development was approved under the previous planning application ref: 20/00732/FULL1.
- 7.1.2 The other main changes are to the first floor. An infill extension is proposed to be built to accommodate a hallway which will measure 3.5m in depth x 5.9m in height. The final change will be to the second floor to accommodate a rear dormer and accommodate the second floor flat. The rear dormer will measure 7.2m in depth x 6.6m in width x 3.1m in height.
- 7.1.3 When considering the proposal in the context of the rear of the parade as a whole it is not considered that the additional bulk, scale and mass that will be added to No.94 would be particularly significant. An aerial photograph as shown above shows that various extension and rear dormer extensions already exist and therefore what is being proposed would not look out of keeping.
- 7.1.4 The current position in respect of Bromley's Five Year Housing Land Supply (FYHLS) was agreed at Development Control Committee on 24<sup>th</sup> September 2020. The current position is that the FYHLS (covering the period 2020/21 to 2024/25) is 2,690 units, or 3.31 years supply. This is acknowledged as a significant undersupply and for the purposes of assessing relevant planning applications means that the presumption in favour of sustainable development will apply.
- 7.1.5 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.

7.1.6 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.

7.1.7 Policy 3.3 Increasing housing supply, Policy 3.4 Optimising housing potential and Policy 3.8 Housing choice in the London Plan 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.

7.1.8 Policies including 3.3 of The London Plan 2016 and Policy 1 of the Bromley Local Plan have the same objectives. The London Plan's minimum target for Bromley is to deliver 641 new homes per year until 2025. The new/intended to published London Plan's minimum target for Bromley will be increased to 774 new homes a year.

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

## 7.2 Residential amenity – Acceptable

7.2.1 Based on the floorplan submitted the layout of each of the flats appears broadly acceptable. The London Plan requires that the gross internal area (GIA) of a two bedroom 3 person flat is required to be a minimum size of 61sqm.

Flat 1 – Two bedroom flat - (First floor): 73sqm

Flat 2 - Two bedroom flat - (Second floor): 63sqm

7.2.2 Based on the floorspace figures above the flats would meet the required London Plan floorspace requirements.

7.2.3 Neither flat is any afforded any amenity space, however, the existing flat has no amenity space. The property backs onto Kelsey Park which provides outdoor amenity space for any potential occupiers. This replacement provision has been considered acceptable by Planning Inspectors when considering similar applications.

7.2.4 The Environmental Health Officer has raised several questions about ventilation which the agent has provided additional information to the Council. The existing café has a low speed extraction vent in the rear section of the ground floor which operates to vent the cafes ovens. The agent has stated that the vent does not present a noise issue for the current occupants of the flat and that it would be positioned 7m away from the proposed second floor extension. If permitted the new extraction systems would be positioned 13m away from the rear, upper elevation, facing away from the property and screened by the new building. The Environmental Health Officer has found the additional information submitted by the agent to be acceptable.

## 7.3 Neighbouring Amenity – Acceptable

7.3.1 No.94 currently operates as a café/delicatessen on the ground floor with residential accommodation above set over the first and second floors. The proposed drawings show the existing 1 x 2 bedroom duplex apartment with be sub-divided into 2 x 2 bedroom flats and the construction of a rear first floor and second floor dormer extension.

7.3.2 The proposed extensions to the rear will primarily affect No.96 and No.92 Wickham Road. The proposed drawings show the extension will infill the first floor and much of the roof. The first floor infill extension and dormer extension will be built long the shared boundary with No.92 and will to some extent tunnel the rear window of No.92, however, a search of the Council's records do not show a separate flat above and no letters of representation have been received. Whilst the first floor measures 3.5m in depth and the rear dormer 7.2m in depth the extension on balance is considered acceptable from a neighbouring amenity perspective.

7.3.3 The proposed drawings show the new entrance to the flats will be via a rear staircase at the rear of the property. This change is not considered to disturb other neighbouring properties many of whom have their own entrances from the rear. The extension is also not considered to impact the other neighbour at No.96 which operates as a café and has an existing outdoor seating area.

7.3.4 The proposed Juliet balconies to the first and second floors will overlook the rear access area and therefore they are not considered to cause a loss of privacy or overlooking.

#### 7.4 Highways – Acceptable

7.4.1 The Highways Officer raises no objection to the development. Two car parking spaces are provided at the rear which the Highways Officer is considered acceptable to serve the commercial and residential uses.

7.4.2 Therefore, it is considered that the proposal would not impact detrimentally upon parking or highway safety.

## **8 CONCLUSION**

8.1 Having regard to the above, the development in the manner proposed is acceptable in that it would preserve the character and appearance of the area and not harm the amenities of neighbouring residential properties.

8.2 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:** Application Permitted

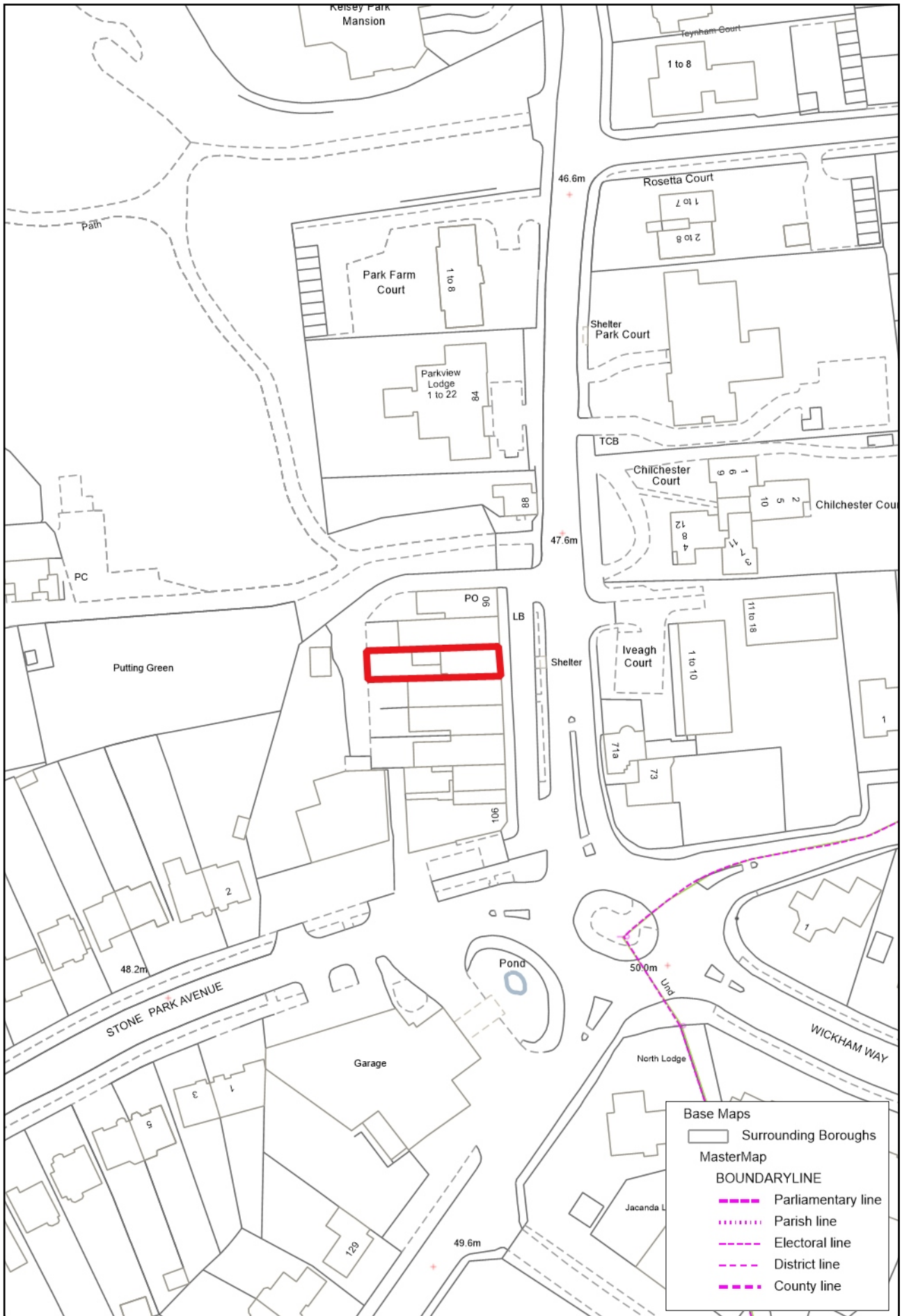
**Subject to the following conditions:**

