



THE LONDON BOROUGH
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DATE: 27 July 2021

To: Members of the
PLANS SUB-COMMITTEE NO. 1

Councillor Alexa Michael (Chairman)

Councillor Christine Harris (Vice-Chairman)

Councillors Kathy Bance MBE, Katy Boughey, Kira Gabbert, Samaris Huntington-Thresher, Charles Joel, Tony Owen and Suraj Sharma

A meeting of the Plans Sub-Committee No. 1 will be held at Bromley Civic Centre on
THURSDAY 5 AUGUST 2021 AT 7.00 PM

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 telephone Democratic Services on 020 8461 7743

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

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 10 JUNE 2021** (To follow)
- 4 **PLANNING APPLICATIONS**

Report No.	Ward	Page No.	Application Number and Address
4.1	Plaistow and Sundridge	1 - 18	(19/03728/RECON) - 128b College Road, Bromley BR1 3PF
4.2	Copers Cope	19 - 46	(21/00292/FULL1) - Highway and Land, Canterbury Close, Beckenham
4.3	Petts Wood and Knoll	47 - 56	(21/00533/FULL6) - 3 Nightingale Road, Petts Wood, Orpington BR5 1BG
4.4	Petts Wood and Knoll	57 - 66	(21/01034/FULL6) - 8 Greencourt Road, Petts Wood, Orpington BR5 1QW
4.5	Copers Cope	67 - 86	(21/01090/FULL6) - 103 Foxgrove Road, Beckenham BR3 5DA
4.6	Petts Wood and Knoll	87 - 98	(21/01913/FULL6) - 64 Petts Wood Road, Petts Wood, Orpington BR5 1LD
4.7	Bromley Town	99 - 124	(21/03120/RESPA) - Y Buildings, Bromley Civic Centre, Stockwell Close, Bromley

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
	NO REPORTS		

The Council's [Local Planning Protocol and Code of Conduct](#) sets out how planning applications are dealt with in Bromley.

Agenda Item 4.1

Committee Date	05.08.2021		
Address	128B College Road Bromley BR1 3PF		
Application Number	19/03728/RECON	Officer - Louisa Bruce	
Ward	Plaistow And Sundridge		
Proposal	Single storey side infill and first floor extensions to dwellinghouse with conversion of resultant building including roof space into 4 residential units (1 x 1 bed and 3 x 2 bed).		
Applicant		Agent	
Mrs Sally Phelps		Mr Andy Gay	
128B College Road Bromley BR1 3PF		Manna Court 11 Hales Street East Peckham TONBRIDGE TN12 5HL	
Reason for referral to committee	Call-In		Councillor call in Yes

RECOMMENDATION	Application Permitted
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KEY DESIGNATIONS Biggin Hill Safeguarding Area London City Airport Safeguarding Open Space Deficiency Smoke Control SCA 5
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Land use Details		
	Use Class or Use description	Floor space (GIA SQM)
Existing	C3	-
Proposed	C3	-

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	1	3			4
Affordable (shared ownership)	0	0	0	0	0
Affordable (social rent)	0	0	0	0	0
Total	1	3	0	0	4

Vehicle parking	Existing number of spaces	Total including retained proposed spaces	Difference in spaces (+ or -)
Standard car spaces	3	2	-1
Disabled car spaces	0	0	0
Cycle	0	4	+4

Electric car charging points	1
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Representation summary	Neighbours were notified of the application on A site notice was put up outside of the property on 8 th June 2021.	
Total number of responses		9
Number in support		0
Number of objections		9

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.

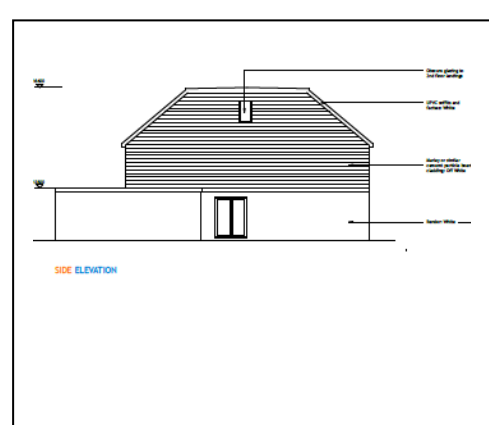
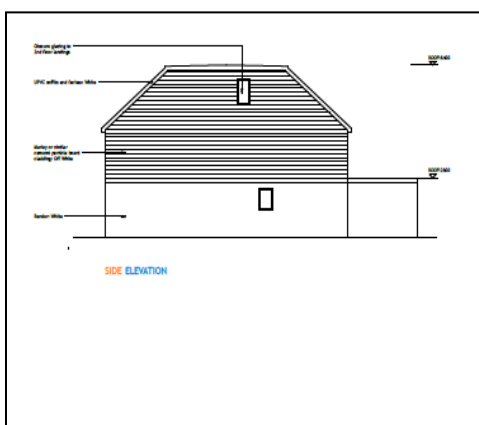
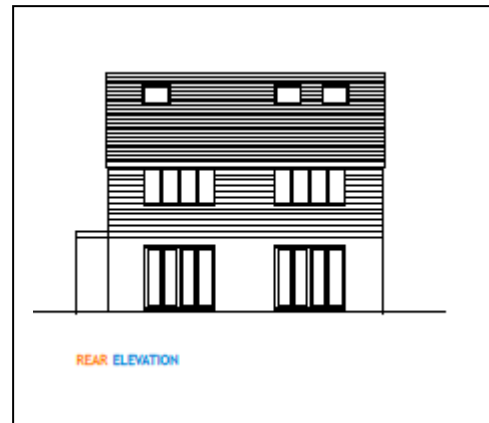
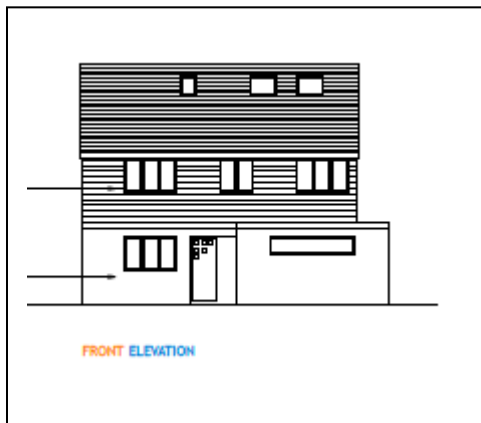
2. LOCATION

- 2.1 The application relates to a single storey bungalow type property, which is located on the south east side of College Road, Bromley. The properties roof is partly pitched and partly flat. It is of red brick construction with dark wooden panelling. An integral garage projects forward of the main building. There is off street parking to the front which is accessed by a dropped kerb. The southern side of College Road is made up of modern dwellings, including detached single properties and flatted buildings. These are both single storey and two-storey in height. The northern side of the road is more traditional in character, with typical Victorian style properties.



3. PROPOSAL

- 3.1 The application seeks a minor material amendment under Section 73 of the Town and Country Planning Act 1990 to allow variation of condition 2 (approved plans) pursuant to planning permission ref: 21/02144/FULL1 which was granted planning permission on appeal on 19/02/2021 for a single storey infill and first floor extension to dwelling house with conversion of resultant building, including roofspace into 4 x residential units (1 x 1 bed and 3 x 2 bed). The applicants are wishing to make changes to the approved scheme by increasing the roof height by 0.6m which in turn will change the roof pitch of the dwellinghouse to 40 degrees. Additional roof lights are sought to be inserted into the front and rear elevations and the location of existing rooflights altered. Two new obscure glazed windows are proposed to the flank elevations and a patio door is shown to be inserted in place of a window on the ground floor. The proposed materials for the external construction are proposed to be changed.



4. RELEVANT PLANNING HISTORY

19/03728/FULL1 - Single storey side infill and first floor extensions to dwellinghouse with conversion of resultant building including roofspace into 4 residential units (1 x 1 bed and 3 x 2 bed). Refused for the following reason:

- 1. The proposal, by reason of the number of units proposed and subsequent number of occupiers would be an overdevelopment and over intensive use of the site, impacting detrimentally on the residential amenities of local residents and on the character of the area, contrary to Policies 4, 9 and 37 of the Bromley Local Plan (2019) and Policies 3.3, 3.4 and 7.4 of the London Plan (2016).*

The above mentioned application (19/03728/FULL1) was allowed on appeal on 19.02.2021.

18/05326/FULL6 - First floor extension to create two storey dwelling and internal alterations. Refused for the following reasons:

- 1. The proposed extension as a result of its scale, form, design and forward projection, together with the failure to provide necessary side space would result in a bulky, obtrusive and incongruous form of development harmful to the character and appearance of the dwelling and streetscene in general contrary to Policies 6, 8 & 37 of the Bromley Local Plan (2019); Policy 7.4 of the London Plan and Supplementary Planning Guidance Numbers 1.*
- 2. The proposed extension by reason of its forward projection, location, fenestration arrangement and height would result in a dominant form of development, harmful to the residential amenities of Number 130 College Road by way of lost outlook, loss of privacy, visual dominance and overshadowing contrary to Policy 37 of the Bromley Local Plan (2019) and Supplementary Planning Guidance Numbers 1 & 2.*

19/01780/FULL6 - Single storey side infill extension and first floor extension to create two storey dwelling. Permission.

5. CONSULTATION SUMMARY

A) Statutory

TfL – no new response received. Comments as per previous application.

Two car parking spaces are proposed. The site has a Public Transport Accessibility Level (PTAL) of 3 (on a scale from 0-6b where 6b is the highest), as such the proposed car parking quantum is compliant with draft London Plan policy T6.1. However, drawing 128B CR 0003 shows that one of the proposed car parking spaces is located directly adjacent to the cycle parking, making the proposed cycle parking inaccessible. This should be revised.

Furthermore, in line with draft London Plan policy T6.1, at least one of the proposed car parking spaces should have access to an active Electric Vehicle Charging Point (EVCP). This should be secured by condition.

Eight cycle parking spaces are proposed, which accords with the minimum standards of draft London Plan policy T5. However it is not evident that the proposed cycle parking arrangements are compliant with the London Cycling Design Standards (LCDS). Besides the issue stated above regarding the location of car parking obstructing the proposed cycle rack, it is not clear that the rack is accessible for all types of cycle, furthermore it is not covered or secure. As such, the Council should ensure that the cycle parking arrangements are compliant with LCDS prior to permission being granted.

Construction

Construction of the proposed development must not obstruct the footway or carriageway of College

Road in proximity to the adjacent bus stop. Temporary obstructions during the construction must be kept to a minimum and should not encroach on the clear space needed to provide safe passage for pedestrians accessing the bus stop or obstruct the flow of buses on College Road.

Summary

In summary, TfL requests the above issues be addressed prior to permission being granted.

Highways:

The site is located within a moderate PTAL 3 area and lies inside the Bromley Town Centre Controlled Parking Zone (CPZ) where there is limited parking available.

A2212 College Road North of Tweedy Road is a classified road and also a London Distribution Route.

For 19/03728/FULL1 as per Policy 30 of Local Plan the Council requires off-street parking space to be provided in new residential development in accordance with Table 1 of the above policy.

For a 1 x 1 bed and 3 x 2 bed bedroom development in a 2* to 6a PTAL, minimum of 3 spaces are required. The applicant is only providing 2 spaces. This is not satisfactory.

Now as per London Plan for Outer London PTAL and 1 to 2 bed minimum 3 spaces are required. Still not satisfactory.

Drainage –

Request for a surface water drainage condition. If footprint is less than 50m2 no comment.

B) Local Groups

None

C) Adjoining Occupiers

Nearby owners/occupiers were notified of the application and the representations were received:

Objections

- Height of the building
- Impact on natural light
- Insufficient parking
- Impact on the character of the streetscene, infrastructure and road safety of College Road
- Privacy compromised
- Insufficient parking, cycle storage and refuse provision
- Overdevelopment of site.

Full and detailed comments of all the objection letters received can be found on the on-line file.

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 in 2021.
- 6.4 The development plan for Bromley comprises the Bromley Local Plan (Jan 2019) and the London Plan (Mar 2021). The NPPF does not change the legal status of the development plan.

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

London Plan Policies

- D1 London's form and characteristics
- D3 Optimising site capacity through the design-led approach
- D4 Delivering good design
- D5 Inclusive design
- D6 Housing quality and standards
- D7 Accessible housing
- D11 Safety, security and resilience to emergency
- D12 Fire safety
- D14 Noise
- H1 Increasing Housing Supply
- H2 Small sites
- H5 Threshold Approach to application
- H9 Ensuring the best use of stock
- H10 Housing Size Mix
- H12 Supported and specialised accommodation
- G5 Urban greening
- SI1 Improving air quality
- SI4 Managing heat risk
- SI5 Water infrastructure
- SI7 Reducing waste and supporting the circular economy
- SI12 Flood risk management
- SI13 Sustainable drainage
- T2 Healthy Streets
- T3 Transport capacity, connectivity and safeguarding
- T4 Assessing and mitigating transport impacts
- T5 Cycling
- T6 Car parking
- T6.1 Residential Parking
- T7 Deliveries, servicing and construction

Bromley Local Plan

- Policy 1 Housing Supply
- Policy 4 Housing Design
- Policy 8 Side Space
- Policy 9 Residential Conversions
- Policy 30 Parking
- Policy 32 Road Safety
- Policy 37 General Design of Development
- Policy 116 Sustainable Urban Drainage
- Policy 119 Noise Pollution
- Policy 123 Sustainable Design and Construction

Supplementary Planning Guidance

Housing: Supplementary Planning Guidance. (2015)

DCLG: Technical Housing Standards (2015)

Bromley's SPG No.1 - General Design Principles

Bromley's SPG No.2 - Residential Design Guidance

7. ASSESSMENT

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

- Principle
- Design
- Neighbouring amenity
- Highways
- CIL

7.2 Principle

7.2.1 The current position in respect of Bromley's Five Year Housing Land Supply (FYHLS) was agreed at Development Control Committee on 24th 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.

7.2.2 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.

7.2.3 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.

- 7.2.4 London Plan Policy H1 sets Bromley's housing target at 774 homes per annum. In order to deliver this target, boroughs are encouraged to optimise the potential for housing delivery on all suitable and available brownfield sites. This approach is consistent with Policy 1 of the Bromley Local Plan, particularly with regard to the types of locations where new housing delivery should be focused.
- 7.2.5 Policy H2 requires Boroughs to pro-actively support well-designed new homes on small sites (below 0.25 hectares in size). Policy D3 requires all development to make the best use of land by following a design led approach.
- 7.2.6 The application seeks planning permission for the construction of a single storey side infill and first floor extension to the existing building together with the conversion of the resultant building, including roof space to provide 4 residential units. This would be an uplift of three residential units.
- 7.2.7 The principle of allowing the property to be converted into 4 x residential units has been established and accepted following the Inspector's decision in February 2021.
- 7.2.8 In granting the appeal the Inspector stated "*the principle of constructing a single-storey side infill extension and first floor extension to create a two-storey property has been established within extant permission 19/01780/FULL6. This decision considered the design and potential effect of the extensions on the character and appearance of the area and upon neighbouring occupiers regarding overshadowing, enclosure, privacy and outlook. The extensions within this extant permission are of a similar scale and position to those within the current proposal and represent a credible fall-back position. The current proposal's pattern of front and rear elevation windows would be similar to the extant scheme with no proposed additional flank windows at first or second floor level. The two rear-facing Velux windows would be at roof-ridge level which would limit opportunities for overlooking onto properties to the rear. Issues relating to privacy, overshadowing, enclosure, or outlook for neighbouring occupiers have therefore not been cited within the Council's reason for refusal. I see no reason to disagree with this and accept that the principle of the proposal's position, design and scale is acceptable.*"

7.3 Design

- 7.3.1 Policy 6 of the Bromley Local Plan (2019) states that 'The scale, form and materials should respect or complement those of the host dwelling and be compatible with development in the surrounding area', it goes on to state that 'Space or gaps between buildings should be respected or maintained where these contribute to the character of the area.'
- 7.3.2 Policy 8 of the BLP normally requires extensions of two or more storeys in height to be a minimum of 1m from the side boundary of the site for the full height and length of the building.