- 1. Standard time limit of 3 years**
- 2. Standard compliance with approved plans**
- 3. Materials as set out on application drawings**
- 4. Bicycle Parking**
- 5. Construction Management Plan**
- 6. Refuse and recycling**

**Informatives**

- 1. CIL**
- 2. Street naming and numbering**

**Any other planning condition(s) considered necessary by the Assistant Director of Planning**



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Ordnance Survey 100017661.

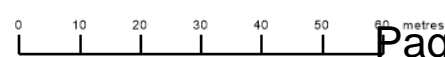


6 Queens Road- 20/01037/FULL6



06 October 2020

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# Agenda Item 4.5

<b>Committee Date</b>	15.10.2020	
<b>Address</b>	Ellesmere Lodge 34 Sundridge Avenue Bromley BR1 2QD	
<b>Application Number</b>	20/00495/FULL1	<b>Officer</b> - Suzanne Lyon
<b>Ward</b>	Bickley	
<b>Proposal</b>	Demolition of existing house and erection of part two/part three/part four storey building comprising 5 x two bedroom and 2 x one bedroom flats with 7 parking spaces, cycle storage and refuse storage.	
<b>Applicant</b>	<b>Agent</b>	
Mr & Mrs N & S Pullen	Mr John Escott	
Ellesmere Lodge 34 Sundridge Avenue Bromley BR1 2QD	Downe House 303 High Street Orpington BR6 0NN	
<b>Reason for referral to committee</b>	Call-In	<b>Councillor call in</b>  Yes

<b>RECOMMENDATION</b>	Application Permitted
-----------------------	-----------------------

<b>KEY DESIGNATIONS</b>
<b>Biggin Hill Safeguarding Area</b>
<b>London City Airport Safeguarding</b>
<b>Open Space Deficiency</b>
<b>Smoke Control SCA 10</b>

<b>Vehicle parking</b>	Existing number of spaces	Total proposed including spaces retained	Difference in spaces (+ or -)
Standard car spaces	3	7	+4
Disabled car spaces	0	0	0
Cycle	0	Yes (No. not specified)	

<b>Representation summary</b>	Neighbour letters were sent 18.02.20 and again on 03.08.20
Total number of responses	54
Number in support	0
Number of objections	22

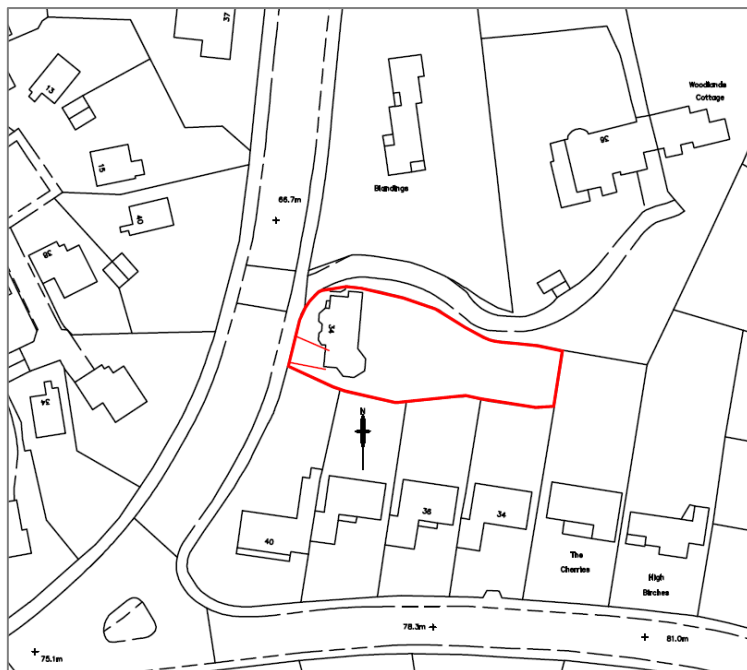
## 1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The development would not result in a harmful impact on the character and appearance of the area
- The development would not adversely affect the amenities of neighbouring residential properties
- No unacceptable Highways impacts would arise

## 2 LOCATION

2.1 The existing property is a single storey dwelling with accommodation within the roofspace. The property is sited within a large plot which runs alongside the rear boundaries of 40-34 Mavelstone Road and the access road with 36 Sundridge Avenue and Woodlands Cottage. The application site varies in land level, with the rear garden set at a significant distance higher than the front of the site. The land levels also differ from south to north, with the properties in Mavelstone Road set at a higher ground level, and the properties to the south set lower than the application site.

2.2 This part of Sundridge Avenue is a Local Distributor Road.





### **3 PROPOSAL**

- 3.1 Planning permission is sought for the demolition of existing detached and the construction of a three storey building comprising 5 x two bedroom and 2 x one bedroom flat. The proposed building would have 7 car parking spaces on the lower ground floor level, and three flats on the upper ground and first floors, and one flat on the second floor. The proposed building is traditional in design, with a pitched roof. A refuse and cycle store will be provided within the ground floor level. The proposed building will have a maximum height of 11.6m when measured from the front elevational drawing, a width of 15.35m and a length of 18.11m.
- 3.2 The application is submitted accompanied by a Planning Design and Access Statement, an Arboricultural Report, and swept path analysis

### **4 RELEVANT PLANNING HISTORY**

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

4.2 10/01859/FULL6 - Single storey side extension - Permitted 17.08.2010

4.3 15/03482/FULL1 - Demolition of existing dwelling and construction of four storey building comprising 8 flats (6 x two bedroom and 2 x one bedroom) - Refused 06.11.2015

The refusal grounds were as follows:

- The proposal, by reason of its scale, height and design, would result in a cramped overdevelopment of the site and an incongruous addition to the streetscene which would be significantly harmful to the character and visual amenities of the local area, thereby contrary to Policies BE1, H7 and H9 of the Unitary Development Plan, Policy 3.5 of the London Plan and the NPPF (2012)
- The proposed building, given its height and proposed flank windows, would have a seriously detrimental impact on the amenities of adjoining residents by reason of privacy and outlook, thereby contrary to Policy BE1 of the Unitary Development Plan.

4.4 16/04790/FULL1 - Demolition of existing dwelling and erection of a four storey building comprising of 6 two bedroom flats with undercroft car parking - Refused 10.01.2017

The refusal grounds were as follows:

1. The proposal, by reason of its scale, height and design, would result in a cramped overdevelopment of the site and an incongruous addition to the streetscene which would be significantly harmful to the character and visual amenities of the local area, thereby contrary to Policies BE1, H7 and H9 of the Unitary Development Plan, Policy 3.5 of the London Plan and the NPPF (2012).
2. The proposal fails to provide an adequate private outdoor amenity area for future occupants, thereby lacking adequate facilities commensurate

with modern living standards and providing an unsatisfactory quality of residential accommodation, detrimental to the living conditions and amenity of future occupants of the proposed flat, and contrary to Policy BE1 of the Unitary Development Plan, Policy 3.5 of The London Plan, the DCLG Technical Space Standards and the Mayor's Housing Supplementary Planning Guidance (2016).