- 7.3.3 As stated above planning permission to convert the property into 4 one bedroom flats has been allowed on appeal. The applicant is now seeking to make changes to the original application which include; a 0.6m increase in the ridge height of the property with a change to the roof pitched which now makes it a steeper pitch. The front elevation will contain one additional rooflight (from that originally approved). The location of the rooflights will be altered. One will serve the ensuite to Flat 3 and the other two the bedroom of Flat 4. In the rear elevation one additional rooflight is also sought (from that originally approved). One rooflight will serve the dressing room to Flat 4 and the other two to the bedroom of Flat 3. A window is also proposed to be added to the flank elevations which will serve the staircase to Flat 3 and Flat 4. A set of patio doors is shown to be added in place of a window on the ground floor to Flat 1 which serves a bedroom. A change to the proposed materials is also sought with the brick exterior of the first floor changed to marley or cerement board cladding. The accompanying drawings illustrate that the ground floor of the property will still be rendered in white on the ground floor and the roof will be tiled with two added obscure glazed windows to the second floor landings. The changes to the exterior materials are considered to be acceptable and the changes from brick to cladding are not considered to be out of keeping in the street scene with the nearby Bromley day nursery front dormer being constructed from white cladding.
- 7.3.4 The application site is located on the south east side of College Road. This side of the road comprises a mix of dwelling styles, which are of various ages of construction. The immediate neighbours are modern in appearance. Whilst the site and the neighbouring units are not entirely uniform, they are considered to be relatively harmonious in that all exhibit some form of pitched roof. The external facing materials include brick, render and hanging tiles. These properties are also set back from the highway behind an area of off-street parking. The opposite side of the road comprises mainly semi-detached Victorian housing stock, which has a uniform appearance and a clear pattern of development. There are examples of single dwellings and sub-divided flatted properties. The sub-divided flatted properties include 71, 73 and 81 College Road which are located on the opposite side of the road.
- 7.3.5 The existing property is a single storey bungalow which includes a part pitched/part flat roof with a forward projecting garage that extends up to the side boundary. It forms one of two bungalows on this side of the road. Both are somewhat incongruous amongst the larger scale developments within the road. However, as noted above, this side of does have a variety of dwelling styles. The creation of a two storey dwelling has already been assessed and deemed acceptable under the extant permission and the proposed extensions are very similar to that scheme.
- 7.3.6 The main change will be the increase in height and change to the roof pitch. Given the similarities to the approved application it is not considered that the 0.6m increase in height will harm the character of the host dwelling or that of the wider streetscene to the extent that the refusal of planning permission would be justified. Building heights are varied along this part of College Road and it is not considered that the additional 0.6m would result in a development that would appear overly dominant or out of character in the street scene.

7.4 Standard of Accommodation

- 7.4.1 In March 2015 the Government published The National Technical Housing Standards. This document prescribes internal space within new dwellings and is suitable for application across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height.
- 7.4.2 Policy 4 sets out the requirements for new residential development to ensure a good standard of amenity. The Mayor's Housing SPG sets out guidance in respect of the standard required for all new residential accommodation to supplement London Plan policies. The standards apply to new build, conversion and change of use proposals. Part 2 of the Housing SPG deals with the quality of residential accommodation setting out standards for dwelling size, room layouts and circulation space, storage facilities, floor to ceiling heights, outlook, daylight and sunlight, external amenity space (including refuse and cycle storage facilities) as well as core and access arrangements to reflect the Governments National Technical Housing Standards.
- 7.4.3 The floor space size of each of the flats in the building, ranges between 55m² and 89m² for a 1 x 1 bedroom and a 3 x 2 bedroom flats. The nationally described space standard requires various sizes of internal areas in relation to the number of persons and bedrooms provided in each unit. The sizes of the flats and additional flat have been reviewed and on this basis, the floorspace provision for all of the units is compliant with the required standards and is considered acceptable.
- 7.4.4 The proposed dwellings would meet the minimum floor space spaces. However the bedrooms within the loft space would only be served by roof lights and in certain areas would have restricted floor to ceiling heights.
- 7.4.5 Amenity space would be provided for the two ground floor flats. The upper floor flats would not be provided with private amenity space.
- 7.4.6 Whilst the upper floor units (Flats 3 & 4) would not be provided with private amenity space, Flats 1 & 2 would. The same arrangement would apply as that allowed by the Appeal Inspector where the garden would be split down the middle and amenity space afforded to Flats 1 & 2.
- 7.4.7 All units would achieve an acceptable level of light and outlook.

7.5 Neighbouring amenity

- 7.5.1 In relation to neighbouring amenity the main impact would be on the adjoining neighbouring properties. The two neighbours located either side of the 128B are 128A and 130 College Road.
- 7.6.1 The application property is located on the south east side of College Road. The neighbouring properties to the south are separated from the development

by an access drive which leads to a garage block to the rear of 128-128A College Road. The northern elevation of Number 128A faces the development site but there are no windows within this elevation which could be impacted by the development. Given the relationship between the dwellings, access road and orientation it is not considered that there would be a significant loss of amenity for these neighbours in terms of overshadowing, loss outlook or a general sense of enclosure.

- 7.6.2 Number 130 is a bungalow and has a similar depth to the host property but is marginally shallower. Its garden is also not as deep as the application site and there three windows within the side elevation facing the development. The windows within the side elevation facing the development are situated close to the shared boundary fence and already experience a degree of visual incursion and overshadowing from the existing built form of the host property. At present the eaves of the existing roof sit close to the shared boundary and, similar to the extant permission, these would be removed under the current proposal. The added height (0.6m above what has already been allowed) would result in some additional visual incursion on the neighbouring flank windows, particularly due to their orientation, however the additional visual impact on this neighbour, on balance, is considered to be acceptable.
- 7.6.3 The proposed development is similar in scale and design to the existing permission and the principle of an extended building has already been established. Therefore, the proposed arrangement would not result in a level of visual harm which is materially different to that extant permission.
- 7.6.4 Whilst two new flank windows are now proposed serving the second floor landing these two windows are shown to be obscure glazed and as such no loss of privacy or overlooking is anticipated.
- 7.6.5 There are also properties to the rear of the site. The proposed development, similar to the extant arrangement, includes upper floor rear facing windows. However, the back to back separation between these windows and the building to the rear would be around 31m. The garden at the application site is approximately 16m in depth and there is a similar arrangement at Number 33 Cambridge Road. There are other examples of two storey properties which have similar back-to-back separations along Cambridge Road and College Road, and the proposed arrangement is not too dissimilar to this wider pattern of development. There are also a number of trees along the side/rear boundary which helps provide a degree of screening.
- 7.6.6 Therefore the impact in terms of overlooking and privacy for the properties to the rear is considered to be acceptable.
- 7.6.7 Additionally, due to the separation distances outlined above, orientation of the site and garden arrangement is not considered that the development would result in a loss of outlook, overshadowing or material loss of light or overshadowing for the properties at the rear.

7.7 Highways

- 7.7.1 The existing property benefits from existing off-street parking in the form of a front drive and garage. The proposal would include the retention of the parking area to the front. Two spaces would continue to be provided. The council's highways officer has indicated that three spaces should be provided, however TfL, who are the highway authority for College Road, have not objected to the level of parking provision. The site has a PTAL 3, which is a moderate degree of accessibility.
- 7.7.2 The site is also within walking distance of various bus routes and around 0.5m to Bromley North Train Station. Additionally, it is close to Bromley Town Centre, which includes various shops and services.
- 7.7.3 Table 10.3 of the London Plan indicates 1-2 bed residential units in areas of good public transport accessibility should aim for less than 1 space per unit. In this case, the site is considered to be accessible and within walking distance of a range of local services. Therefore, the level of parking provision is considered to be acceptable. The appeal Inspector also accepted that two parking spaces would be sufficient based on TfL's comments.
- 7.7.4 Concerns have been raised by neighbours about pedestrian and highway safety due to the proximity of a bus stop. A construction management plan could be subject to a condition to ensure the appropriate management of construction traffic given the proximity of this bus stop.
- 7.7.5 The plans have also been amended to reflect the comments made by TfL about the location of the cycle storage and bin storage. A condition could be imposed to ensure their means of enclosure are satisfactory. An Electric Charing Point has also been included in-line with TfL comments.
- 7.7.6 Therefore, the proposal is considered to be acceptable in highway terms.

7.8 CIL

- 7.8.1 The Mayor of London's CIL and the London Borough of Bromley's CIL is a material consideration. CIL is payable on this application.

7.9 Other matters

- 7.9.1 Neighbours have raised the issue of restrictive covenants which prevent the extension of the property up to first floor level. However this is a legal matter between interested parties and this goes beyond the scope of this application.

7.10 Conclusion

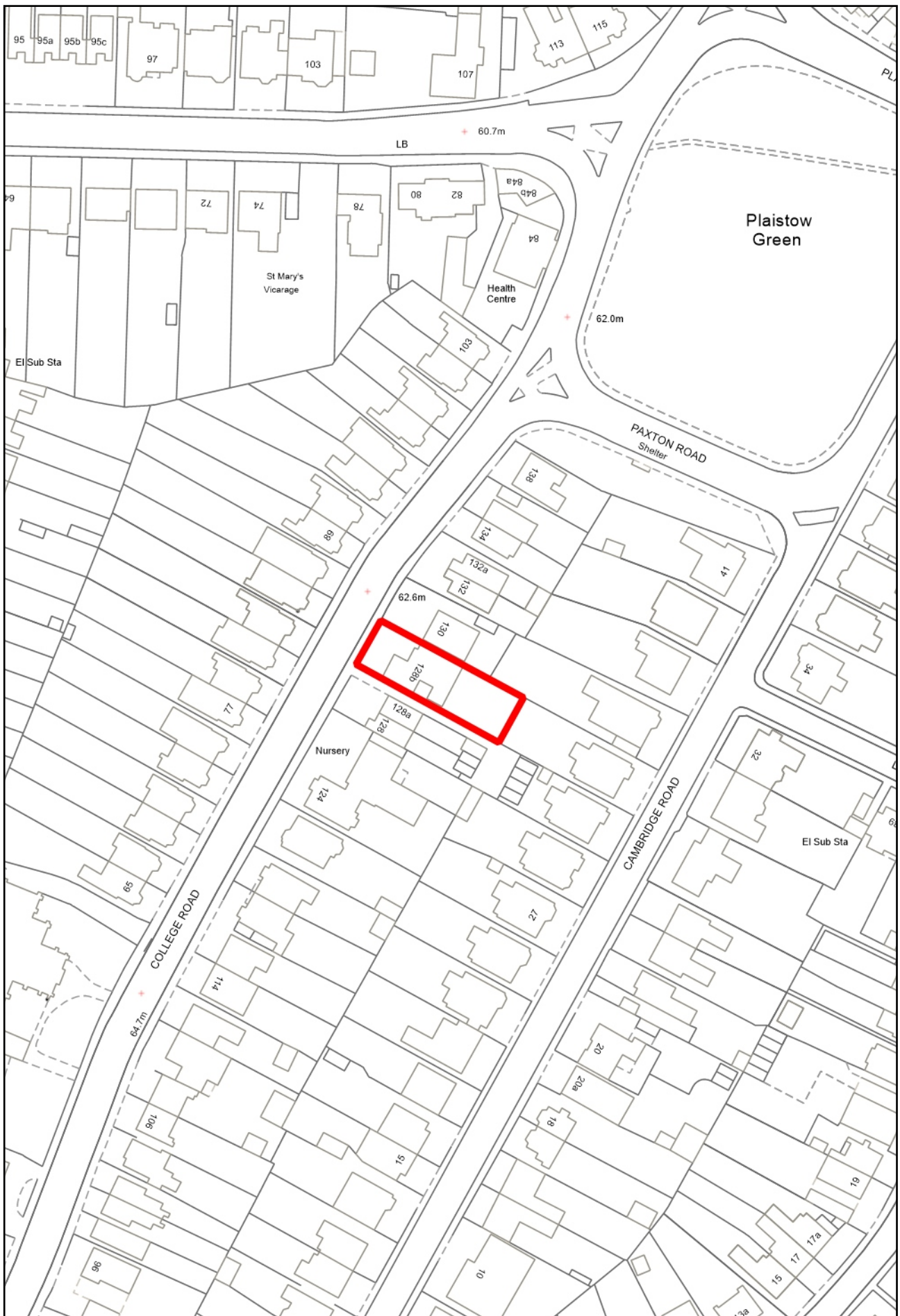
- 7.10.1 The proposal would provide 4 residential units, which represents an uplift of three dwellings and this constitutes a modest contribution to the boroughs overall housing provision. Additionally, all units would achieve a good standard of accommodation, albeit the loft bedrooms would be somewhat

restricted as a result of the rooflights and floor to ceiling heights. However the impact on neighbouring residential amenities is acceptable. The site is considered to be within a sustainable location, close to Bromley Town Centre and would be acceptable in highway terms. In respect of the Council's 5 year housing land supply and the Inspectors conclusions surrounding the recent appeal outlined within the 'principle' section above, paragraph 11d (ii) of the Framework would be applicable. In this case, any harm identified would be minor, and would not significantly and demonstrably outweigh the benefits of the development. Therefore, in the planning balance the proposal to make minor changes to the roof height and fenestration arrangements and materials is considered to acceptable.

RECOMMENDATION: PERMISSION

1. Standard time limit of 3 years from date of original permission
2. Standard compliance with approved plans
3. Surface Water Drainage Condition
4. Construction Management Plan Condition
5. Refuse and Recycling Condition
6. Bicycle Condition
7. Materials condition
8. Tree planting condition
9. Car parking condition & no permitted development
10. Electric charging point condition
11. Obscure glazing condition

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



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Committee Date	05.08.2021		
Address	Highway and Land Canterbury Close Beckenham		
Application Number	21/00292/FULL1	Officer - Russell Penn	
Ward	Copers Cope		
Proposal	Erection of three storey building, with basement, comprising 5 flats and the laying out of associated parking spaces and amenity space.		
Applicant		Agent	
Mr T Joseph		Mr Kelvin Hinton	
C/o Agent 6 Harold Avenue Hailsham BN27 1EL		6 Harold Avenue The Brook Hailsham BN27 1EL	
Reason for referral to committee	Call-In	Councillor call in Yes	

RECOMMENDATION	Permission
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<p>KEY DESIGNATIONS</p> <p>Biggin Hill Safeguarding Area London City Airport Safeguarding Open Space Deficiency Smoke Control SCA 12</p>
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Land use Details		
	Use Class or Use description	Floor space (GIA SQM)
Existing	Vacant site.	0
Proposed	C3	412

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		4	1		5
Affordable (shared ownership)					0
Affordable (social rent)					0
Total					5

Vehicle parking	Existing number of spaces	Total proposed including spaces retained	Difference in spaces (+ or -)
Standard car spaces	0	5	5
Disabled car spaces	0	0	0
Cycle	0	10	10

Electric car charging points	0
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Representation summary	Neighbour letters were sent on 09/02/2021 and 18/06/2021. An Article 13 site notice was displayed on the site in March 2021
Total number of responses	63
Number in support	3
Number of objections	60

1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The site optimisation and unit type of the proposed scheme is acceptable and the development would not be detrimental to the character and appearance of the area and locality.
- The proposed development would have a high quality design and would not have an unacceptable impact on the amenity of neighbouring occupiers.

- The standard of the accommodation that will be created will be good.
- The proposal would not have an adverse impact on the local road network or local parking conditions.
- The proposal would be constructed in a sustainable manner and would achieve good levels of energy efficiency.

2 LOCATION

- 2.1 The site is located to the southern side of The Avenue, approximately 40m west of the junction of Mayfair Close and comprises land located on the east and south east side of Canterbury Close. The site is currently undeveloped and laid to grass with some trees and vegetation along the eastern boundary. A private footway crosses the land to the adjacent Mayfair Close flats.
- 2.2 Canterbury Close was adopted as a highway maintainable at the public expense on 11 September 1973, the land subject to the planning application forms part of the adopted highway.
- 2.3 The site is not located in a conservation area nor is the building listed. The site is not a designated green space.

Site Location Plan:

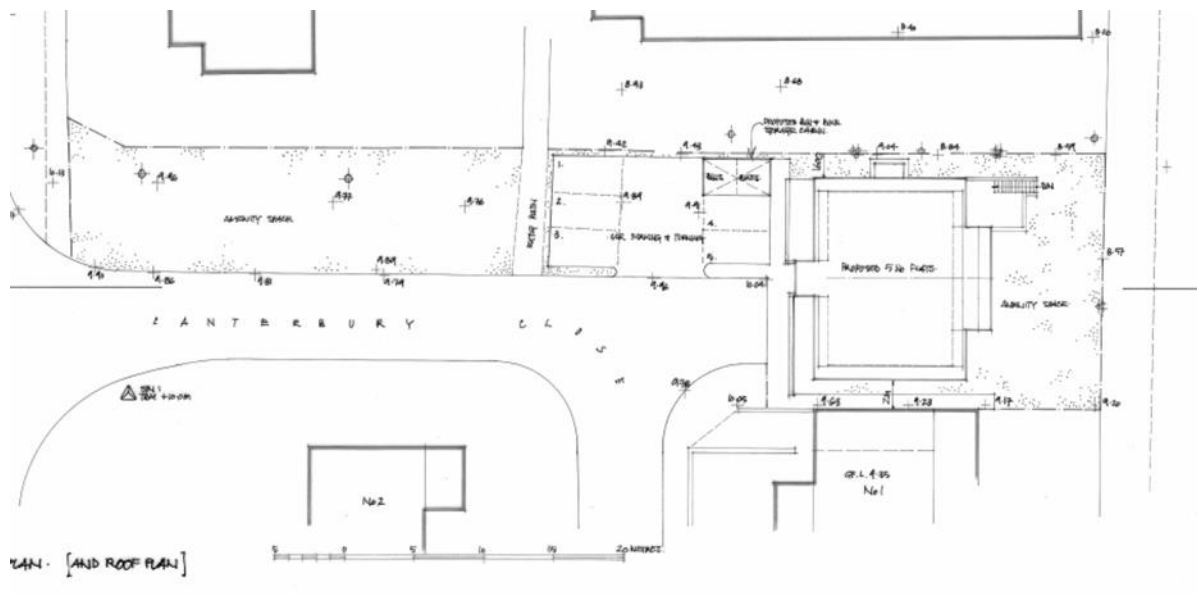


3 PROPOSAL

- 3.1 Planning permission is sought for the erection of three storey building, with basement, comprising 5 flats and the laying out of associated parking spaces and amenity space.
- 3.2 The five flats would comprise 1 three bedroom unit and 4 two bedroom units. The building would be sited at the southern end of the site, in line with the existing adjacent terraced housing. Five parking spaces would be provided immediately to the front of the building, served by a new crossover from Canterbury Close. The

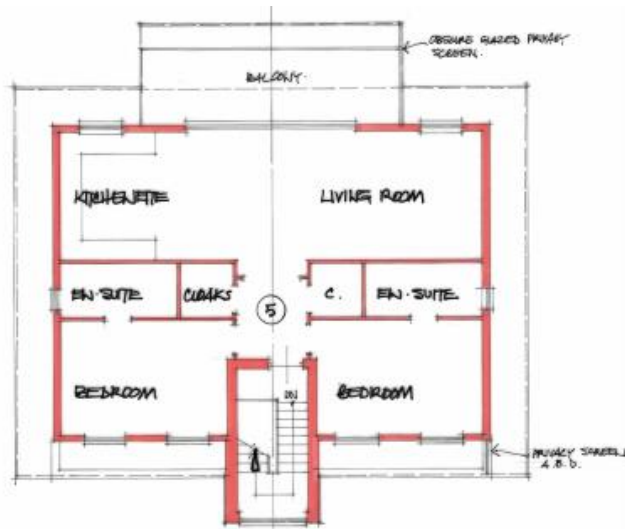
northern front most part of the site would be laid out as a landscaped amenity area. A private amenity area would also be provided to the rear of the building. The existing footway to Mayfair Close would be retained.