3. In the absence of information to demonstrate otherwise, the proposal would lead to an intensification of the use of a potentially inadequate vehicle access and would therefore result in a potentially detrimental impact on highway safety and the free flow of traffic, contrary to Policies T3 and T18 of the Unitary Development Plan.

- 4.5 17/04792/FULL1 - Demolition of existing house and erection of part two/part three storey building comprising 4 two bedroom and 2 one bedroom flats with 6 parking spaces, cycle storage and refuse store. – Refused 04.12.2017.

The refusal grounds were as follows:

1. The proposal fails to provide an adequate private outdoor amenity area for future occupants, thereby lacking adequate facilities commensurate with modern living standards and providing an unsatisfactory quality of residential accommodation, detrimental to the living conditions and amenity of future occupants of the proposed flat, and contrary to Policy BE1 of the Unitary Development Plan, Policy 37 of the Draft Local Plan, Policy 3.5 of The London Plan and the Mayor's Housing Supplementary Planning Guidance (2012).
2. In the absence of information to demonstrate otherwise, the proposal would lead to an intensification of the use of a potentially inadequate vehicle access and would therefore result in a potentially detrimental impact on highway safety and the free flow of traffic, contrary to Policies T3 and T18 of the Unitary Development Plan and Policies 30 and 32 of the Draft Local Plan.

A subsequent Appeal was submitted and Dismissed (APP/G5180/W/18/3196231)

- 4.6 18/01062/FULL1 - Demolition of existing house and erection of part two/part three storey building comprising 4 two bedroom and 2 one bedroom flats with 6 parking spaces, cycle storage and refuse store. REF 15.06.2018

The refusal grounds were as follows:

1. In the absence of information to demonstrate otherwise, the proposal would lead to an intensification of the use of a currently inadequate vehicle access resulting in a potentially detrimental impact on highway safety and the free flow of traffic, contrary to Policies T3 and T18 of the Unitary Development Plan and Policies 30 and 32 of the Draft Local Plan.

A subsequent Appeal was submitted and Allowed (APP/G5180/W/18/3213264)

## **5 CONSULTATION SUMMARY**

### **A) Statutory**

Highways – No objection

- Revised plans were received 30/07/20
- Sundridge Avenue East of Orchard Road is a classified road / Local Distributor.
- According to Transport for London's (TfL) Planning Information Database the site has a PTAL rating of 2 which is poor (on a scale of 0 – 6b, where 6 is the most accessible).
- The proposed development would comprise the demolition of the existing house and erection of part two/part three/part four storey building comprising 5 x two bedroom and 2 x one bedroom flats:
- The previous application 18/01062 was allowed on appeal

#### Drainage – No objection

- The applicant is required to maximise the use of SUDS to attenuate for surface water run-off. Please impose PC06.

#### Trees – No objection

- The application site is free from tree protection legislation. The application is supported with an Arboricultural Report. Tree constraints have been identified and addressed within the report. An outline of a method statement has been outlined within the report. A detailed method statement has been indicated as being necessary.
- I am satisfied that the impact upon existing trees has been addressed and limited. The precautionary measures referred to in the Arboricultural Report will need to be conditioned. I note that most of the issues have already been dealt with in respect of trees. The focus for the condition must therefore be in respect of supervision schedules and a detailed method statement.
- Landscaping is a generic condition that would be an expectation for a development of this scale.

### **B) Adjoining Occupiers (summary)**

- Design and scale - **points addressed in paragraph 7.2**
  - Misrepresentation of the actual height relative to neighbouring homes in the Design, Access and Planning Statement of 21 January 2020
  - Cramped over development of the site that would harm the visual amenity and character of the local area
  - Out of keeping
  - The proposed building is a full storey taller in appearance than its nearest neighbour
  - With the 5 extra persons the amenity provisions have been reduced
  - The increase in height of the roof is nearer the height of previous applications which were refused for the reasons of scale and height.
  - Detrimental impact on street scene and landscape
  - Excessive bulk, particularly at roof level and would introduce a large expanse of flat roof.

- If approved, could then apply to convert the 3 bedroom flat into two flats, achieving the original proposal of eight flats.
- The balconies cause overshadowing to apartments on the lower floor
- Submitted plans do not demonstrate standard furniture layouts and turning circles for wheelchair users and therefore fail to demonstrate how Part M is met.
- There are restrictive covenants on this land
- **Highways - points addressed in paragraph 7.5**
  - Poor sight lines
  - Concern regarding pedestrian safety
  - Insufficient parking and probable overflow onto a dangerous blind bend
  - One parking spot per flat is not enough to accommodate the volume of residents.
  - 7 cars can fit into the subterranean parking - but significant manoeuvring is required
  - There will be an overflow of both residents' second vehicles (a likely assumption for residents of 2- and 3- bedroom flats in this residential-only area),
  - The appeal decision given in APP/G5180/W18/3196231 paragraph 11. States "access would be 4.8 metres wide sufficient width for two cars to pass", however plan drawing SA-785-7FL-PD-02 indicates that the access is less than 4metres wide
  - The 'Lower Ground Floor Plan Upper Ground Floor Plan' numbered SA-785-7FL-PD-02 does not show any car parking spaces capable of accommodating a disabled car parking space or capacity for electric charging points
  - Fails to demonstrate how many cycle racks will be provided
  - Refuse facilities remains cramped and unsuitable for 7 apartments
- **Impact on neighbouring amenity - points addressed in paragraph 7.4**
  - Impact on the privacy of the neighbouring houses to the East to 36 Sundridge Ave and North to Blandings.
  - Loss of privacy and outlook, exacerbated by the addition of balconies
- **Impact on trees - points addressed in paragraph 7.6**
  - The Arboricultural Report and Tree Survey were completed on 10<sup>th</sup> July 2015 and is now almost 5 years old

Revised plans were received 30/07/20 and neighbours were re-notified.

- **Design - points addressed in paragraph 7.2**
  - The revised plans do not address the concerns.
  - Flat 7 consists 2 double bedrooms and a study. May be converted at a later date.
  - Out of character and higher than any other building in the road
  - Will create a precedent
  - Overdevelopment
- **Highways - points addressed in paragraph 7.5**
  - Lack of parking
  - Poor sightlines
  - Swept path analysis does not show all bays.
  - Impact on highway and pedestrian safety
- **Neighbouring amenity- points addressed in paragraph 7.4**

- Loss of privacy
- Loss of outlook
- Screening trees are deciduous therefore do not provide acceptable screening year round

Please note the above is a summary of the material planning considerations and the full text is available on the council's website.