Proposed site layout:



Floor plans:





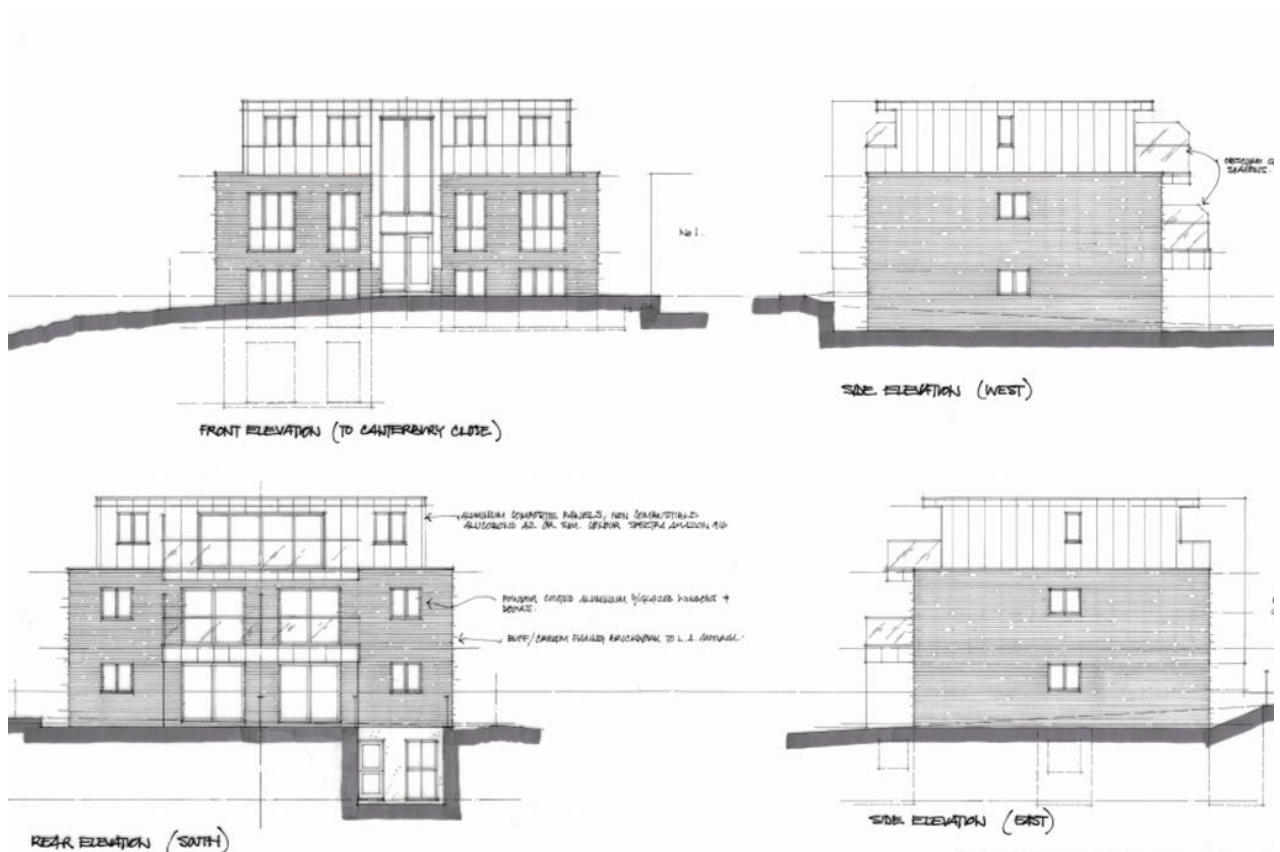
SECOND FLOOR PLAN.



BASMENT FLOOR PLAN.

Elevations:





4 RELEVANT PLANNING HISTORY

4.1 There is no relevant planning history relating to the application site.

5 CONSULTATION SUMMARY

A) Statutory

Environmental Health Officer – No objection

- I have considered the above and have no objections within the grounds of consideration.

Drainage Officer – No objection

- The proposed access drive and parking area must be constructed with permeable paving. The applicant must also consider incorporating an Aco drain at the cross over to prevent surface water run-off discharging onto the highway. Further details of surface water drainage to be sought by planning condition.

Highways Officer: – No objection

- According to Transport for London's (TfL) Planning Information Database the site has a PTAL rating of 3 (on a scale of 0 – 6b, where 6 is the most accessible). The proposed development would comprise for erection of three storey building, with

basement, comprising 5 flats and the laying out of associated parking spaces. The proposed mix is 4 x 2 bedrooms and 1 x 3 bedrooms. Five parking bays and cycle parking are shown in the revised plan. This is acceptable.

- Canterbury Close was adopted as a highway maintainable at the public expense on 11 September 1973 and I include an extract below showing the land subject to the planning application. This clearly shows that the land to which Planning Application 21/00292/FULL1 relates forms part of the adopted highway and is therefore subject to public rights of passage, which would need to be extinguished before the site can be used for any other purpose.



- The Stopping Up application will be processed once the planning application has been granted permission.

Tree Officer – No objection

- The tree constraints have been addressed in the arboricultural submission. I am satisfied with the precautionary measures set out. I would therefore recommend planning permission be granted with conditions applied.

Thames Water – No objection

- Waste comments - Thames Water would advise that with regard to waste water network and sewage treatment works infrastructure capacity, Thames Water would not have any objection to the above planning application, based on the information provided.
- With regard to surface water drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website.
- As required by Building regulations part H paragraph 2.36, Thames Water requests that the Applicant should incorporate within their proposal, protection to the property to prevent sewage flooding, by installing a positive pumped device (or

equivalent reflecting technological advances), on the assumption that the sewerage network may surcharge to ground level during storm conditions. If as part of the basement development there is a proposal to discharge ground water to the public network, this would require a Groundwater Risk Management Permit from Thames Water. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing trade.effluent@thameswater.co.uk. Please refer to the Wholesale; Business customers; Groundwater discharges section.

- Thames Water would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. Should the Local Planning Authority be minded to approve the planning application, Thames Water would like the following informative attached to the planning permission: "A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483 or by emailing trade.effluent@thameswater.co.uk .
- Water comments - On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application. Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
- If you are planning on using mains water for construction purposes, it's important you let Thames Water know before you start using it, to avoid potential fines for improper usage. More information and how to apply can be found online at thameswater.co.uk/buildingwater.
- There are water mains crossing or close to your development. Thames Water do NOT permit the building over or construction within 3m of water mains. If you're planning significant works near our mains (within 3m) we'll need to check that your development doesn't reduce capacity, limit repair or maintenance activities during and after construction, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes.

- The applicant is advised that their development boundary falls within a Source Protection Zone for groundwater abstraction. These zones may be at particular risk from polluting activities on or below the land surface. To prevent pollution, the Environment Agency and Thames Water (or other local water undertaker) will use a tiered, risk-based approach to regulate activities that may impact groundwater resources. The applicant is encouraged to read the Environment Agency's approach to groundwater and may wish to discuss the implication for their development with a suitably qualified environmental consultant.

Network Rail – No objection

- Due to the close proximity of the proposed works to Network Rail's land and the operational railway, Network Rail recommends that the applicant / developer contacts Network Rail's Asset Protection and Optimisation (ASPRO) team via AssetProtectionLondonSouthEast@networkrail.co.uk prior to works commencing. Our Asset Protection will ensure that the proposed development can be completed without any risk to the operational railway. The applicant / developer may be required to enter into an Asset Protection Agreement to get the required resource and expertise on-board to enable approval of detailed works. More information can also be obtained from our website <https://www.networkrail.co.uk/running-the-railway/looking-after-the-railway/asset-protection-and-optimisation/>.
- As well as contacting Network Rail's ASPRO Team, the applicant / developer must also follow the Asset Protection informatives (compliance with the informatives does not remove the need to contact ASPRO).

B) Local Groups

No comments received.

C) Adjoining Occupiers

Objections

Character (addressed in para 7.2)

- The site is an important green space used for amenity by local residents now and historically.
- Concerns regarding loss of the green space as a civic amenity in an area deficient of local parks.
- Basement not in character with the area.
- Concerns regarding, scale, proportions and the height of the building in relation to locality and change to the areas character as a result.
- Inconsistency in the design proposed with the two-storey, terraced, 1960s homes in Canterbury Close.
- Materials and design proposed do not accord with the existing character and context of the Close.
- Loss of uniformity of buildings in the close if built and not in keeping with the houses on Canterbury Close.

- Introduces irregularity to the building line of Canterbury Close.
- Overdevelopment at expense of context.
- Loss of openness context of Canterbury Close.
- Preference not to see more flats built.

Neighbouring Amenity (addressed in para 7.5)

- Impacts to future installation of neighbouring property window on the boundary.
- Overlooking from balconies and loss of privacy to neighbouring property.
- Loss of light to neighbouring properties.
- Concerns regarding loss of 'distance' views due to the development.
- Building will be overbearing.

Highways and Parking (addressed in para 7.4)

- Comments that the land is adopted highway land.
- Comments that the land was not built on to allow a bridge to be built connecting to Albemarle Road.
- Comments regarding Westgate Bridge close to the site being made into a one way.
- Comments regarding right of way over the land by adjoining property.
- Comments regarding any removal or movement of footways would be dangerous.
- Concerns with safety, access for emergency and delivery vehicles.
- Concerns regarding loss of on street parking spaces.
- Concerns regarding an increase in parking congestion in Canterbury Close.
- Parking area is too visually prominent in the streetscene.

Noise and disturbance (addressed in para 7.5)

- Additional flats will increase noise and pollution.

Accommodation standards (addressed in para 7.3)

- Concerns with quality of accommodation offered.
- Bin and bike store appears inadequate.
- Minimal landscaping being offered.

Other comments (addressed generally and via planning conditions where relevant to planning)

- Concerns with loss of green space and impacts to biodiversity on the site. Preference to see a formal green play space provided.
- Comments regarding the sale/ownership of the site.
- Comments regarding the process of the planning application need to be followed correctly.
- Comments the application should be more robust with additional reports.
- Comments that not all residents of Canterbury Close were notified of the application.
- Comments regarding covenant only allowing two storey height.

- Results in loss of property value.
- Concerns regarding the impacts of the construction process on amenity of local residents and traffic management of construction process.
- Concerns with impact to services infrastructure – water/ drainage in Canterbury Close.
- Residents of Canterbury Close have not been allowed to build an additional floor.
- Concerns with impact to trees near east boundary of the site.
- Concerns with impact to railway line embankment.
- Submitted imagery is misleading.

Support

- There is a need for more housing in Beckenham.
- Privacy screens overcome overlooking issues.
- Stepped design mitigates height differences between houses and Mayfair Court.
- Good use of a vacant area of land.
- Partly mitigates commuter parking issue.

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 London Plan (March 2021) and the Bromley Local Plan (2019). The NPPF does not change the legal status of the development plan.

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

6.5 National Policy Framework 2021

6.6 London Plan 2021

- D1 London's form and characteristics
- D3 Optimising site capacity through the design-led approach
- D4 Delivering good design
- D5 Inclusive design
- D6 Housing quality and standards
- D7 Accessible housing
- D11 Safety, security and resilience to emergency

D10	Basement development
D12	Fire safety
D13	Agent of change
D14	Noise
H1	Increasing Housing Supply
H2	Small sites
H5	Threshold Approach to application
H8	Loss of existing housing and estate redevelopment
H9	Ensuring the best use of stock
H10	Housing Size Mix
S4	Play and informal recreation
G5	Urban greening
G6	Biodiversity and access to nature
G7	Trees and woodlands
SI1	Improving air quality
SI4	Managing heat risk
SI5	Water infrastructure
SI7	Reducing waste and supporting the circular economy
SI12	Flood risk management
SI13	Sustainable drainage
T2	Healthy Streets
T3	Transport capacity, connectivity and safeguarding
T4	Assessing and mitigating transport impacts
T5	Cycling
T6	Car parking
T6.1	Residential Parking
T7	Deliveries, servicing and construction

6.7 Bromley Local Plan 2019

1	Housing supply
4	Housing design
8	Side Space
30	Parking
32	Road Safety
33	Access for All
34	Highway Infrastructure Provision
37	General design of development
56	Local Green Space
59	Public Open Space Deficiency
73	Development and Trees
74	Conservation and Management of Trees and Woodlands
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

6.8 Bromley Supplementary Guidance

Housing: Supplementary Planning Guidance. (March 2016)
 Technical housing standards - Nationally Described Space Standard (March 2015)
 SPG1 General Design Principles
 SPG2 Residential Design Guidance
 National Design Guide – (September 2019)

7 ASSESSMENT

7.1 Principle of development

- *Housing Supply*

7.1.1 The current position in respect of Bromley's Five Year Housing Land Supply (FYHLS) was agreed at Development Control Committee on 24th 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 London Plan Policy H1 sets Bromley's housing target at 774 homes per annum. In order to deliver this target, boroughs are encouraged to optimise the potential for housing delivery on all suitable and available brownfield sites. This approach is consistent with Policy 1 of the Bromley Local Plan, particularly with regard to the types of locations where new housing delivery should be focused.

7.1.5 Policy H2 requires Boroughs to pro-actively support well-designed new homes on small sites (below 0.25 hectares in size). Policy D3 requires all development to make the best use of land by following a design led approach.

7.1.6 This application includes the provision of five residential dwellings 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.

- *Optimising Sites:*

7.1.7 Policy H1 Increasing Housing Supply of the London Plan states that to ensure housing targets are achieved boroughs should optimise the potential for housing delivery on all suitable and available brownfield sites through their Development Plans and planning decisions. Policy 1 of the Local Plan and Policy H1 of the London Plan set the context in the use of sustainable brownfield sites for new housing delivery.

7.1.8 Policy H2 Small Sites of the London Plan states that Boroughs should pro-actively support well-designed new homes on small sites (below 0.25 hectares in size) through both planning decisions and plan-making in order to significantly increase the contribution of small sites to meeting London's housing needs.

7.1.9 The London Plan does not include a prescriptive density matrix and promotes a design-led approach in Policy D3 to optimise the capacity of sites. The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site's context and capacity for growth, and existing and planned supporting infrastructure capacity. Policies D2 and D4 are also relevant to any assessment of development proposals, including whether the necessary infrastructure is in place to accommodate development at the density proposed.

7.1.10 Local Plan Policies 4 and 37 accord with paragraph 127 of the National Planning Policy Framework, which requires development to be sympathetic to local character whilst optimising the potential of sites.

7.1.11 The supporting text to Policy H2 of the London Plan describes that incremental intensification of existing residential areas within PTALs 3-6 or within 800m distance of a station or town centre boundary is expected to play an important role

in contributing towards the housing targets for small sites. The site has a PTAL of 3 and is less than 400m by road to Beckenham Junction railway station.

7.1.12 The site is not designated as Local Green Space in the Local Plan under Policy 56 and although Policy 59 identifies the wider area as an area with a public open space deficiency this small site would not provide a suitable space in this respect, as the Council's priority is to address lack of open space at local park level (2ha).

7.1.13 Therefore, on this site location the Council will consider a residential infill development 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. Any adverse impact on neighbouring amenity, conservation and historic issues, biodiversity or open space will need to be addressed. Therefore, the provision of a residential development on the land appears acceptable in principle subject to an assessment of the site's design led optimisation, unit mix, appearance/character of the surrounding area, the residential amenity of adjoining and future residential occupiers of the scheme, car parking and traffic implications, sustainable design and energy, community safety and refuse arrangements.

- *Housing unit mix:*

7.1.14 Policy H10 Housing size mix of the London Plan states that schemes should generally consist of a range of unit sizes and regard should be had to local evidence of need.

7.1.15 Local Plan Policy 1 Supporting Text (paras 2.1.17 and 2.1.18) highlight findings from the 2014 Strategic Housing Market Assessment (SHMA) that the highest level of need across tenures within the Borough up to 2031 is for one bedroom units (53%) followed by 2 bedroom (21%) and 3 bedroom (20%) units. Larger development proposals (i.e. of 5+ units) should provide for a mix of unit sizes and be considered on a case by case basis.