## **5 POLICIES AND GUIDANCE**

- 5.1 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.
- 5.2 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.
- 5.3 The development plan for Bromley comprises the Bromley Local Plan (Jan 2019) and the London Plan (March 2016). The NPPF does not change the legal status of the development plan.
- 5.4 The 'Intend to Publish' version of draft London Plan (December 2019) is a material consideration in the determination of this planning application. Paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.
- 5.5 The draft New London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This was version of the London Plan which the Mayor intended to publish, having considered the report and recommendations of the panel of Inspectors.
- 5.6 The London Assembly considered the draft new London Plan at a plenary meeting on 6 February 2020 and did not exercise their power to veto the plan.
- 5.7 After considering the 'Intend to Publish' Plan, on 13 March 2020 the Secretary of State for Housing, Communities and Local Government wrote to the Mayor identifying directed changes to a number of policies in the draft plan. The SoS considered these changes were necessary to address concerns regarding inconsistencies with national policy. The Mayor cannot publish the New London

Plan until the directed changes have been incorporated, or until alternative changes to address identified concerns have been agreed with the SoS. This could affect the weight given to the draft plan with regard to the directed policies.

5.8 At this stage, the Council's up-to-date Local Plan is generally considered to have primacy over the draft London Plan in planning determinations. However, where no modifications have been directed the draft London Plan policies are capable of having significant weight (as seen in a recent SoS call-in decision in the Royal Borough of Kensington and Chelsea). Where specific draft London Plan policies have been given particular weight in the determination of this application, this is discussed in this report.

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

#### 5.10 **The London Plan**

- 3.3 Increasing Housing Supply.
- 3.4 Optimising Housing Potential
- 3.5 Quality and Design of Housing Developments
- 3.8 Housing Choice
- 5.1 Climate Change Mitigation
- 5.2 Minimising Carbon Dioxide Emissions
- 5.3 Sustainable Design and Construction
- 5.7 Renewable Energy
- 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
- 6.9 Cycling
- 6.13 Parking
- 7.2 An Inclusive Environment
- 7.3 Designing Out Crime
- 7.4 Local Character
- 7.6 Architecture
- 7.8 Heritage Assets and Archaeology
- 8.3 Community Infrastructure Levy

#### 5.11 **Draft London Plan**

- D1 London's form and characteristics
- D4 Delivering good design
- D5 Inclusive design

#### 5.12 **Bromley Local Plan 2019**

- 1 Housing Supply
- 4 Housing Design

8	Side Space
30	Parking
32	Road Safety
33	Access For All
37	General Design of Development
73	Development and Trees

### 5.13 Bromley Supplementary Guidance

The Mayor's Housing Supplementary Planning Guidance (March 2016)  
 DCLG Technical Housing Standards (March 2015)  
 Supplementary Planning Guidance 1 - General Design Principles  
 Supplementary Planning Guidance 2 - Residential Design Guidance

## 6 ASSESSMENT

### 6.1 Resubmission

6.1.1 The site has been subject to previous applications for the redevelopment of the site. The most recent application (18/01062/FULL1) was for the demolition of the existing property and the erection of a block comprising of 6 flats. The application was allowed on appeal under reference APP/G5180/W/18/3213264.

6.1.2 The current application has been amended to create 1 additional two bedroom flat within the roof space. In order to accommodate an additional unit, the height of the building has increased and an additional car parking space has been provided.

### 7.2 Principle - Acceptable

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 Dylan 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'.

7.2.2 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.

7.2.3 This application includes the provision of 7 dwelling units, 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.

## 6.2 Design and Impact on Local Character – Acceptable

6.2.1 The site is within a suburban setting with a low PTAL of 1b. The London Plan gives an indicative density range of 50 - 75 units/hectare and 150 - 200 habitable rooms per hectare as appropriate for this type of site, provided the site is well designed, providing a high quality living environment for future occupiers whilst respecting the spatial characteristics of the surrounding area. The Council's Supplementary Planning Guidance documents (No. 1 - General Design and No. 2 - Residential Design Guidance) have similar design objectives to these policies and the NPPF. The proposed density of the development would equate to 70 units per hectare and 190 habitable rooms per hectare which falls within the recommended density ranges in both the London Plan and BLP.

6.2.2 Following the previous application which was allowed on appeal, the current proposal alters the design of the building by increasing the height by 0.8m and incorporating side and rear dormers to create an additional unit within the roof space. It is noted that previous proposals have been refused due to scale and height, however the current proposal is still 1-2m lower than these previous schemes. The increase in height is modest therefore it is not considered to significantly impact on the character and appearance of the area, over and above that previously allowed on appeal (APP/G5180/W/18/3213264).

## 6.3 Standard of Accommodation – Acceptable

6.3.1 The London Plan paragraph 3.5, details outlined in Table 3.3 and the Mayor's Housing Supplementary Planning Guidance outline the minimum requirements for new dwellings. The Mayor's Housing SPG requires a minimum internal area for a 1 bedroom 2 person (flat) of 50 sqm and a minimum 2 bedroom 3 person (flat) of 61 sqm

6.3.2 The floor plans indicate that each flat would meet this minimum requirement. The proposed bedrooms would all meet the minimum 11.5 sqm required for double bedrooms and the single bedrooms would meet the minimum 7.5 sqm requirement. All double and single bedrooms would also meet the minimum



respective width requirements. The additional 2 bedroom flat proposed within the loft space would have an internal floor area of 142sqm (110sqm with a minimum of 2.3m ceiling height) which would significantly exceed the minimum floor space required for a two bedroom flat. The floor plan includes study and there are concerns that this may be converted into a bedroom. Due to the roof design, this room will have an internal floor area of 7sqm with a minimum ceiling height of 2.3m. Given the room sizes and layout of the flat, it is considered that the additional two bedroom flat is compliant with the requirements.

- 6.3.3 A garden will be retained to the rear to provide a suitable communal amenity space. the proposal also includes balconies to provide private amenity areas for all flats and these will meet the Mayor's Housing SPG standards in terms of area and minimum width.
- 6.3.4 The proposal is therefore considered to provide an acceptable standard of accommodation for future occupants and the proposal would comply with Policy 37 of the Bromley Local Plan, Policy 3.5 of The London Plan and the Mayor's Housing Supplementary Planning Guidance (2012).

#### 6.4 Neighbouring Amenity – Acceptable

- 6.4.1 The current scheme proposes to increase the height and bulk of the building following the approved scheme under appeal reference APP/G5180/W/18/3213264, and introduces windows at roof level to the north and east elevations. The proposed building would be sited to the rear boundaries of properties located in Mavelstone Road (Nos. 34-40) and there will be a significant separation to these properties.
- 6.4.2 The introduction of habitable accommodation at roof level may result in a slight increase in overlooking however it is considered that the addition of rear windows at roof level would not create any loss of privacy over and above what would normally be expected in a residential setting such as this. The proposal includes two new flank windows within the northern roof slope to serve bedrooms of the additional flat. To the north of the site, the new dwellings at Blandings may experience some degree of overshadowing and loss of privacy as a result of the new structure, however the separation retained is considered to provide a suitable relationship, with the access road to Woodlands Cottage and No. 36 offering a further degree of separation.
- 6.4.3 It is therefore not considered to create additional overlooking to the properties to either flank in light of the site topography, separations and boundary vegetation to be retained.

#### 6.5 Highways – Acceptable

- 6.5.1 Sundridge Avenue East of Orchard Road is a classified road / Local Distributor. The site has a low PTAL rating of 2 (on a scale of 0 – 6b, where 6 is the most accessible).

6.5.2 The site has been subject to previous applications for the redevelopment of the site. The most recent application (18/01062/FULL1) was for the demolition of the existing property and the erection of a block comprising of 6 flats. The application was allowed on appeal under reference APP/G5180/W/18/3213264. The appeal inspector was satisfied that the access onto Sundridge Road would be adequate and an RSA, which considered visibility splays and vehicle tracking, raised no concerns with regard to the proposal.

6.5.3 The amended plans (received 30/07/20) reduced the size of the additional flat (from a 3 bedroom flat to a 2 bedroom flat) and clarified the parking provision.