7.1.16 The application proposes 1 three bedroom unit and 4 two bedroom residential units which is considered an acceptable mix at this location.

7.2 Design – Layout, scale – Acceptable

7.2.1 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.

7.2.2 Paragraph 124 of the NPPF (2019) states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

7.2.3 Paragraph 127 of the NPPF (2019) requires Local Planning Authorities to ensure that developments will function well and add to the overall quality of the area, not

just for the short term but over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities). New development shall also establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

- 7.2.4 London Plan and Bromley Local Plan policies further reinforce the principles of the NPPF setting out a clear rationale for high quality design.
- 7.2.5 Policy D3 of the London Plan relates to 'Optimising site capacity through the design-led approach' and states that all development must make the best use of land by following a design-led approach that optimises the capacity of sites. Form and layout should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape. The quality and character shall respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and respect, enhance and utilise the heritage assets and architectural features that contribute towards the local character.
- 7.2.6 Policy D4 of the London Plan outlines the various methods of scrutiny that assessments of design should be based on depending on the level/amount of the development proposed for a site.
- 7.2.7 Policy D5 of the London Plan relates to 'Inclusive Design' and states that development proposal should achieve the highest standards of accessible and inclusive design.
- 7.2.8 Policy H2 of the London Plan states that Boroughs should also recognise in their Development Plans that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites.
- 7.2.9 The general aims of the Council's design policies state that housing development should be designed to the highest level both internally and externally. In addition, the Council seeks that developments should have regard for the wider context and environment and should seek to enhance the residential environment and attractiveness as a place to live.
- 7.2.10 Policy 4 of the 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.

7.2.11 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.

7.2.12 Policy 37 of the 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.

7.2.13 Canterbury Close is characterised by two storey 1960's era terraced housing with uniquely flat roofed formats. Closest to the site on the same side, the footprints of houses are arranged in groups of three and three with a staggered arrangement between each group of three which steps back the massing in the streetscene at midpoint. A similar principle is shown opposite in Canterbury Close in a three, two, three arrangement. Furthermore, single storey front projections are incorporated to each of the dwellings design in Canterbury Close. This creates some variety to the building lines in Canterbury Close as part of the context of the locality. No1 has also recently been extended with a two storey side extension adjoining the application site.

7.2.14 The siting of the proposed building would largely align with No's 1 to 5 with design elements of the building providing interest and variation to the front elevation following the principles established within the existing dwellings.

7.2.15 The height of the building would be three storey which increases the height of the building above the terraced housing. However, the height increase needs to be viewed in the context of the buildings location between the two storey houses and the four storey flats to the east of the site at Mayfair Court and as such the building

would provide a suitable transition between the two contextual elements. Furthermore, the three storey height of the building is considered to be largely mitigated by the recessed design of the upper level which, in addition to the different materiality of the upper floor, minimises the massing arrangement in terms of the visual impact of the building to the neighbouring properties in Canterbury Close.

7.2.16 Spatially the building is set in 2m from the western boundary with No1 and 1.6m to the eastern boundary with Mayfair Court. The level of separation is considered suitable at this location.

7.2.17 It is noted that a basement is incorporated to the east side of the building. The size of the basement is small and not considered to have a negative impact in respect of Policy D10 of the London Plan which seeks to address the impacts of large scale basement developments.

7.2.18 On balance the development would provide a suitable transitional infill development that overall will harmonise with the character of the surrounding development east and west of the site.

7.3 Standard of residential accommodation – Acceptable

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

7.3.2 Policy D6 of the London Plan relates to 'Housing quality and standards' states that housing development should be of high quality design and provide adequately sized rooms with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners. The policy also prescribes internal space within new dwellings and external spaces standards that are in line with the National Technical Housing Standards.

7.3.3 Policy D7 of the London Plan - Accessible Housing, states that to provide suitable housing and genuine choice for London's diverse population, including disabled people, older people and families with young children, residential development must ensure that at least 10 per cent of dwellings (which are created via works to which Part M volume 1 of the Building Regulations applies) meet Building Regulation requirement M4(3) 'wheelchair user dwellings' and; all other dwellings (which are created via works to which Part M volume 1 of the Building Regulations applies) meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'.

- 7.3.4 A Part M compliance statement has been submitted that details compliance with the relevant sections of Part M. A compliance condition is recommended with any permission in this regard.
- 7.3.5 Policy 4 of the Local Plan sets out the requirements for new residential development to ensure a good standard of amenity for future occupiers. The Mayor's Housing SPG sets out guidance in respect of the standard required for all new residential accommodation to supplement London Plan policies. The standards apply to new build, conversion and change of use proposals. Part 2 of the Housing SPG deals with the quality of residential accommodation setting out standards for dwelling size, room layouts and circulation space, storage facilities, floor to ceiling heights, outlook, daylight and sunlight, external amenity space (including refuse and cycle storage facilities) as well as core and access arrangements to reflect the Governments National Technical Housing Standards.
- 7.3.6 The floor space size of each of the residential units ranges between 63.8m² and 139m² respectively over single levels for four flats and a duplex format for flat 1. The nationally described space standard requires various sizes of a GIA depending on the number of bedroom and persons intended. The sizes of the flats have been reviewed on this basis. The floorspace provision for all of the units is compliant with the required standards and is considered acceptable.
- 7.3.7 The shape and room size in the proposed flats is generally considered satisfactory where none of the rooms would have a particularly convoluted shape which would limit their specific internal use by occupiers.
- 7.3.8 Amenity space is provided to upper level flats with balconies to the rear and at the front for the top level flat. Obscure glazed screening is indicated to the side of the balconies to maintain privacy and amenity. In addition, a garden amenity space is provided to the rear for each ground floor flat. On balance, given the balcony spaces and the rear garden areas available, the provision of amenity space is considered acceptable at this location.

7.4 Highways – Acceptable

- 7.4.1 The NPPF recognises that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. The NPPF clearly states that transport issues should be considered from the earliest stage of both plan making and when formulating development proposals and development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 7.4.2 The NPPF states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.
- 7.4.3 London Plan and Bromley Local Plan Policies encourage sustainable transport modes whilst recognising the need for appropriate parking provision. Car parking

standards within the London Plan and Bromley Local Plan should be used as a basis for assessment.

- 7.4.4 The Council's Highway Officer has reviewed the current application and not raised any objection to the level of parking provided at the site and access arrangements to and from the site in principle subject to further details to be sought by planning condition.
- 7.4.5 The land that is the subject of this application currently forms part of the adopted highway and is therefore subject to public rights of passage, which would need to be extinguished before the site can be used for any other purpose. A Stopping Up application has been submitted to the Highway Authority. The Highways Officer has commented that the Stopping Up application will be processed once the planning application has been granted permission.
- 7.4.6 Electrical car charging points should be provided as per the requirements of the London Plan. A condition for further details and requiring installation prior to occupation is recommended in this regard.
- Cycle parking
- 7.4.7 Cycle parking is required to be two spaces per units for the unit type proposed. The applicant has provided details of a shared bin and bike store within the corner of the car parking area to the front of the site for four cycle spaces. Two further cycle spaces are located integrally within the building and separate cycle spaces are provided to the ground floor flats within their respective rear curtilage. The provision and locations are considered acceptable. A planning condition is recommended for further details of a containment structure for the car park area provision.
- Refuse storage
- 7.4.8 All new developments shall have adequate facilities for refuse and recycling. A refuse storage area for the development in close proximity to the front curtilage footpath within the corner of the car parking area will be provided. A planning condition is recommended in this regard for further details of a containment structure.

7.5 Neighbouring 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 is intended to provide main front and rear outlook overlooking amenity space and to the railway line beyond or overlooking the street. Representations received have raised concerns regarding the loss of privacy and overlooking to the gardens of adjacent properties. There are no habitable room flank windows proposed. Windows to the flank elevation are bathroom areas which can be obscure glazed as necessary. The balconies proposed have privacy screens with also obscure glazing to the side indicated.
- 7.5.4 On balance, the outlook as arranged from windows and external balconies from the proposed building is commonplace for an urban environment and is considered to maintain a suitable level of privacy at the intended distances to existing neighbouring property.
- 7.5.5 The adjoining property at No1 has rear facing windows within the main rear elevation of the building. There are no flank windows in No1 at the present time, although comments have stated they may wish to install a window at a future date. In the circumstances with the flank wall of No1 on the boundary and relying on the adjacent land to allow any windows usefulness it would not be reasonable to withhold planning permission on this basis. The proposed building would extend slightly beyond the main rear elevation of No1. It is noted that the rear elevation position would comply with the 45dg rule of thumb in terms of massing. The footprint arrangement as proposed is not considered to create an overbearing massing relationship that would warrant refusal on this basis.
- 7.5.6 In respect of Mayfair Court, it is noted that there is tree cover adjacent to this boundary which provides some level of privacy to Mayfair Court occupiers. The ground floor of Mayfair Court is also set out for car parking only, with no flats on the ground floor closest to the application site. The siting of the proposed building is also positioned at approximately midpoint to the Mayfair Court elevation. Given the lesser depth of the proposed buildings flank elevation and approximate 10m distance between elevations, this relationship is not considered to create any overbearing massing or loss of outlook that would warrant refusal on this basis.
- 7.5.7 Consideration is also made in respect of the level of occupation of the site in that noise and disturbance will increase from a previously unoccupied open site. On balance there will be an increased impact of this nature, however, in an urban environment the increase in terms of potential occupier noise is not considered unduly unacceptable at this location.

7.6 Sustainability – Acceptable

- 7.6.1 The NPPF requires Local Planning Authorities to adopt proactive strategies to mitigate and adapt to climate change. London Plan and Local Plan Policies advocate the need for sustainable development. All new development should address climate change and reduce carbon emissions.
- 7.6.2 Paragraph 9.2.3 of the London Plan states that Boroughs should ensure that all developments maximise opportunities for on-site electricity and heat production from solar technologies (photovoltaic and thermal) and use innovative building materials and smart technologies. This approach will reduce carbon emissions,

reduce energy costs to occupants, improve London's energy resilience and support the growth of green jobs.

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

7.6.4 An informative is recommended with any approval to ensure that the development strives to achieve these objectives.

7.7 Sustainable Drainage

7.7.1 Policy SI 13 Sustainable Drainage of the London Plan states that development proposals should aim to achieve greenfield run-off rates and ensure that surface water run-off is managed as close to its source as possible.

7.7.2 Policy 116 of the Local Plan details that all developments should seek to incorporate sustainable Urban Drainage Systems (SUDS) or demonstrate alternative sustainable approaches to the management of surface water as far as possible.

7.7.3 The Councils Drainage Officer has reviewed the submitted details in respect of surface water drainage. It is recommended that further detail is sought by planning condition with any permission.

7.8 Air Quality

7.8.1 Policy SI 1 Improving air Quality states in summary that development proposals should not lead to further deterioration of existing poor air quality and shall minimise increased exposure to existing air pollution and make provision to address local problems of air quality in preference to post-design or retro-

7.8.2 Policy 120 of the Local Plan states that developments which are likely to have an impact on air quality or which are located in an area which will expose future occupiers to pollutant concentrations above air quality objective levels will be required to submit an Air Quality Assessment.

7.8.3 The site is located within the Bromley AQMA. In this case, given the location it is considered prudent for the development to incorporate Ultra Low NOx boilers for the flats. A condition is recommended in this regard.

7.9 Trees, landscaping and biodiversity

7.9.1 Policy 72 of the Local Plan states that planning permission will not be granted for development or change of use of land that will have an adverse effect on protected species, unless mitigating measures can be secured to facilitate survival, reduce disturbance or provide alternative habitats.

7.9.2 Policy 73 of the Bromley Local Plan states that proposals for new development will be required to take particular account of existing trees on the site and on adjoining

land, which in the interests of visual amenity and/or wildlife habitat, are considered desirable to be retained.

- 7.9.3 Policy 77 of the Bromley Local Plan states that development proposals will seek to safeguard the quality and character of the local landscape and seek the appropriate restoration and enhancement of the local landscape through the use of planning obligations and conditions.
- 7.9.4 An indicative landscaping layout has been submitted that details the areas given over to garden for external amenity for ground floor occupiers by way of garden areas to the rear to be landscaped. The provision of the garden spaces is considered to offset any minor impact to biodiversity as regards the loss of the lawned site as existing. Further details are recommended to be obtained by planning condition in respect of landscaping species and planting.
- 7.9.5 As detailed above trees are located to the east boundary of the site within the adjacent property at Mayfair Court. A submitted plan indicates the building close to the canopy spread and root protection areas. An Arboricultural report has been submitted which has been reviewed by the Council Tree Officer who has not raised objection in this regard subject to a compliance condition.

7.10 CIL

- 7.10.1 The Mayor of London's CIL and the Borough CIL (adopted 15/6/21) is a material consideration. CIL is payable on this application and the applicant has completed the relevant form.

8 CONCLUSION

- 8.1 Taking into account the above, the proposed development would have a high quality design and would not have an unacceptable impact on the amenity of neighbouring occupiers. It is considered that the site optimisation and unit type of the proposed scheme is acceptable and that the development would not be detrimental to the character and appearance of the area and locality. The standard of the accommodation that will be created will be good. The proposal would not have an adverse impact on the local road network or local parking conditions. The proposal would be constructed in a sustainable manner and would achieve good levels of energy efficiency. It is therefore recommended that planning permission is granted subject to the imposition of suitable conditions.
- 8.2 On balance the positive impacts of the development are considered of sufficient weight to approve the application with regard to the presumption in favour of sustainable development to increase housing supply.
- 8.3 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:

Standard condition

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

Pre-commencement

3. Details of sustainable surface water drainage.
4. Details of a Construction Management Plan.

Prior to above ground works

5. Details of landscaping for hard and soft areas.
6. Details of materials.
7. Details of lighting scheme.
8. Details of acoustic protection.
9. Details of the parking area highway drainage.
10. Details of car park management scheme.
11. Details of refuse storage/cycle storage in car park area
12. Details balcony screening

Prior to occupation/use

13. Parking arrangements to be installed as approved.
14. Cycle storage implementation
15. Details of electric car charging points.
16. Details of obscure glazing to flank windows.
17. Details of vehicle entrance visibility splay sightlines.

Compliance conditions.

18. No additional pipes or plumbing to be installed on outside of buildings.
19. Slab levels compliance.
20. Arboriculture report – compliance with tree protection.
21. No use of flat roofs.
22. No loose materials for car park surface
23. Restriction on height to front and flank boundary enclosures.
24. Compliance with Part M of the Building Regulations.
25. Installation of ultra-low NOx boilers.

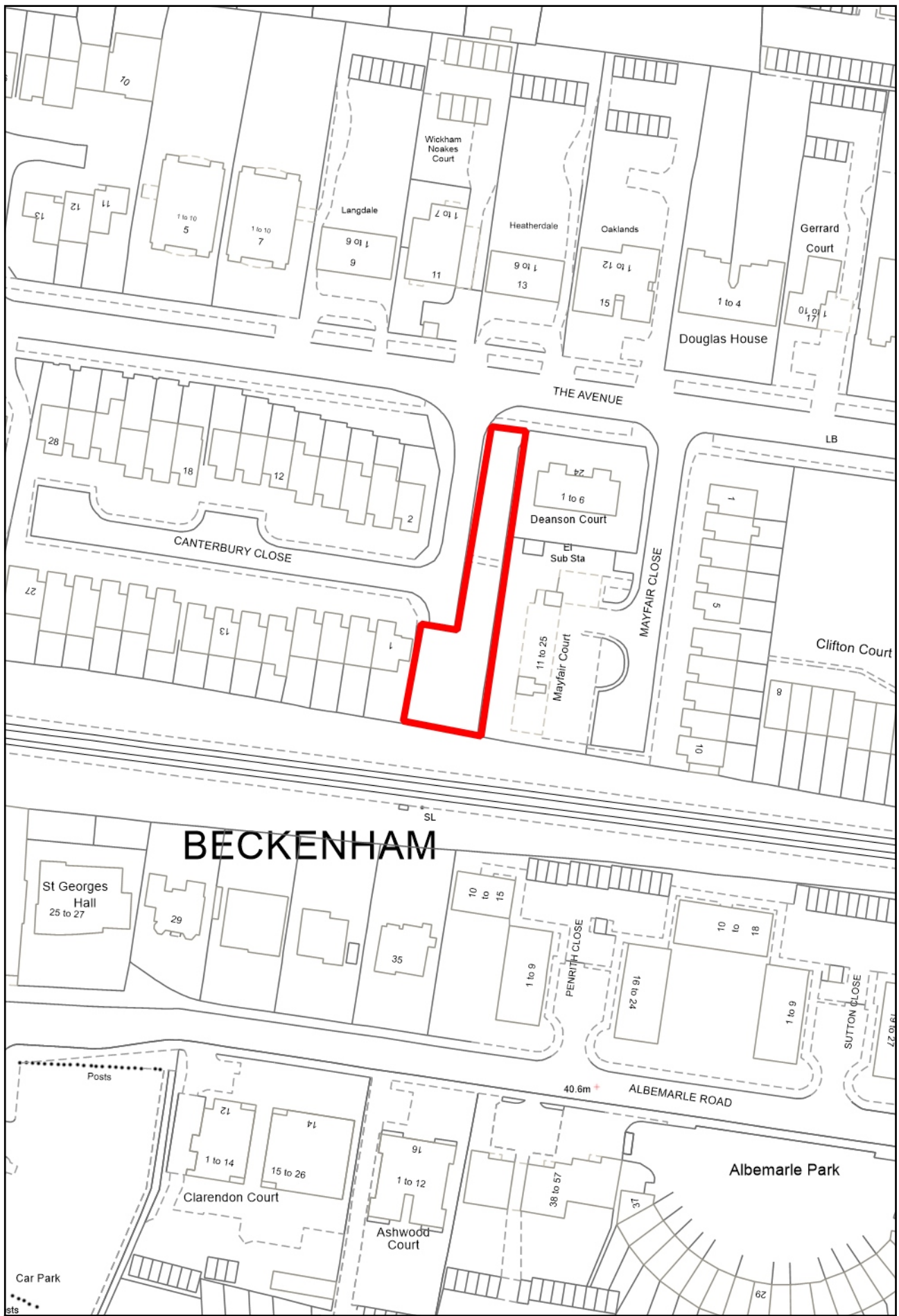
Any other planning condition(s) considered necessary by the Assistant Director of Planning

Informatives

1. Reminder regarding submission of pre commencement conditions.
2. Contact naming and numbering Officer at the Council.

3. Reminder regarding crossovers. Vehicle Crossover Application will need to be made to the Highway's Department.
4. Reminder of CIL payments.
5. Trees adjacent to site.
6. Reminder regarding Part M compliance.
7. Construction machinery emission
8. Any street works are at applicants' costs.
9. Compliance with the Control of Pollution and Noise from Demolition and Construction Sites Code of Practice 2017
10. Contact Environmental Health re contamination.
11. Thames Water - ground water management
12. Thames Water - water pressure standard.
- 13 Thames Water – working near our pipes
14. Network Rail - contact Network Rail's Asset Protection and Optimisation (ASPRO) team.
15. Energy efficiency measures.