## 6.6 Trees and landscaping - Acceptable

6.6.1 An Arboricultural Report and an indicative landscaping layout has been submitted as shown on the proposed site plan drawing that details the areas given over to a communal garden for external amenity for future occupiers. Additional screen planting is also proposed to the southern flank boundary. No objection is raised subject to conditions for tree protection and implementation.

## 7 CONCLUSION

Having regard to the above, the development in the manner proposed is acceptable in that it would not result in a significant impact on the character and appearance of the surrounding area and not harm the amenities of neighbouring residential properties. Additionally, the provision of 6 new dwelling units would make a minor contribution towards meeting the Council's housing targets, which also weighs in its favour.

Conditions are recommended to secure an acceptable form of development which protects the amenities of neighbouring properties and the area generally.

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:** Application Permitted

As amended by documents received on 30/07/20

**Subject to the following conditions:**

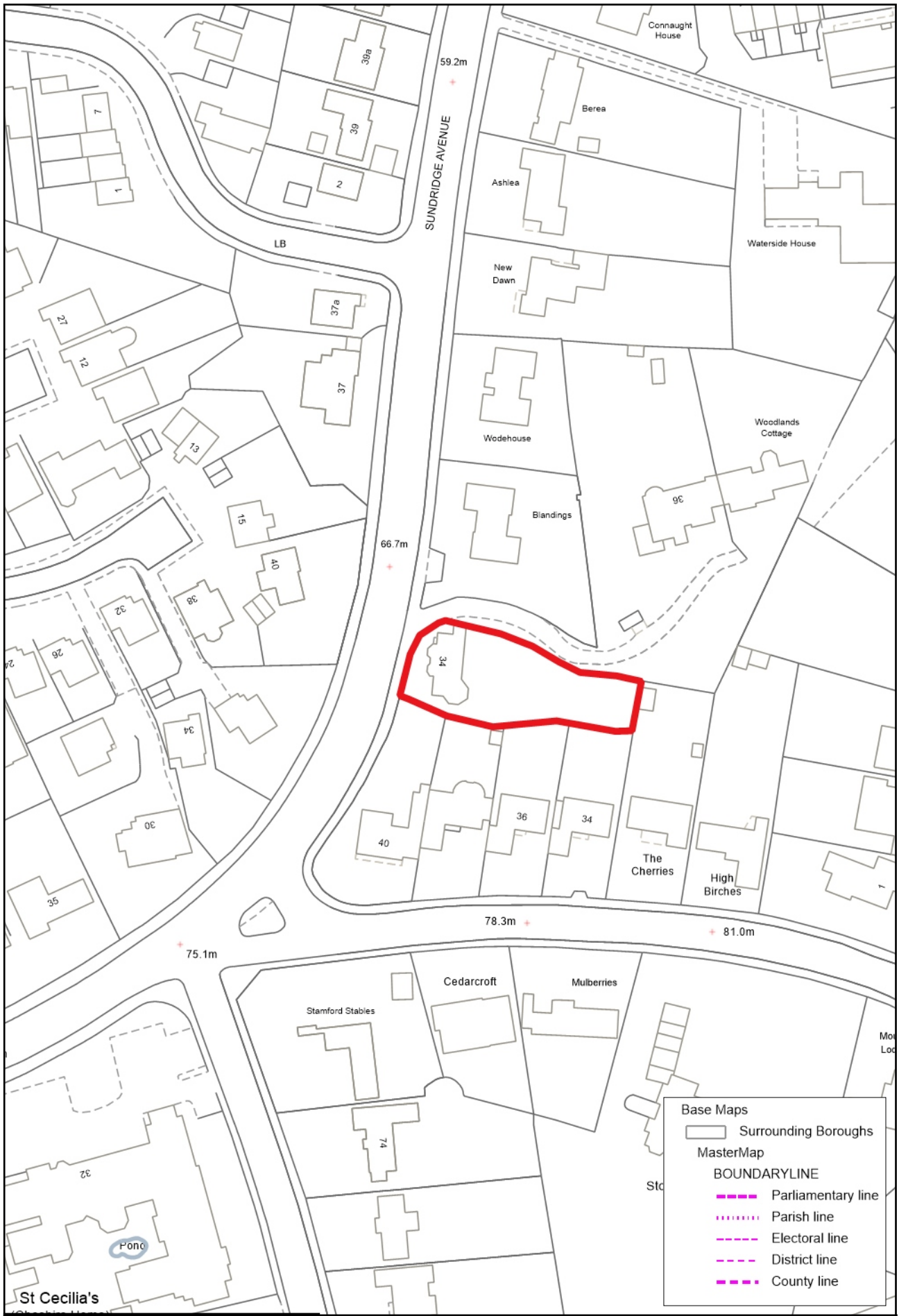
1. **Standard time limit of 3 years**
2. **Standard compliance with approved plans**

3. **Sample of materials**
4. **Tree Protection**
5. **Construction Management Plan**
6. **Parking details to be implemented**
7. **Landscaping details**
8. **Refuse storage details**
9. **Cycle parking details**
10. **Lighting details for parking area**
11. **Highway drainage**
12. **Compliance with details of turning areas**
13. **Gradient of parking area or spaces**
14. **Hardstanding for wash-down facilities**
15. **No loose materials for surfacing of the parking and turning area**

**Informatives:**

1. **Crossover**
2. **Street furniture**

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06 October 2020

**Bramley**  
The Ordnance Survey  
www.bramley.gov.uk

**Ellesmere Lodge**  
34 Sundridge Avenue -  
20/00495/FULL1

0 10 20 30 40 50 60 metres

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# Agenda Item 6.1

<b>Committee Date</b>	15/10/2020	
<b>Address</b>	LAND AT THE BEECHINS AND 2 WELLS ROAD BROMLEY BR1 2AJ	
<b>TPO No.</b>	2693	<b>Officer</b> Paul Smith
<b>Ward</b>	Bickley	
<b>Proposal</b>	Confirmation of Tree Preservation Order (TPO) 2693	
<b>Reason for referral to committee</b>	Objections received	<b>Councillor call in</b> No
<b>RECOMMENDATION</b>	Confirmation without modification	

## KEY DESIGNATIONS

Tree Preservation Order (TPO) 2693  
Conservation Area 8, Bickley Park

<b>Representation summary</b>	Objection from property owner.	
Total number of responses	1	
Number in support	0	
Number of objections	1	

## 1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- To consider one objection received against the making of Tree Preservation Order (TPO) 2693.
- The trees within the area A1 make an important contribution to the visual amenity of the surrounding local area, are cohesive with other trees in the vicinity and are awarded high amenity value.
- Members must determine whether to confirm the TPO or allow it to lapse.

## 2 LOCATION

2.1 The site is located on the corner of Wells Road and Denbridge Road within the Bickley Park Conservation Area.

2.2 Tree Preservation Order (TPO) 2693 was made on 1<sup>st</sup> June 2020 to secure protection of all trees with the grounds of 2 Wells Road and The Beechins Wells Road.