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Agenda Item 4.3

Committee Date	05.08.2021		
Address	3 Nightingale Road Petts Wood Orpington BR5 1BG		
Application Number	21/00533/FULL6	Officer - Jennie Harrison	
Ward	Petts Wood and Knoll		
Proposal	Part one/two storey rear and single storey side extensions		
Applicant	Mr Michael Callaghan		Agent None
	3 Nightingale Road Petts Wood Orpington BR5 1BG		N/A
Reason for referral to committee	Councillor Call in		Councillor call in Yes

RECOMMENDATION	Application permitted
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KEY DESIGNATIONS Biggin Hill Safeguarding Area London City Airport Safeguarding Open Space Deficiency Smoke Control SCA 8
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Land use Details		
	Use Class or Use description	Floor space (GIA SQM)
Existing	C3	100.6

Proposed	C3 (no change proposed)	133.8
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Vehicle parking	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

Electric car charging points	0
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Representation summary	Neighbour letters issued –16.03.2021 Neighbour letters issued (amended plans) – 27.05.21 Neighbour letters issued (amended plans) – 08.07.21	
Total number of responses	18	
Number in support	0	
Number of objections	18	

1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposed rear extension would be set in from the boundary with number 1 which would mitigate the impact of the extension
- The side extension would be similar in appearance to others in the immediate vicinity and would have no adverse impact on the character and appearance of the host dwelling or street scene
- The scale of the first floor rear extension would have no harmful impact on either adjoining occupiers at numbers 1 or 5

2. LOCATION

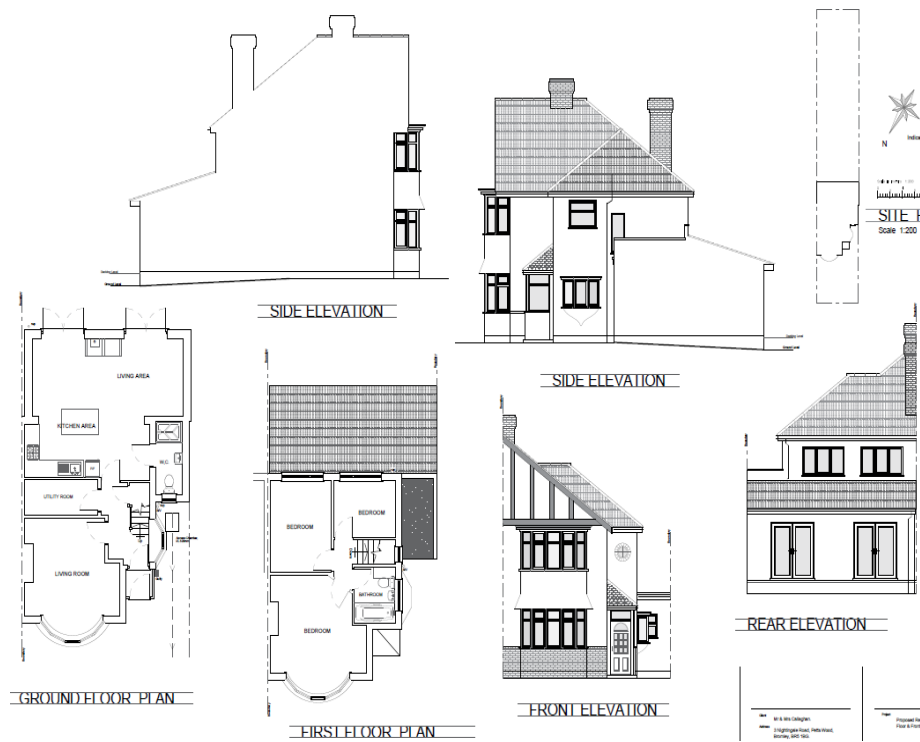
- 2.1 The application site hosts a two storey semi-detached dwelling on the Southern side Nightingale Road, Petts Wood.

2.3 Site Location Plan:



3. PROPOSAL

- 3.1 The application proposes a single storey rear extension that would have a depth of 3m, a height of 3.3m and would have a width of 4.9m. The application also proposes a single storey side extension that would have a depth of 4.3m, a width of 2.6m, an eaves height of 2.6m and a ridge height of 4m.
- 3.2 Plans have been amended so that the ground floor rear extension is set in 2m from the boundary with number 1 and the first floor extension nearest this boundary has also been reduced in width.
- 3.3 The application also proposes a first floor rear extension that would have a depth of 3m, a width of 3.5m, an eaves height of 5.5m and a ridge height of 7.2m.
- 3.4 Existing plans:



3.5 Proposed plans:



4. RELEVANT PLANNING HISTORY

4.1 There is no relevant planning history on the site.

5. CONSULTATION SUMMARY

A) Statutory

5.1 None

B) Local Groups

5.2 Petts Wood Residents Association:

- Loss of amenity, light and privacy for number 1 as a result of total 6m extension
- Orientation means a loss of light will be felt by both properties either side
- Tunnelling effect for adjoining property

C) Neighbouring occupiers

5.3 Objections

5.3.1 Neighbouring amenity

- Loss of privacy and overlooking
- Loss of light and overshadowing
- Noise and disturbance created by the extensions
- Overbearing at a total of 6m deep
- Loss of views from living room, patio and garden
- Loss of light to living room and bathroom
- Loss of privacy due to additional glazing
- Size of dwelling would be out of character
- Would create unrelated terracing
- Flat roof would cause security issues
- Concern regarding foundations
- Guttering may cause issues for adjoining occupiers
- Dominant design would be out of character
- Reduction in width would not make a significant difference to loss of sunlight at number 1
- Revised design would still create tunnelling
- Query regarding position of kitchen extract fan

5.3.2 Overdevelopment

- Development is obtrusive and overbearing
- Overdevelopment of the site
- Significant increase in size of the property - disproportionate to the original dwelling

- Extension would have impact on structural integrity of adjoining properties
- Impact on quality of life of the adjoining occupants

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 London Plan (March 2016) and the Bromley Local Plan (2019). The NPPF does not change the legal status of the development plan.

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

6.5 National Policy Framework 2021

6.6 The London Plan

D1 London's form, character and capacity for growth
D4 Delivering good design

6.7 Bromley Local Plan 2019

6 Residential Extensions
37 General Design of Development

6.8 Bromley Supplementary Guidance

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

7. ASSESSMENT

- Design – Layout and scale
- Residential Amenity

7.1 Design – Layout and scale - Acceptable

7.1.1 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.

- 7.1.2 London Plan and Bromley Local Plan policies further reinforce the principles of the NPPF setting out a clear rationale for high quality design.
- 7.1.3 The side extension would be visible from the front of the dwelling and would incorporate a pitched roof at the front to reflect the main dwelling. This side extension is not considered to cause any significant harm to the character and appearance of the host dwelling, or street scene.
- 7.1.4 The single storey rear extension would introduce a significant expanse of flat roof to the rear of the property, however this type of extension is not uncommon in a residential setting such as this and the use of matching materials together with the roof at first floor would not cause any significant harm to the character and appearance of the host dwelling.
- 7.1.5 Having regard to the form, scale, siting and proposed materials it is considered that the proposed extension(s) would complement the host property and would not appear out of character with surrounding development or the area generally.

7.2 Residential amenity – Acceptable

- 7.2.1 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.
- 7.2.2 The ground floor side extension, whilst creating some tunnelling at the front entrance to number 5 is not considered to have any significantly detrimental impact on the amenity of the adjoining occupiers at either side of the host property.
- 7.2.3 The property currently benefits from a 3m deep rear extension and the proposal would create an additional 3m in depth to this rear extension giving a total rearward projection of 6m. The dwelling at number 1 does not benefit from any rear extensions. The extension at ground floor would be set 2m in from the common boundary with number 1 and it is considered that this separation distance would help to mitigate the impact of the proposed ground floor extension to an acceptable degree.
- 7.2.4 The first floor extension would be set 2m away from the common boundary with number 1 and would have a depth of 3m, it is considered that, on balance, the harm of the first floor extension would not be so significant as to warrant refusal of the application, given the degree of separation from the boundary that is proposed

- 7.2.5 The adjoining occupiers at number 5 benefit from a rear extension which is approximately 2.5m deep at both ground and first floor, as such it is considered that an additional depth of 3m at ground floor would not have any significantly detrimental impact on this adjoining occupier.
- 7.2.6 The first floor extension is set in 1.4m from the common boundary with number 5 and given the extensions at number 5 together with this separation distance it is considered that on balance there would be no significantly detrimental impact on this adjoining occupier.
- 7.2.7 Having regard to the scale, siting and separation distance of the development, it is considered that no significant loss of amenity with particular regard to light, outlook, prospect and privacy would arise.

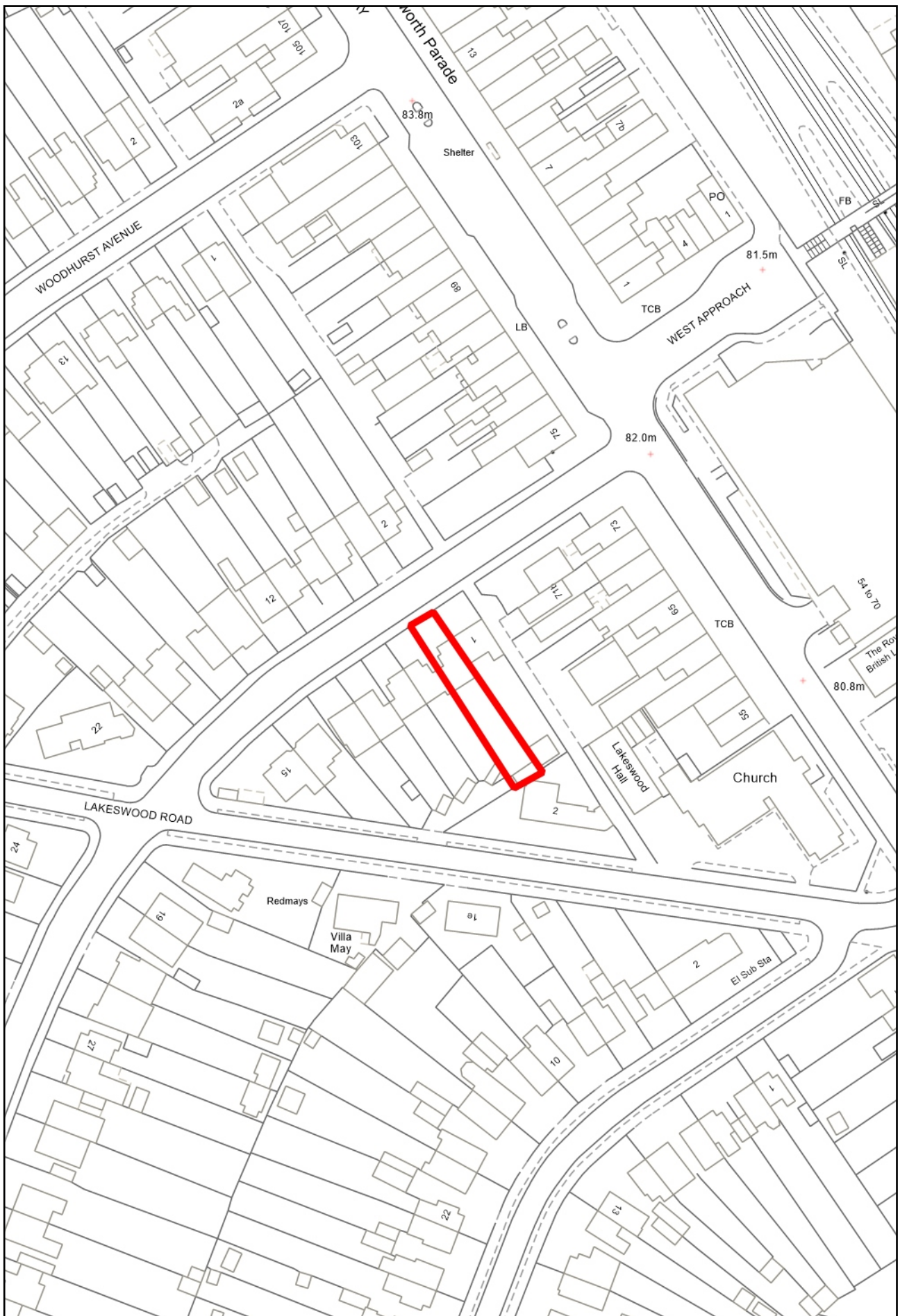
8. CONCLUSION

- 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.
- 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 08.07.2021

Subject to the following conditions

- 1. Standard time limit**
- 2. Compliance with plans**
- 3. Matching Materials**



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Committee Date	05/08/2021		
Address	8 Greencourt Road Petts Wood Orpington BR5 1QW		
Application Number	21/01034/FULL6	Officer - Suzanne Lyon	
Ward	Petts Wood and Knoll		
Proposal	Proposed first floor side extension and loft conversion with rear dormers		
Applicant Mr Greg Baird		Agent Mr George Prinos	
8 Greencourt Road Petts Wood Orpington BR5 1QW		Kappa Planning Ltd 46-48 Ennersdale Road London SE13 6JB	
Reason for referral to committee	Call-in		Councillor call in Yes

RECOMMENDATION	Application Permission
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KEY DESIGNATIONS <ul style="list-style-type: none"> • Biggin Hill Safeguarding Area • London City Airport Safeguarding • Open Space Deficiency • Smoke Control SCA 4 • Area of Special Residential Character
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Representation summary	Neighbour letters were sent 23.03.2021
Total number of responses	1
Number in support	0
Number of objections	1

1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- No unacceptable impact on the character of the street scene or surrounding ASRC would arise; and
- No unacceptable impact would arise to neighbouring occupiers.

2 LOCATION

- 2.1 The application site is two storey semi-detached property located on the southern side of Greencourt Road. The site is located within the Petts Wood Area of Special Residential Character.



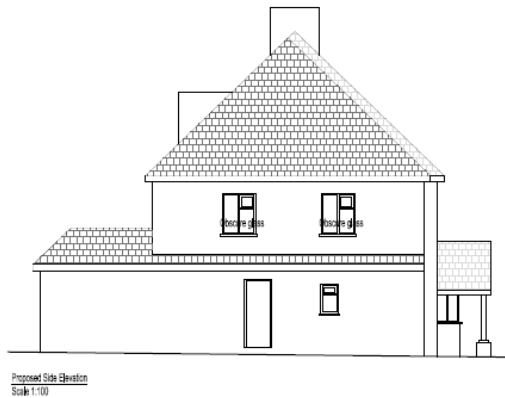
3 PROPOSAL

- 3.1 Permission is sought for a first floor side extension which will project 2.7m from the flank elevation and will be 8.5m deep. The proposal also includes a loft conversion with two rear dormers to provide habitable accommodation within the roof space.
- 3.2 Revised plans were received 7th July 2021 to remove the front roof lights and 21st July 2021 to increase the separation to the flank boundary to a minimum of 1m.
- 3.3 This application has been 'called-in' by ward Councillors.

Existing elevations:



Proposed elevations:



4 RELEVANT PLANNING HISTORY

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

- 15/00852/FULL6 - Roof alterations to incorporate rear dormer, front/side and rear extension and steps – Refused 21.04.2015
- 15/01878/FULL6 - Single storey front/side and rear extension - Permitted 22.06.2015

5 CONSULTATION SUMMARY

A) Statutory

- N/A

B) Local Groups

- N/A

C) Adjoining Occupiers (summary)

- Design - *points addressed in paragraph 7.1*
 - Excessive bulk and height
 - Interwar housing guidance states that new works should respect... "the scale and visual separation of the houses"; this extension, on-top of a previous extension will materially impact the visual separation of the houses contrary to this existing guidance. This is further exacerbated by the limited distance between the current extension and the boundary fence.
 - Previous concerns that the proposal does not conform to its 0.9m boundary requirements, do not appear to have been addressed
 - The current extension is at a maximum of 1m and minimum 87 cm from the boundary fence, a fence which was already moved further away from number 8 when the fencing was replaced during the previous works.
 - The previous proposals (15/00852/FULL6) were more in keeping with the area
 - Multiple properties in the surrounding area have amended rooflines for loft conversions, including several on Greencourt Road, which maintain the overall space and feel of the road and area, without impacting on the light and enjoyment of their neighbouring properties.
- Impact on neighbours - *points addressed in paragraph 7.2*
 - Loss of day light and sun light to neighbouring side windows
 - Addition of multiple windows will increase overlooking and loss of privacy
- Other:
 - The proposed side extension should be refused for the following reasons:
 - (1) By reason of its excessive bulk and height, its changes to the roofline and its very close proximity to the boundary with No. 10 Greencourt Road (under .9m), would constitute an oppressive feature that would result in a detrimental impact on the amenities of the occupants of this property by reason of harmful visual impact, contrary to Policies BE1 and H8 of the Unitary Development Plan.
 - (2) The side extension and roof alterations would significantly erode the balance and symmetrical appearance of this pair of semi-detached houses, and would be detrimental to the character of the street scene and the Area of Special Residential Character in general, contrary to Policies BE1, H8 and H10 of the Unitary Development Plan

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

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 2021). The NPPF does not change the legal status of the development plan.
- 6.4 The application falls to be determined in accordance with the following policies:
- 6.5 **The London Plan**
 - D1 London's form and characteristics
 - D4 Delivering good design
 - D5 Inclusive design
- 6.6 **Bromley Local Plan 2019**
 - 6 Residential Extensions
 - 8 Side Space
 - 30 Parking
 - 37 General Design of Development
 - 44 Areas of Special Residential Character
- 6.7 **Bromley Supplementary Guidance**
 - Supplementary Planning Guidance 1 - General Design Principles
 - Supplementary Planning Guidance 2 - Residential Design Guidance

7 ASSESSMENT

- 7.1 Design, layout and scale – Acceptable
 - 7.1.1 The site is located within the Petts Wood Area of Special Residential Character (ASRC). The original plans for Petts Wood date from the late 1920s and early 1930s. While the houses were built over a number of years, in a number of similar though varied styles, the road layout and plot sizes were established in an overall pattern. Today the layout remains largely intact. Policy 44 states that proposals within an ASRC will be required to respect, enhance and strengthen their special and distinctive qualities. The full ASRC description can be found under Appendix 10.6 in the Bromley Local Plan.

7.1.2 The proposed first floor side extension which will project 2.7m from the flank elevation and will be 8.5m deep. The proposed first floor side extension will be set back 0.45m from the front elevation and incorporates a hipped roof over. The property forms one half of a pair of semi-detached properties. The adjoining property, No.6, retains the original hipped roof therefore there the proposal will result in a degree of unbalancing, however the proposed roof will be set back and hipped to match the angle of the main roof, therefore it is not considered sufficient to warrant refusal on this basis. Furthermore, it is noted that there are a number of first floor side extensions within the local vicinity, including No's 2, 19, 25 (opposite), 31 and 45. The proposal includes a loft conversion with two rear dormers and one rear roof light, to provide habitable accommodation within the roof space. Overall, the design and scale is considered subservient to the host property and would not result in a significant impact on the character or appearance of the host property or the street scene in general.

7.1.3 Policy 8 requires a minimum of 1m space from the side boundary of the site be retained for the full height and length of the flank wall of the building to prevent extensions which would be harmful to the spatial standards of its residential areas and an unrelated terracing effect. This is expected for the full height and length of the flank wall including any existing ground floor aspect. In order to prevent a cramped appearance which can lead to unrelated terracing and to safeguard the amenities of the neighbouring property. The policy also states that where higher standards of separation already exist within residential areas, proposals will be expected to provide a more generous side space. The existing property has an existing ground floor side extension, approved under planning ref.15/01878/FULL6, which provides 1.04m separation to the boundary, reducing to 0.9m as the boundary line tapers in towards the rear. The proposed first floor side extension will be located over the existing ground floor and will be set in and additional 0.1m in order to provide a 1.14m separation to the flank boundary, which reduces to 1.04m at the rear. It is therefore considered that the proposal is compliant with Policy 8 as it maintains a minimum of 1m separation for the full depth of the proposed first floor extension and would not lead to unrelated terracing.

7.1.4 Having regard to the form, scale, siting and proposed materials it is considered that the proposed extensions would complement the host property and would not appear out of character with surrounding development or the area generally.

7.2 Residential Amenity – Acceptable

7.2.1 The proposed first floor side extension which will project 2.7m from the flank elevation and will be 8.5m deep, providing 1m separation to the flank boundary. Given the modest scale and separation proposed, the proposal will not impact significantly on the amenities of the neighbouring property to the east, No.10, with regards to loss of light, outlook or visual amenities. The proposal includes two first floor flank windows which are indicated to be obscure glazed, as such, the proposal is not considered to result in a significant impact on current privacy levels. It is considered appropriate to include a condition to ensure the flank windows are obscure glazed and fixed shut below 1.7m in order to protect current privacy levels.

- 7.2.2 The proposed side extension will not project beyond the front or rear elevation therefore will not be visible from the neighbouring property to the west, No.6. As such, the proposal is not considered to impact on the amenities of this neighbouring property with regards to loss of light, outlook or visual amenities.
- 7.2.3 The main concern in regards to neighbouring amenity as a result of a loft conversion are the rear dormers, whilst dormers in some locations can increase overlooking to an unacceptable level it is considered that the addition of dormers to the rear of No.8 would not create any loss of privacy over and above what would normally be expected in a residential setting such as this.
- 7.2.4 Having regard to the scale, siting and separation distance of the development, it is not considered that a significant loss of amenity with particular regard to light, outlook, prospect and privacy would arise.

8 CONCLUSION

- 8.1 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 ASRC 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

As amended by documents received on 14th June 2021 and 21st July 2021

Subject to the following conditions:

- 1. Standard time limit of 3 years**
- 2. Standard compliance with approved plans**
- 3. Matching materials**
- 4. Obscure glaze and fix shut first floor flank windows below 1.7m**
- 5. A minimum of 1m side space should be retained along the eastern flank elevation.**



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Agenda Item 4.5

Committee Date	05.08.2021		
Address	103 Foxgrove Road Beckenham BR3 5DA		
Application Number	21/01090/FULL6	Officer - Susanna Stevenson	
Ward	Copers Cope		
Proposal	Demolition of existing side conservatory and erection of two storey side extension and single storey rear extension. New double height garage with office at first floor. REVISED DRAWINGS RECEIVED 09/06/21		
Applicant		Agent	
Bew		Tara de Linde	
103 Foxgrove Road Beckenham BR3 5DA		The Gardeners Cottage Knole Sevenoaks TN15 0RP	
Reason for referral to committee	Call-In		Councillor call in
	Call-In		Yes

RECOMMENDATION	PERMISSION
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<p>KEY DESIGNATIONS</p> <p>Biggin Hill Safeguarding Area London City Airport Safeguarding Smoke Control SCA 12</p>
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Vehicle parking	Existing number of spaces	Total proposed including spaces retained	Difference in spaces (+ or -)
Standard car spaces	3	3	0

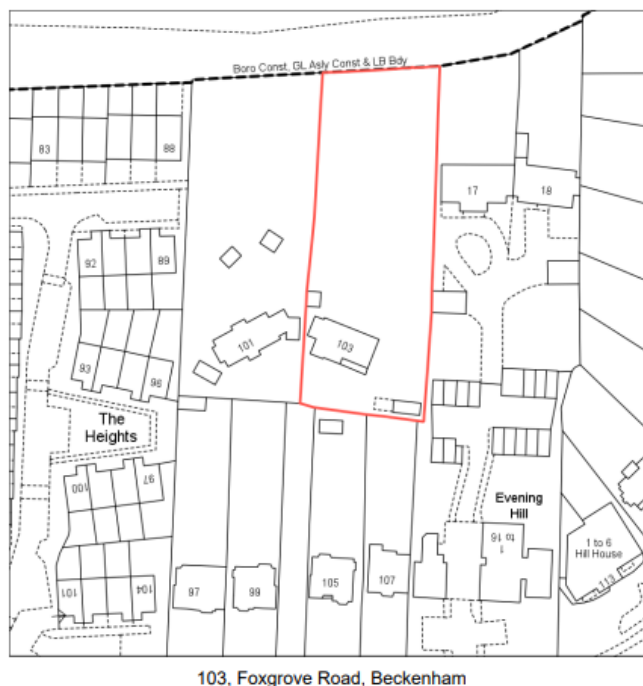
Representation summary	Neighbour letters issued –19.03.2021 Neighbour letters issued (revised plans) – 23.06.21		
Total number of responses	7		
Number in support	0		
Number of objections	7		

1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposal would not have a significant impact on visual amenity
- There would be no significant impact on the residential amenities of neighbouring residents
- The Trees Officer has raised no objections to the proposals

2. LOCATION

2.1 The application site is set back from the Foxgrove Road frontage, behind the main line of dwellings fronting the street. Along with No. 101, the application site forms a pair with No. 103, both of which are accessed via a narrow private road leading from the main road.





Access drive between Nos. 89 and 105



Nos. 101 and 103 from access drive

- 2.2 The host dwelling is wide and shallow, occupying a generously large residential plot which leads to the northern boundary of the site with Beckenham Place Park.
- 2.3 The surrounding area is residential in character, including a variety of dwelling types and ages.
- 2.4 The site does not lie within a designated conservation area and the host dwelling is not statutorily listed.

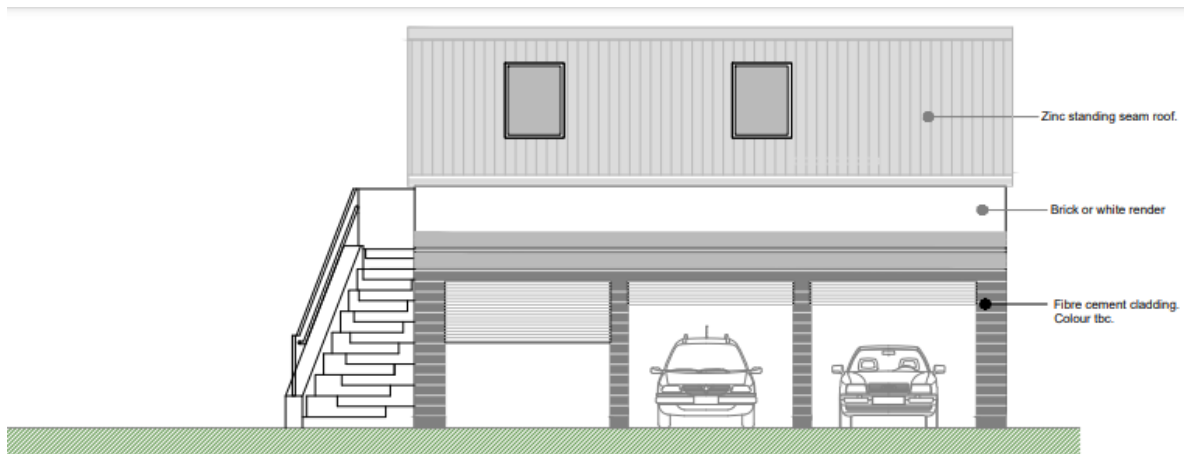
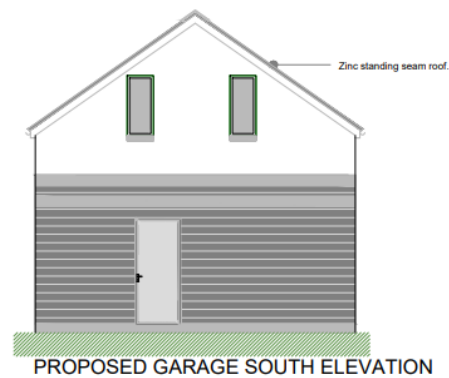
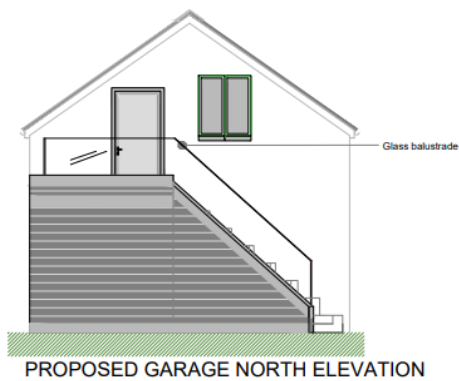
3. PROPOSAL

- 3.1 The application proposes the erection of a detached outbuilding with a first floor office as well as extensions to the main host dwelling, to the side and rear, and incorporating a rear dormer roof extension.



Existing and proposed block plans

- 3.2 Erection of detached garage building with office above, broadly in the position of the existing single storey garage building. At ground floor the building would provide a triple bay garage. External stairs would lead to the first floor office space which would include rooflights to either roof slope and 2 no. narrow windows in the first floor southern gable. In the northern (access) elevation it is proposed to provide an entrance door and window.
- 3.3 The detached building would be approx. 4.2m high to eaves level, and 6.7m high to the ridge. It would be faced in fibre cement cladding, with a brick or white render band above, below eaves height. The roof would be faced with zinc.





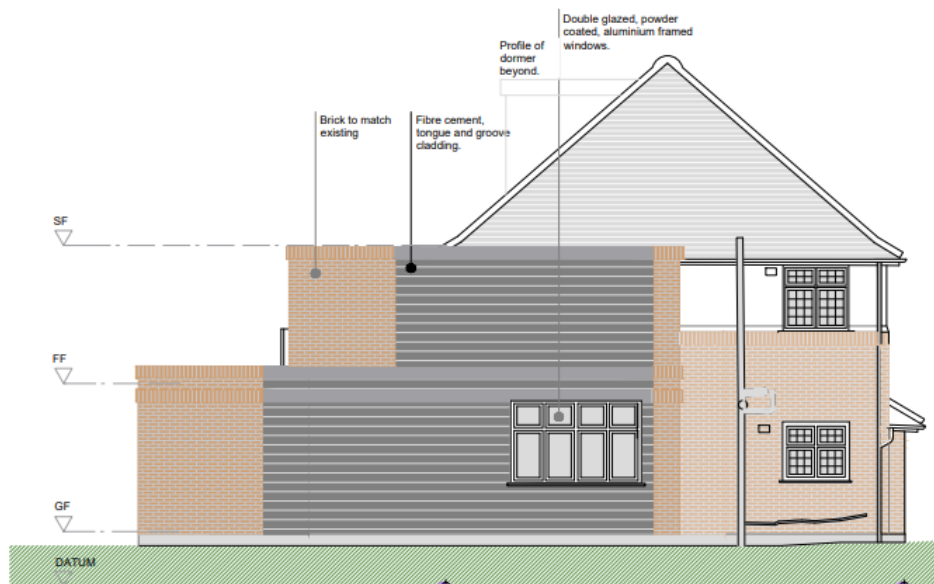
Location of proposed garage/office outbuilding

- 3.4 It is also proposed to enlarge the main host dwelling with extensions comprising a part one/two storey side/rear extension.
- 3.5 The two storey element would be sited between the main western flank wall of the dwelling (as existing) and the boundary of the application site with No. 101 Foxgrove Road. The extension would be set over two storeys to the side, with the front elevation of the extension set back from the main front elevation of the dwelling by approx. 3.9m. The extension would be 7.3m deep in total, projecting beyond and wrapping around the main existing rear corner on this side of the dwelling. A minimum of 1m side space would be retained to the angled side boundary, with the side space increasing towards the rear of the building. The western flank elevation incorporates a flank facing window which would serve an internal bootroom.



PROPOSED SOUTH ELEVATION

- 3.7 The first floor extension would have a flat roof and would be approx. 5.6m high. It would incorporate a Juliet balcony to the rear elevation (with no external projecting terrace or balcony as was originally proposed). Windows are proposed in the first floor rear elevation and within the eastern flank elevation. The eastern flank facing window would be positioned approx. 11m from the existing eastern flank elevation of the dwelling, with further separation to the eastern boundary of the site beyond.



PROPOSED WEST ELEVATION

- 3.8 At ground floor level it is proposed to provide an extension for the full width of the host dwelling (plus the addition to the side described above). The ground floor rear

projection beyond the main host dwelling would be 5.7m. The extension would incorporate patio doors within the rear elevation as well as wrapping around the eastern rear corner of the dwelling. The extension would have a flat roof which would be approx. 4.07m in height.



PROPOSED NORTH ELEVATION

- 3.9 The facing materials proposed comprise facing brick work to the front ground floor elevation with render to match the existing dwelling above. At the side, it is proposed to utilise a mixed palette of materials comprising brick vertical banding and facing brick with the middle of the extension faced in fibre cement tongue and groove cladding. The rear and eastern flank elevations would be faced in brick to match the existing brickwork.
- 3.10 It is proposed to construct a rear dormer extension which would be set lower than the ridgeline (by approx. 0.8m), and back from the eaves (approx. 0.51m). The dormer cheeks would be inset from the existing side hipped roofs. The dormer would have a flat roof and would be glazed within a substantial portion of the rear elevation, with render panel and cheeks.