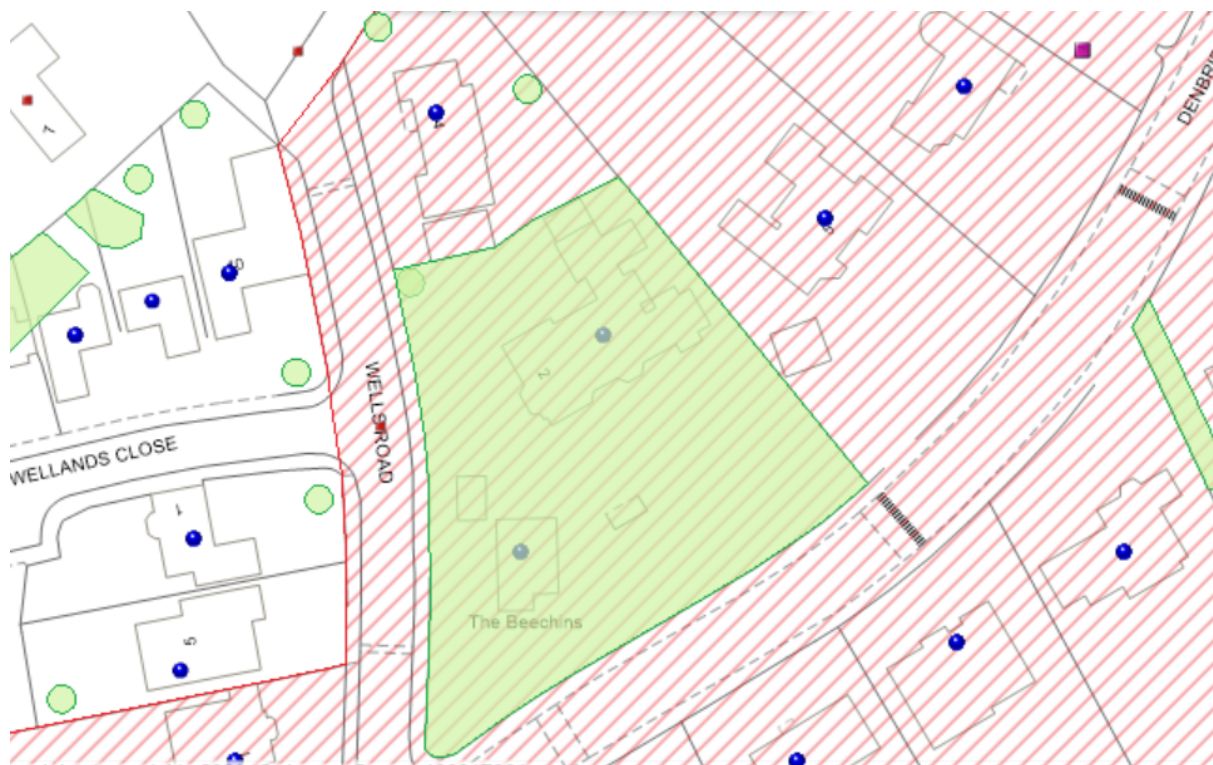


Figure 1 – Land at The Beechins and 2 Wells Road





**Figure 2 - View from Wells Road of an Oak within the subject Area**



**Figure 3 – View of roadside trees within subject area from Denbridge Road**

### **3 RELEVANT PLANNING HISTORY**

03/00954/TREE No objection

Crown reduce by 30% 1 acacia tree in front garden and fell 1 cedar tree at side of house TREES IN CONSERVATION AREA

## 20/01267/TREE TPO Authorised

T1 Oak in rear garden - Remove epicormic growth and reduce back to good growth points (approx. 2m height and 2m lateral spread).

T2 Large Cedar in rear garden - Crown clean and reduce laterally away from neighbours property 2m tip reduction.

T3 3x self seeded Sycamore below Cedar - Fell ground level.

T4 Twin-stemmed Ash rear corner of house on boundary next to Holly - Fell to ground level.

T5 Holly next to Ash - Reduce height by 3m and clear building roof by 2m.

T6 2x very large Horse Chestnut stems to side of property - Fell.

T7 2x Yew on bank east side of garden - Fell.

T8 Clearance of bank along boundary - 9 Sycamore and roadside 4 Sycamore, various shrubs (Privet, Laurel Etc).

T9 Front 4x Cypress on right hand side drive as looking at property - Fell to ground level.

T10 Oak in middle island front driveway - Remove epicormic growth and reduce back to good growth points (approx. 2m height and 2m lateral spread).

T11 Cedar left hand side lateral reduction (3m to growth points) house side to balance, remove low hazard limb.

## 4 CONSULTATION SUMMARY

4.1 The land owner/occupier was served the TPO by recorded delivery. Immediate neighbours were notified in writing of the TPO service and public site notices were erected in Wells Road and Denbridge Road.

4.2 One objection was received is summarised as follows:

- a) The majority of the trees within the site are unremarkable specimens and have been categorised as having low landscape value because of their lack of visibility from the public realm i.e. Wells Road and Denbridge Road.
- b) T1 has been heavily reduced in the past resulting in a dense canopy which will require regular maintenance to prevent the regrowth from becoming too dense and be susceptible to wind breakage.
- c) T2 is visible from outside the site by virtue of its height and is located far enough away from the building not be an issue.
- d) The central part of the garden is dominated by T3 and T7 which prevents this part of the garden from being landscaped because of the shade cast by these trees.

- e) T8 comprises self - sown sycamore that may provide screening but will need to be managed to prevent the trees from dominating the garden to be constant source of annoyance to the owners.
- f) Similarly, T4 and T5 may provide screening but as they mature the crown will extend over the decking area that will be an on-going concern for the occupants.
- g) The horse chestnuts identified as (T6) have been heavily reduced in the past and this has resulted in the majority of the branch framework being removed. Furthermore, the size and number of the pruning wounds will create a suitable environment for wood decay organisms to colonise and therefore they will have a reduced, safe life expectancy.
- h) T9 comprises group young conifers that provide low level screening and although they may be visible from Wells Road, they are not key features within the street scene.
- i) T10 is located in a small circular grassed area and can be seen from both directions along Wells Road, however it has been heavily reduced in the past, and like T1 has a dense upper canopy and will require regular maintenance to prevent the regrowth from wind breakage.
- j) The lack of any major works to T11 has resulted in it forming a natural branch framework and is the most prominent specimen within the site and the northern part of Wells Road.
- k) G12 and T13 were not of the original application but were surveyed for the purpose of this report, neither are significant features and their contribution to the street scene is insignificant.
- l) The majority of trees do not contribute to the general sense of verdant richness that characterises much of the immediate area.
- m) If confirmed in its current form it will result in wasting valuable officer time in validating applications, undertaking site visits and issuing decision notices on trees that were of little amenity value and that were not originally worthy of protection.

## **5 POLICIES AND GUIDANCE**

### **5.1 National Policy Framework 2019**

15. Conserving and enhancing the natural environment

### **5.2 The London Plan**

7.21 Trees and Woodlands

### **5.3 Draft London Plan**

G1 Green Infrastructure and Natural Environment  
G7 Trees and Woodlands

### **5.4 Bromley Local Plan 2019**

42 Conservation Areas  
73 Development and Trees  
74 Conservation and Management of Trees and Woodlands

### **5.5 The London Borough of Bromley Tree Management Strategy 2016-2020**

Section 18

### **5.6 National Planning Guidance - Tree Preservation Orders and trees in conservation areas (Ministry of Housing, Communities and Local Government)**

Paragraph 020 - 057

## **6 COMMENTARY**

6.1 The TPO was made on 1<sup>st</sup> June 2020 in accordance with The Town and Country Planning Act 1990 sections 198 – 202G.

6.2 Further to a visual assessment adopting the TEMPO (Tree Evaluation Method for Preservation Orders) scoring system, a new TPO was considered justified as the trees merited preservation. In summary, the trees have a suitable retention span, a level of public visibility and are cohesive with other trees in the properties in the roads.

6.3 The Order does not prevent future works from being carried out, but it requires that the Council's consent be gained prior to removing the tree and prior to carrying out most forms of tree pruning. In assessing applications to remove trees or carry out pruning, the Council takes into account the reasons for the application, set alongside the effect of the proposed work on the health and amenity value of the trees.

6.4 The TPO is valid for 6 months from the date the order was made. If the TPO is not confirmed within this period, the TPO will cease to exist. Considering the perceived risk to the trees as a result of the s211 notification 20/01267/TREE, their continued preservation is required.

## **7 RESPONSE TO OBJECTION**

- a) Trees do not have to be individually remarkable, nor are they in fact publicly visible, to warrant protection. The example of a woodland is one where the vast majority of trees may be individually unremarkable and only the boundary trees visible from public roads but yet the whole woodland has the capacity to contribute to the amenity of the area. In this case, the land is of course not a woodland but rather contains some high value individual trees and others that contribute to the general verdant nature of the area. Therefore the TPO is valid in its current form.
- b) An application can be made once for repeat works over a number of years. Therefore this is not incompatible with the TPO.
- c) This confirms T2 is TPO worthy as an individual.
- d) Applications can be made to remove and replace unsuitable individuals. Without the TPO protection, replacement could not be secured.
- e) See b).
- f) See b).
- g) See d).
- h) See a).
- i) See b).
- j) This confirms T11 is TPO worthy as an individual.
- k) See a).
- l) See a).
- m) The property is within the Conservation Area so we would receive s211 notifications for tree works anyway. TPO may save officer time since we will not have to carry out TEMPO assessments of TPO worthiness each time we receive a notification. Also see b).

## **8 CONCLUSION**

- 8.1 The TPO will cease to be valid upon expiry of 6 months from the date of service.
- 8.2 A level of management may be considered reasonable, should a justified application be submitted. Damaging works will be opposed.
- 8.3 Members are advised to confirm the TPO as recommended.

**RECOMMENDATION:** Confirm TPO without modification.



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**TOWN PLANNING**

**TREE PRESERVATION ORDER**

TOWN AND COUNTRY PLANNING ACT 1990  
CONCERNING

Land at The Beechins and 2 Wells Road Bromley BR1 2AJ



Tim Horsman  
Assistant Director (Planning)  
Planning Division  
London Borough of Bromley  
Stockwell Close, Bromley BR1 3UH  
Tel: 020 8464 3333

Scale: 1:1250



01.06.20

T.P.O. No. 2693

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# Agenda Item 6.2

<b>Committee Date</b>	15/10/2020	
<b>Address</b>	15 Den Close, Beckenham, BR3 6RP	
<b>TPO No.</b>	2695	<b>Officer</b> Paul Smith
<b>Ward</b>	Shortlands	
<b>Proposal</b>	Confirmation of Tree Preservation Order (TPO) 2695	
<b>Reason for referral to committee</b>	Objections received	<b>Councillor call in</b> No
<b>RECOMMENDATION</b>	Confirmation without modification	

<b>KEY DESIGNATIONS</b>
Tree Preservation Order (TPO) 2695

<b>Representation summary</b>	Objection from property owner and neighbour.	
Total number of responses	3	
Number in support	0	
Number of objections	2	

## 1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- To consider 2 objections received against the making of Tree Preservation Order (TPO) 2695.
- The Oak tree makes an important contribution to the amenity of the surrounding local area being a tree of considerable age and size, is strikingly prominent in the street scene and is considered a very high value individual.
- Members must determine whether to confirm the TPO or allow it to lapse.

## 2 LOCATION

- 2.1 The site is located within Den Close, which is adjacent to the Shortlands Conservation Area.
- 2.2 Tree Preservation Order (TPO) 2695 was made on 1<sup>st</sup> July 2020 to secure protection of the Oak tree within front garden of 15 Den Close.

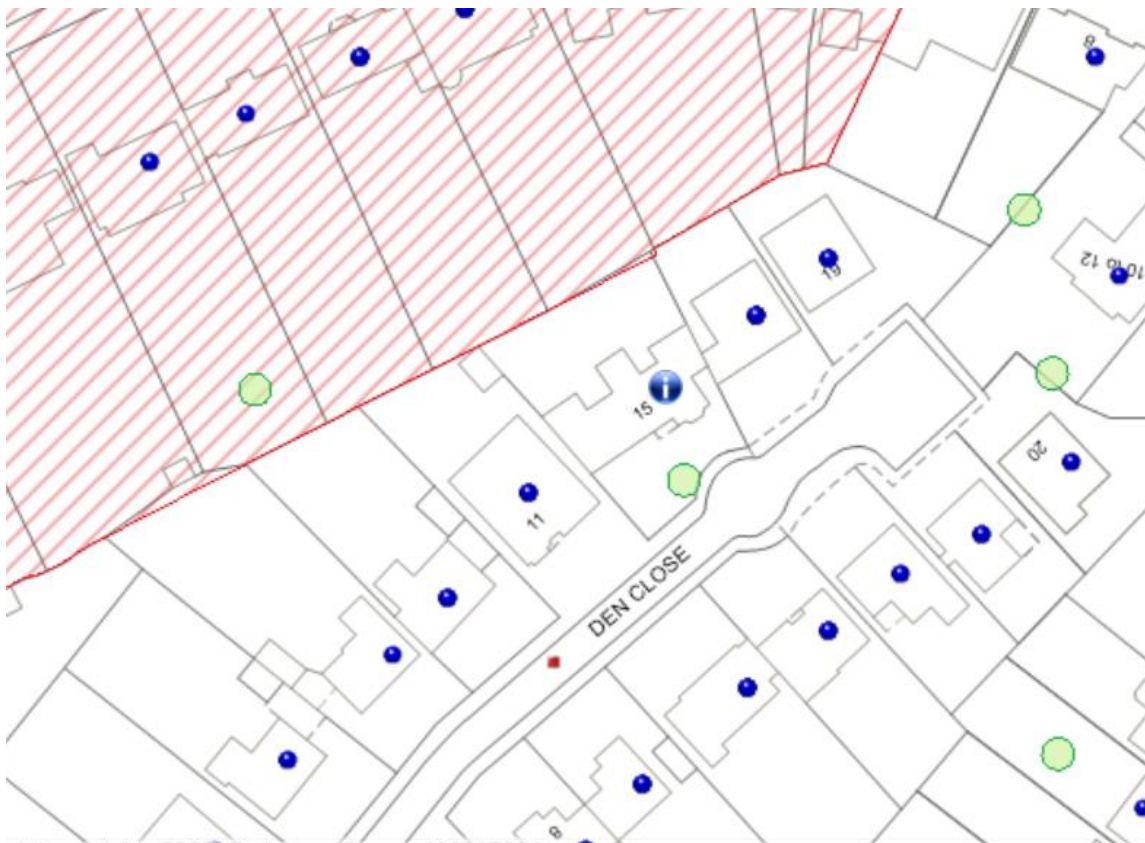


Figure 1 – 15 Den Close



**Figure 2 - View from next door.**



**Figure 3 – View from beginning of Den Close**

### **3 RELEVANT PLANNING HISTORY**

No relevant history.

### **4 CONSULTATION SUMMARY**

4.1 The land owner/occupier was served the TPO by recorded delivery. Immediate neighbours were notified in writing of the TPO service.

4.2 Two objections were received and are summarised as follows:

- a) The tree is large, close to the house, causing a nuisance and 'out of place in a small garden', 'without any great amenity'.
- b) There is a high risk of property damage or worse given recent severe weather.
- c) The tree is too large for the owner to manage, would require professional work every 2 years which would be a financial burden.
- d) The tree leaves block out sunlight into the house (no. 15.) The owner suffers from SAD.
- e) There is a high risk of subsidence due to proximity.
- f) A recent survey stated that the tree was showing some signs of dying and expressed concern that a tree of this size was so close to the house.

### **5 POLICIES AND GUIDANCE**

#### **5.1 National Policy Framework 2019**

15. Conserving and enhancing the natural environment

#### **5.2 The London Plan**

7.21 Trees and Woodlands

#### **5.3 Draft London Plan**

G1 Green Infrastructure and Natural Environment  
G7 Trees and Woodlands

#### **5.4 Bromley Local Plan 2019**

42 Conservation Areas

73 Development and Trees

74 Conservation and Management of Trees and Woodlands

## **5.5 The London Borough of Bromley Tree Management Strategy 2016-2020**

Section 18

## **5.6 National Planning Guidance - Tree Preservation Orders and trees in conservation areas (Ministry of Housing, Communities and Local Government)**

Paragraph 020 - 057

## **6 COMMENTARY**

6.1 The TPO was made on 1<sup>st</sup> July 2020 in accordance with The Town and Country Planning Act 1990 sections 198 – 202G.

6.2 Further to a visual assessment adopting the TEMPO (Tree Evaluation Method for Preservation Orders) scoring system, a new TPO was considered justified as the tree merited preservation. In summary, the tree has a suitable retention span and is prominent in the street scene.

6.3 The Order does not prevent future works from being carried out, but it requires that the Council's consent be gained prior to removing the tree and prior to carrying out most forms of tree pruning. In assessing applications to remove trees or carry out pruning, the Council takes into account the reasons for the application, set alongside the effect of the proposed work on the health and amenity value of the trees.

6.4 The TPO is valid for 6 months from the date the order was made. If the TPO is not confirmed within this period, the TPO will cease to exist. Considering the perceived risk to the tree as a result of the owner's stated intention to fell it, continued preservation is required.

## **7 RESPONSE TO OBJECTION**

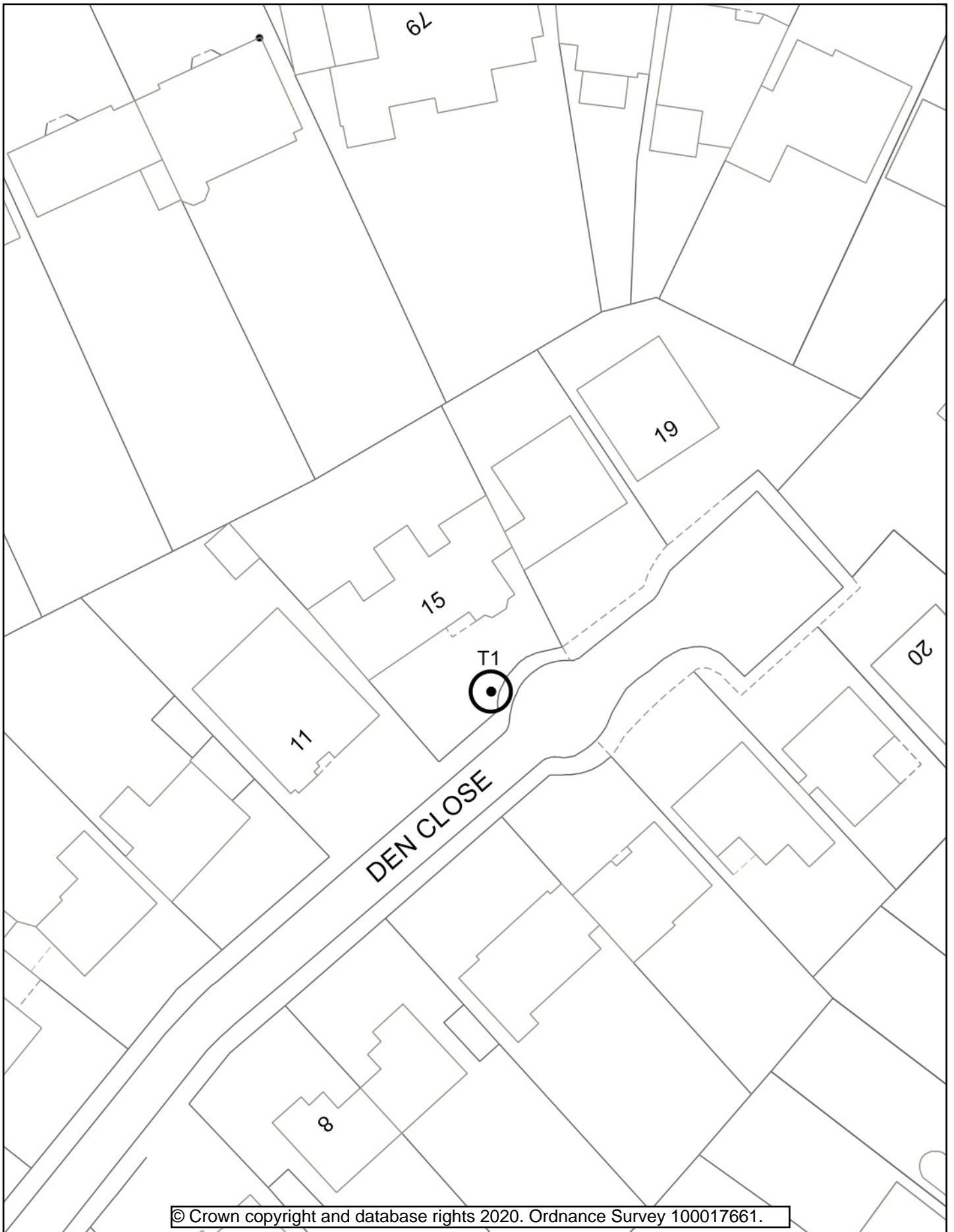
- a) The tree predates not only the construction of no. 15 but of Den Close itself. It is apparently the last vestige of what was once a woodland covering this area. When the decision was made to position the house at this distance from the tree, it would already have reached its current dimensions. Trees of this size in such proximity are often cause for concern for the owner, to which there are common solutions and remedial measures. The tree contributes to the street scene of the whole close, meaning its domination of a small front garden is considered a secondary matter and not justification for felling. We consider the tree provides significant amenity to the area and will continue to do so for decades if not longer.

- b) No evidence has been submitted to indicate there is a high risk of branch failure or whole tree failure. Both are likely to be low given the absence of obvious structural defects and the much reduced crown spread and height (for a tree with this trunk diameter) which have increased the tree's 'safety factor'.
- c) The tree is unlikely to require works every 2 years due to the relatively slow growing nature of Oak.
- d) Shading during spring and summer is considered an acceptable cost when considered against the benefits of deciduous trees. Excessive shading can be alleviated through approved pruning works.
- e) No evidence has been submitted to support this assertion.
- f) No evidence has been submitted to support this assertion. The Officer's opinion was that the tree's physiological health is good.

## **8 CONCLUSION**

- 8.1 The TPO will cease to be valid upon expiry of 6 months from the date of service.
- 8.2 A level of management may be considered reasonable, should a justified application be submitted. Damaging works will be opposed.
- 8.3 Members are advised to confirm the TPO as recommended.

**RECOMMENDATION:** Confirm TPO without modification.



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**TOWN PLANNING**



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 Planning Division  
 London Borough of Bromley  
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**TREE PRESERVATION ORDER**

TOWN AND COUNTRY PLANNING ACT 1990  
 CONCERNING  
 15 Den Close Beckenham BR3 6RP

Scale: 1:500



01.07.20

T.P.O. No. 2695

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