4. RELEVANT PLANNING HISTORY

- 4.1 Under reference 18/01487/FULL1 planning permission was refused for the erection of two storey five bedroom dwellinghouse with integral garage and associated access/hardstanding and amenity space.
- 4.2 Permission was refused on the ground:

“A dwelling of the scale proposed would be unsatisfactory upon this severance plot and by reason of its size, siting, design and means of access would constitute an

unacceptable form of tandem development which would be detrimental to the existing/future residential amenities of the area, out of character with the distinctive qualities of the immediately surrounding residential area with particular regard to the space about buildings and rear garden areas, and which would result in a loss of trees/planting, thereby contrary to Policies BE1, NE7 and H7 of the Unitary Development Plan, Policies 3, 4 and 73 of the draft Local Plan, Policies 3.5, 7.4 and 7.6 of the London Plan, the provisions of the NPPF and Supplementary Planning Guidance.”

4.3 A subsequent appeal against the refusal of planning permission was dismissed.

5. CONSULTATION SUMMARY

A) Statutory

- None

B) Local Groups

- None

C) Adjoining Occupiers

Visual amenity (addressed at 7.1)

- The change to a pitched roof from the flat roof previously proposed will make it more obtrusive
- The proposal is still inconsistent with the scale and materials of adjacent development
- Proposed height and siting would be out of character
- Overdevelopment of the site
- Precedent – neighbouring residents would feel compelled to submit similar proposals
- The existing garages in Evening Hill may be extended upward
- The proposed garage office building is more in keeping with a residential development than an ancillary building
- Ancillary building should be single storey – as is characteristic of the area
- Materials out of keeping with the locality
- No CGI image or artist's impression provided
- Lack of side space to No. 101
- The height is almost 3 times that which could be constructed under permitted development within the rear garden

Neighbouring amenity (addressed at 7.2)

- Loss of privacy and outlook to No. 101
- As commercial office space the proposed office could provide accommodation for 12 people

- Unclear how the space will be used – if commercial then the office could provide accommodation for 12 people
- The proposed detached building will overlook the front garden of No, 18 Evening Hill and impact on amenities of Nos. 16 and 17 and the communal gardens
- Overshadowing

Trees (addressed at 7.3)

- Application form is inaccurate in that there are trees nearby
- Previous application included a tree survey and trees will be affected
- Impact on existing boundary vegetation

Other matters

- Proposal would need to be considered under the Party Wall Act
- Revised scheme would be a major variation

6. POLICIES AND GUIDANCE

National Policy Framework 2021

The London Plan

D3 Optimising site potential through the design-led approach

D4 Delivering Good Design

Bromley Local Plan 2019

6 Residential Extensions

8 Side Space

30 Parking

37 General Design of Development

73 Development and Trees

Bromley Supplementary Guidance

SPG1 – General Design Principles

SPG2 – Residential Design Guidance

7. ASSESSMENT

7.1 Design – Layout, scale height and massing - Acceptable

- 7.1.1 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.

- 7.1.2 London Plan and BLP policies further reinforce the principles of the NPPF setting out a clear rationale for high quality design.
- 7.1.3 Policies 6, 37 and 73 of the Bromley Local Plan (BLP) and the Council's Supplementary design guidance seek to ensure that new development, including residential extensions, are of a high quality design that respect the scale and form of the host dwelling and are compatible with surrounding development including trees and landscaping that contribute towards the character and appearance of the area.
- 7.1.4 It is acknowledged that representations have been received from nearby residents expressing concern at the impact that the proposed extensions/detached building will have on the visual amenities and character of the area.
- 7.1.5 The proposed side extension would retain a minimum of 1m side space to the boundary with No. 101, with more generous side space provided towards the rear of the extension as a consequence of the angled position of the host dwelling in relation to the boundary.
- 7.1.6 While the proposed extensions would be flat roofed, and generally it would be preferable for extensions visible from the street to incorporate a pitched roof, the extension is set well back from the front elevation of the dwelling, and the dwelling itself is located in a secluded position. A generous side space between two storey/first floor development on either side of the boundary would be retained and the proposal would not result in unrelated terracing or a cramped appearance. The angle at which the host and neighbouring property are set in relation to each other, combined with the set back of the two storey extension from the main front elevation of the host dwelling, would limit the impact of the extension upon the appearance of the front elevation. The extension would not be disproportionate in context with this front elevation and would be readily interpreted as a subservient addition rather than dominating the appearance of the front of the house.
- 7.1.7 The two storey extension will be visible from the neighbouring dwelling at No. 101, but taking into account the scale, massing (including height and depth) and location of the extension in relation to the public realm it is not considered that this visibility equates to harm such that would warrant the refusal of planning permission in this instance. The use of contemporary materials within the flank elevation (tongue and groove cladding) would not be harmful to visual amenity and would serve to articulate/break up the appearance of the flank elevation. The projection to the rear is not significant in the context of the generosity of the application site and the proposed extensions to the side and rear would not be disproportionate in the context of the host dwelling. Generally materials will match the existing building, largely comprising brick and render, however it is noted that the colour and details of the cladding has not been provided and as such a condition requiring further details is suggested.

- 7.1.8 With regards to the proposed detached garage, it would be sited in place of an existing more modest structure, to the front/side of the host dwelling which is itself set back from the main road. The height and massing of the garage/office would be inherently greater than the building it would replace. However, due to its secluded siting and the design to incorporate a dual pitched roof it would not have a significant impact on the visual amenities of the area and would not result in disproportionate development out of context with the host application site and surroundings. The materials used would complement rather than match the materials of the existing building, representing a contemporary finish, but would not be significantly jarring in the context of the site's secluded location and the palette of materials utilised in the local vernacular. Again the specific materials proposed have not been provided and as such a condition requiring further details is suggested.
- 7.1.9 The proposed rear dormer would be of modest scale relative to the roof slope in which it would be positioned, with the structure confined within that roof slope, set in from the eaves and the ridgeline. The streamlined design of the extension to the roof, along with the ground and first floor development, would not overwhelm the main existing rear elevation of the host dwelling.
- 7.1.10 While it is noted that concern has been expressed regarding the pitched roof profile of the garage resulting in increased building height relative to the originally proposed flat roof, taking into account the massing and the eaves height proposed it is not considered that the visual impact would be worsened in contrast to the original submission.

7.2 Neighbourhood Amenity - Acceptable

- 7.2.1 Policy 37 of the BLP 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.
- 7.2.2 With regards to the detached garage/office building it is noted that the current scheme revises the original submission which included residential annexe accommodation as well as a large elevated terrace. The current proposal is more modest and the relationship between the proposal and the host dwelling/site and neighbouring properties is as a consequence an improvement on the original submission.
- 7.2.3 The building is positioned approx. 28m from the rear elevation of No. 107 Foxgrove Road and while it would be sited close to the rear boundary of that property with the application site, along with the rear amenity associated with dwellings at Evening Hill, the separation to the boundary in tandem with the limited eaves height of the structure along with the existing vegetation on either side of the boundary would limit the impact of the proposal on the residential amenities of the neighbouring property at No. 107.

- 7.2.4 The revised massing would reduce the visual impact in contrast to the original scheme, in that the height to the apex of the pitched roof would fall away to eaves level rather than representing a flat roofed consistent bulk at first floor level. The design of the proposed roof would result in the building's height reducing adjacent to the flank boundary with the Evening Hill site (the en-bloc garaging and the substantially deep front garden and detached garage of No. 17).
- 7.2.5 The rear of the proposed building would be positioned adjacent to the garage and manoeuvring space associated with the Evening Hill block to the west, and would have no significant impact on the amenities of those properties at Nos. 1-16 at the front of the neighbouring site, nor upon the dwellings at Nos. 17 and 18 Evening Hill which are well separated from the proposed outbuilding. The proposal includes external steps on this northern elevation leading from the first floor office space to ground level, but taking into account the separation between this elevation and the front of the neighbouring house at No. 17 Evening Hill (which is set even further back from Foxgrove Road than the application host dwelling) it is not considered that the proposal would result in a significant loss of privacy or undue overlooking. In the revised drawings, the former large raised first floor terrace on this side of the building has been deleted. The steps would not provide the same opportunity for congregation/outside amenity space as the original submission's large raised terrace.
- 7.2.6 The proposal includes the provision of 2 flank first floor windows serving the office, within the southern elevation. If permission is granted it would not be unreasonable to impose a condition on the permission to require these to be obscure glazed.
- 7.2.7 There is quite dense existing vegetation along the southern boundary with the rear of 107 Foxgrove Road and the frontage development at Evening Hill. Concern has been expressed regarding the loss of greenery along the boundary. The proposed garage is not located immediately adjacent to the southern boundary, although it is noted that between the garage and the eastern boundary the plans indicate the provision of a pathway. There are no protected (TPO) trees on the application site and the fact that the existing screening within the application site could be removed without consent falls to be considered in the assessment of the impacts of the proposal. There is existing screening and vegetation within adjacent sites to the south, along the boundary and within the amenity space, and taking this into account along it is not considered that the refusal of planning permission on the basis of visual impact or loss of privacy would be warranted in this instance.



Aerial view of garage location

7.2.8 It is noted that concern has been expressed regarding the potential intensity of use of the office were it to be commercially used. On the basis of the application submission, the office is intended to be used for purposes incidental to the enjoyment of the dwellinghouse rather than as a separate commercial office. If planning permission is granted it would be appropriate to impose a condition requiring that the outbuilding be used in conjunction with the occupation of the host residential dwelling, so as to prevent its severance from the main residential site and to ensure it is used domestically rather than for commercial purposes.



Side elevation of No. 103 from garages at Evening Hill



Front elevation of No. 17 Evening Hill

7.2.9 With regards to the impact of the rear extensions to the dwelling, the application site is substantially deep and the front of No. 17 Evening Hill is at present separated by a distance of approx. 33.5m (with intervening mature landscaping) from the rear of the host dwelling. As a consequence it is not considered that the depth and scope of the rear extensions, including the rear dormer extension, would result in a significant loss of amenity, including privacy, to that property or its neighbour at No. 18.

7.2.10 The proposed extensions would be sited closer to the boundary with No. 101 (which lies to the east of the application dwelling) than the existing residential dwelling. However, the rear elevations of Nos. 101 and 103 are angled such that they face slightly away from each other. It is further noted that the main dwelling at No. 101 is separated from the boundary by a single storey garage structure which is then linked to the main dwelling by a glazed single storey side/rear extension.



Nos. 101 and 103 Foxgrove Road

- 7.2.11 Taking into account the orientation of the dwellings in relation to each other and the scale and massing of the development it is not considered that the proposal would result in a significant loss of amenity to the neighbouring dwelling or garden at No. 101.



Rear elevation of No. 103 and boundary with No. 101

7.3 Trees - Acceptable

- 7.3.1 Comments were sought from the Trees Officer regarding the submission and the scope of the proposal. No objections are raised with regards to the application proposal.
- 7.3.2 The application site is generously sized and includes a variety of trees scattered through the site, along the boundaries and in particular at the rear of the substantially deep garden. The site boundaries are generally quite densely vegetated.
- 7.3.3 There are no TPO trees within the application site, and taking into account the scope of the application in relation to the size and verdancy of the site, it is not considered that the proposal would result in an unacceptable diminution of greenery and soft landscaping such that would warrant the refusal of planning permission.
- 7.3.4 It is noted that concerns have been expressed in response to neighbour notification relating to the information provided on the application form. Specifically, it is stated that the proposal would result in a loss of greenery adjacent to the boundaries, as well as trees to the rear.
- 7.3.5 The submitted drawings indicate the provision of a gravel pathway behind the proposed garage/office. There are no protected trees or vegetation along this

boundary, which lies adjacent to the en-bloc garaging at Evening Hill. Along the southern boundary the site lies adjacent to the end of the approx. 30m deep rear garden of No. 107 Foxgrove Road which is noted to be quite densely vegetated adjacent to the boundary.

- 7.3.6 It should be noted that the formation of patio/paving/decking as indicated to be provided between the main house and the detached outbuilding would not normally require planning permission, and that in the absence of protection afforded by TPO or conservation area designation, the removal of trees within the site would not require approval.



Position of proposed outbuilding

7.4 Other matters

- 7.4.1 It is noted that representations have referred to the need for a Party Wall Agreement. This would be a private legal matter outside of planning control and is not a material consideration in the assessment of the merits of the proposal.
- 7.4.2 Concern has also been expressed regarding the extent of the amendments/revisions to the original submission, with suggestion that these would constitute a major revision. The applicant has revised the proposals to increase the side space to the flank boundary with No. 101, to delete a first floor terrace at the rear (substituting a 'juliet' balcony) and reducing the roof bulk and massing of the detached outbuilding, as well as amending the internal layout/accommodation so as to not provide separate living accommodation.
- 7.4.3 The amendments have reduced the overall scope of the application and have been submitted in an attempt to address concerns raised with regards to the original application submission. Neighbouring residents were re-notified of the revised drawings and given the opportunity to comment, and the representations received are summarised within this report.
- 7.4.4 It has also been suggested that the proposals would set a precedent for other residential extensions of this scale within the locality. It is a fundamental principle that each case is considered on its merits in relation to the site context, planning constraints and the impacts of the development. As such, it is not considered that

the proposal would set a precedent for identical development elsewhere – should permission be sought in nearby sites, such applications will be assessed in relation to the site and surroundings in relation to relevant planning policies.

8. CONCLUSION

- 8.1 It is considered that the proposals would not have a significant impact on the visual and residential amenities of the area.
- 8.2 There are no technical objections to the proposal from a highways or trees perspective.
- 8.3 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

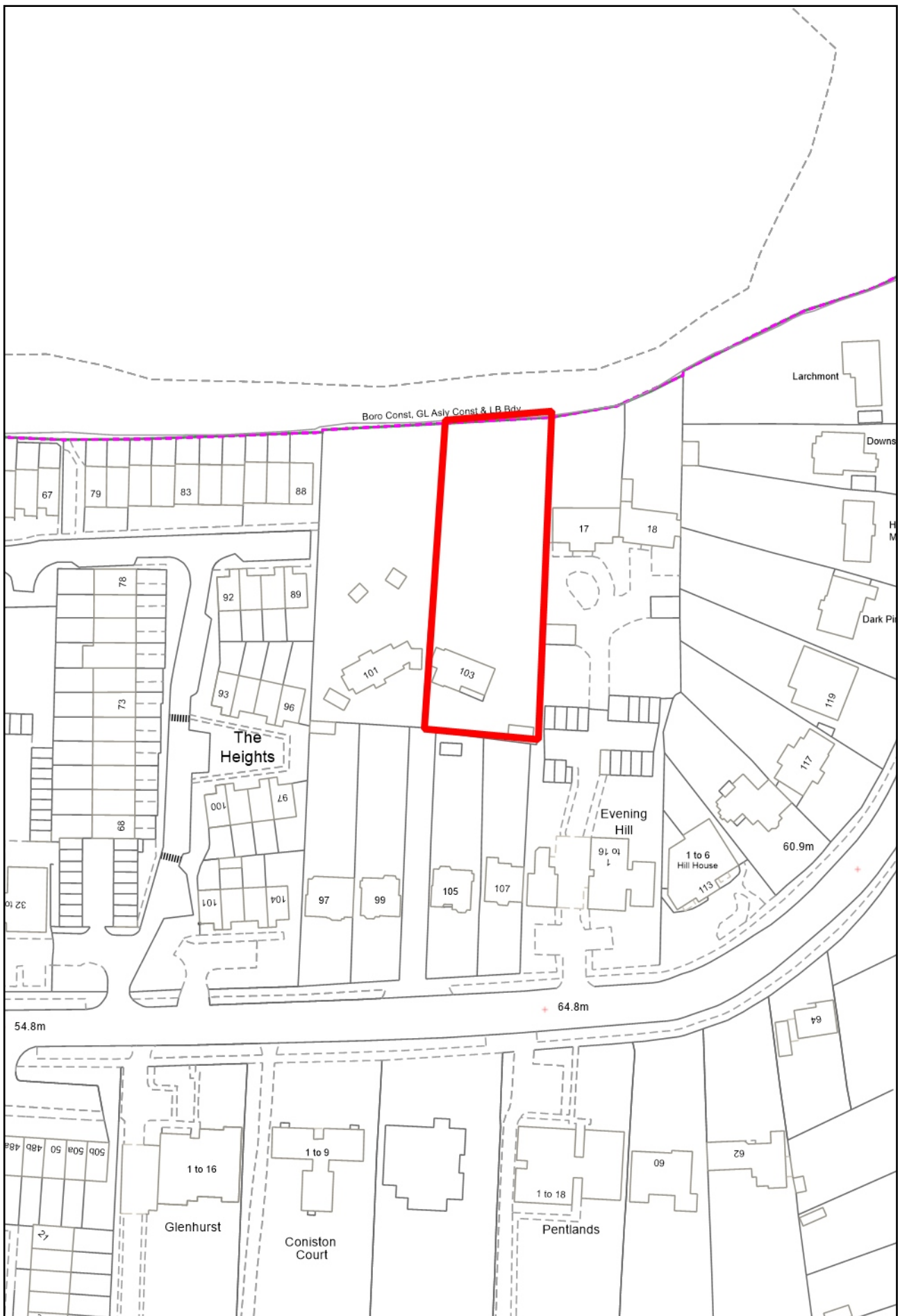
Subject to the following conditions:

- 1. Standard time limit**
- 2. Compliance with plans**
- 3. Details of materials to be submitted**
- 4. Restrict use of outbuilding garage/office**
- 5. Obscure glazing**

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

Informatives:

CIL



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Agenda Item 4.6

Committee Date	05.08.2021		
Address	64 Petts Wood Road Petts Wood Orpington BR5 1LD		
Application Number	21/01913/FULL6	Officer - Jennie Harrison	
Ward	Petts Wood and Knoll		
Proposal	Alterations to previously approved application with reference 15/04422/FULL6 for part one/two storey side/rear extension to include alterations to the first floor layout, increase in height of the first floor rear extension, alterations to roof layout and a loft conversion		
Applicant		Agent	
Mr Andrew Sinclair		Mr Stefan Pop	
64 Petts Wood Road Petts Wood Orpington BR5 1LD		2 Greencourt Road Petts Wood Orpington BR5 1QW	
Reason for referral to committee	Side-Space Policy		Councillor call in No

RECOMMENDATION	Application permitted
-----------------------	-----------------------

KEY DESIGNATIONS Biggin Hill Safeguarding Area London City Airport Safeguarding Open Space Deficiency Smoke Control SCA 4 Areas of Special Residential Character Article 4 Direction

Land use Details		
	Use Class or Use description	Floor space (GIA SQM)

Existing	C3	158.67
Proposed	C3 (no change proposed)	256.54

Vehicle parking	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

Electric car charging points	0
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Representation summary	Neighbour letters issued –14.05.2021	
Total number of responses	2	
Number in support	0	
Number of objections	2	

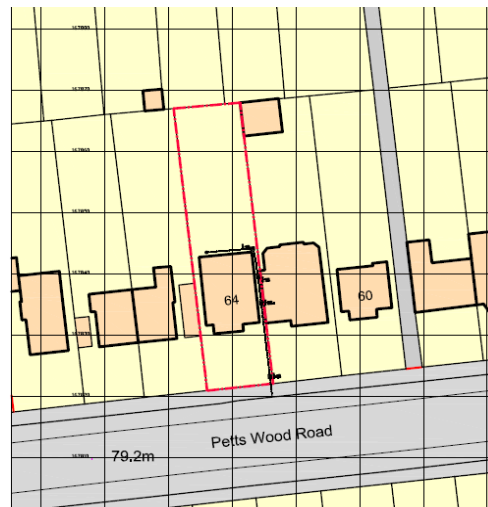
1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The alterations to the previously approved application do not cause any harm to the character and appearance of the host dwelling or the Petts Wood Area of Special Residential Character
- The proposal does not cause any significant harm to the amenity of the adjoining occupiers to the East and West
- Increase in height would reflect the neighbouring properties and not cause any significant harm to the character and appearance of the host dwelling, street scene or Area of Special Residential Character.

2. LOCATION

- 2.1 The application site hosts a two storey detached dwelling on the Northern side of Petts Wood Road, Orpington and falls within Petts Wood Area of Special Residential Character.

2.3 Site Location Plan:

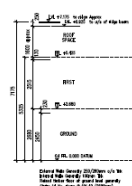


3. PROPOSAL

- 3.1 The application proposes part retrospective extensions which are alterations to a previously approved scheme under reference 15/04422/FULL6. The ground floor extensions have been constructed and so this application relates to the first floor extensions and alterations to the roof to create a loft conversion.
- 3.2 The application would include a first floor rear extension that would have a depth of 4.2m, a width of 8.6m, an eaves height of 5.6m and a ridge height of 10m.
- 3.3 The application also includes a large portion of flat roof in the middle of the main roof, the creation of a gable end to the rear of the property and an increase in ridge height of the main dwelling of 2m to create habitable space in the roof.

[illegible]

First floor



Architectural site plan showing property boundaries, setbacks, and building footprints for 42, 44, 46, and 48 Perry Road. The plan includes setbacks of 10, 15, 20, and 25 feet, and various lot dimensions and area calculations.

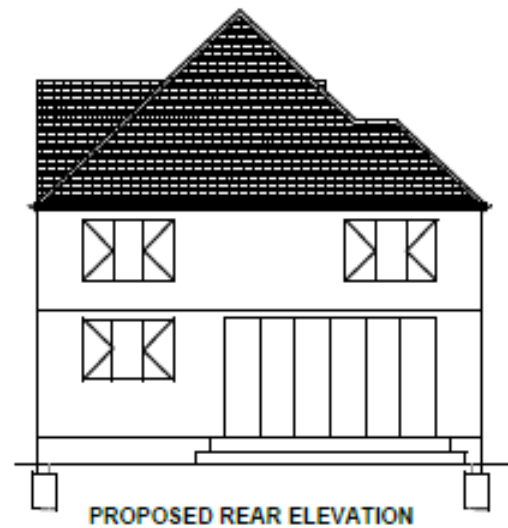
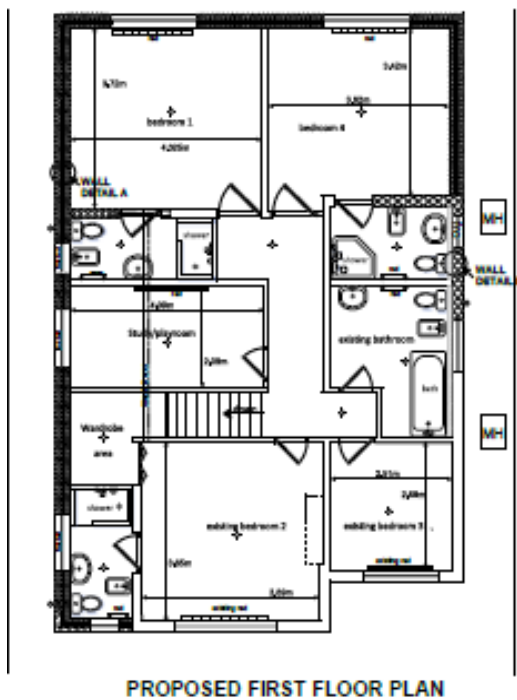
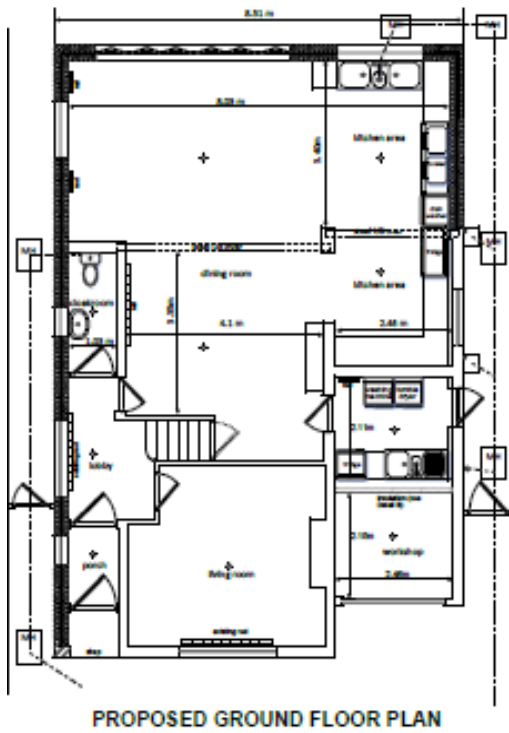
Key features and dimensions:

- 42 Perry Road (10' Setback):** Building footprint 10' x 10'. Lot area 10' x 10' = 100 sq. ft.
- 44 Perry Road (15' Setback):** Building footprint 15' x 15'. Lot area 15' x 15' = 225 sq. ft.
- 46 Perry Road (20' Setback):** Building footprint 20' x 20'. Lot area 20' x 20' = 400 sq. ft.
- 48 Perry Road (25' Setback):** Building footprint 25' x 25'. Lot area 25' x 25' = 625 sq. ft.

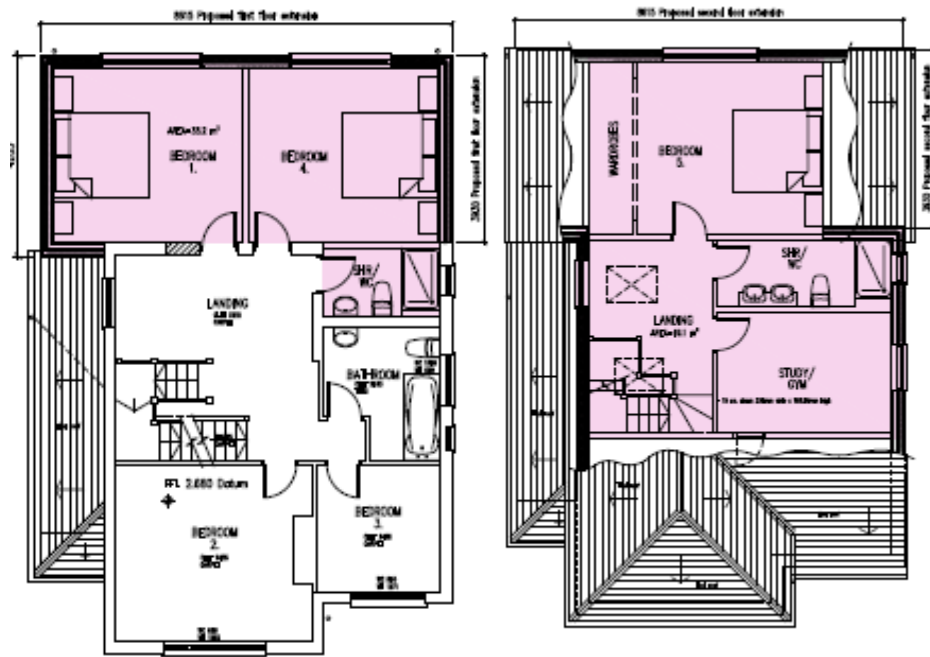
Other dimensions and setbacks shown include 10', 15', 20', 25', 30', 35', 40', 45', 50', 55', 60', 65', 70', 75', 80', 85', 90', 95', 100', 105', 110', 115', 120', 125', 130', 135', 140', 145', 150', 155', 160', 165', 170', 175', 180', 185', 190', 195', 200', 205', 210', 215', 220', 225', 230', 235', 240', 245', 250', 255', 260', 265', 270', 275', 280', 285', 290', 295', 300', 305', 310', 315', 320', 325', 330', 335', 340', 345', 350', 355', 360', 365', 370', 375', 380', 385', 390', 395', 400', 405', 410', 415', 420', 425', 430', 435', 440', 445', 450', 455', 460', 465', 470', 475', 480', 485', 490', 495', 500', 505', 510', 515', 520', 525', 530', 535', 540', 545', 550', 555', 560', 565', 570', 575', 580', 585', 590', 595', 600', 605', 610', 615', 620', 625', 630', 635', 640', 645', 650', 655', 660', 665', 670', 675', 680', 685', 690', 695', 700', 705', 710', 715', 720', 725', 730', 735', 740', 745', 750', 755', 760', 765', 770', 775', 780', 785', 790', 795', 800', 805', 810', 815', 820', 825', 830', 835', 840', 845', 850', 855', 860', 865', 870', 875', 880', 885', 890', 895', 900', 905', 910', 915', 920', 925', 930', 935', 940', 945', 950', 955', 960', 965', 970', 975', 980', 985', 990', 995', 1000'.

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3.5 Previously Approved Plans

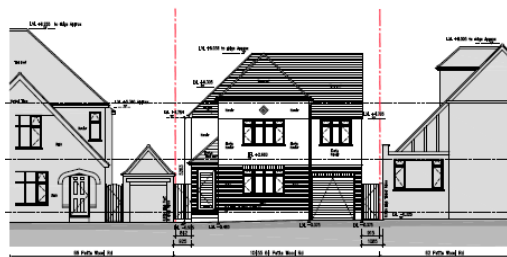


3.6 Proposed plans:

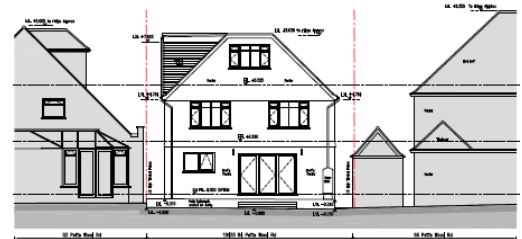


First floor

Second floor



PROPOSED SOUTH ELEVATION
@ 1:100



PROPOSED NORTH ELEVATION
@ 1:100

4. RELEVANT PLANNING HISTORY

4.1 The relevant planning history on the site can be summarised as follows:

- 15/04422/FULL6 - Part one/two storey side/rear extension – Permitted
- 20/04435/FULL6 - Alterations to previously approved application with reference 15/04422/FULL6 for part one/two storey side/rear extension to include alterations to the first floor layout, increase in height of the first floor rear extension, alterations to roof layout and a loft conversion. Part retrospective - Refused

5. CONSULTATION SUMMARY

A) Statutory

5.1 None

B) Local Groups

5.2 None

C) Neighbouring occupiers

5.3 Objections

5.3.1 Neighbouring amenity

- Loss of amenity
- Loss of light
- Loss of outlook
- Two storey extension would block light and cause a loss of privacy
- Dormer window would directly over skylights at no.62

5.3.2 Impact on Area of Special Residential Character

- Skyline would negatively impact the ASRC
- Extensions would be overdevelopment of the site

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 London Plan (March 2016) and the Bromley Local Plan (2019). The NPPF does not change the legal status of the development plan.

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

6.5 **National Policy Framework 2021**

6.6 **The London Plan**

D1 London's form, character and capacity for growth
D4 Delivering good design

6.7 Bromley Local Plan 2019

6 Residential Extensions
37 General Design of Development
44 Areas of Special Residential Character

6.8 Bromley Supplementary Guidance

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

7. ASSESSMENT

- Resubmission
- Design – Layout, scale, ASRC
- Residential Amenity

7.1 Resubmission – Acceptable

7.1.1 The main alterations to the previously approved application with reference 15/04422/FULL6 are the removal of the first floor side extension, an increase in ridge height both to the existing dwelling and the proposed rear extension, creation of a gable end to the rear and a loft conversion.

7.1.2 The application seeks to overcome a previous refusal with reference 20/04435/FULL6 which was refused for the following reason:

7.1.3 "The proposed development, by reason of its design, scale and prominent location, would create a bulky roof design resulting in an incongruous addition to the host building, appearing out of character with surrounding development and detrimental to the visual amenities of the street scene and Petts Wood Area of Special Residential Character generally, contrary to policies 6, 37 and 44 of the Bromley Local Plan."

7.1.4 Since this refusal the roof has been significantly redesigned to appear more modest at the front. Whilst it is noted that there would be a significant increase in ridge height (previously 0.6m) by 2m the properties either side of number 64 are both presently much taller than the host property.

7.2 Design – Layout and scale - Acceptable

7.2.1 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.

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

7.2.3 Policy 44 states that Development proposed in areas designated as Areas of Special Residential Character (ASRCs) will be required to respect, enhance and strengthen their special and distinctive qualities. Petts Wood ASRC is characterised by the regularity of front building and rear building lines, the consistency in the front roof lines largely untouched by roof extensions or conversions and the symmetry between pairs and neighbouring pairs of houses are of importance in defining the character of the area.

7.2.4 Whilst the alterations to the roof would significantly alter the appearance of the dwelling from the street scene it is considered that the proposed height would better reflect the properties at either side of it and would maintain the design features of the area, particularly the pitched elements of the roof which are of more traditional design and to the rear reflect catslide designs which are prominent in this area of Petts Wood Area of Special Residential Character.

7.2.5 With regard to side space, the single storey side element to the existing dwelling has a minimum separation to the western flank boundary of 0.842m at the front, which increases to 0.985m at the rear. As the proposed first floor side element of the proposed development would be located above the existing single storey element it would not meet the minimum requirement for 1m to be maintained to the flank boundary for the entire height and length of the flank wall. However, the first floor element would be set well back from the front of the dwelling and is subservient to the dwelling, minimising its visual impact in the street scene. It is not therefore considered that the development would give rise to a cramped appearance in this instance or result in a terracing effect that would compromise the aims of Policy 8 or harm the character of the Area of Special Residential Character.

7.2.6 Having regard to the form, scale, siting and proposed materials it is considered that the proposed extensions would complement the host property and would not appear out of character with surrounding development or the Area of Special Residential Character.

7.3 Residential amenity – Acceptable

7.3.1 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.

7.3.2 The first floor rear extension is similar to that which was permitted but with an increase in ridge height, it is considered that this alteration would have no significant impact on neighbouring amenity.

- 7.3.3 The loft conversion may create some additional perceived overlooking however in a residential setting such as this one a degree of overlooking is already experienced and it is considered that a loft conversion, on principal, would not increase this over and above the existing mutual overlooking.
- 7.3.4 The alterations to the existing roof would not cause any significant harm to the outlook and amenity of adjoining occupiers.
- 7.3.5 Having regard to the scale, siting and separation distance of the development, it is not considered that a significant loss of amenity with particular regard to light, outlook, prospect and privacy would arise.

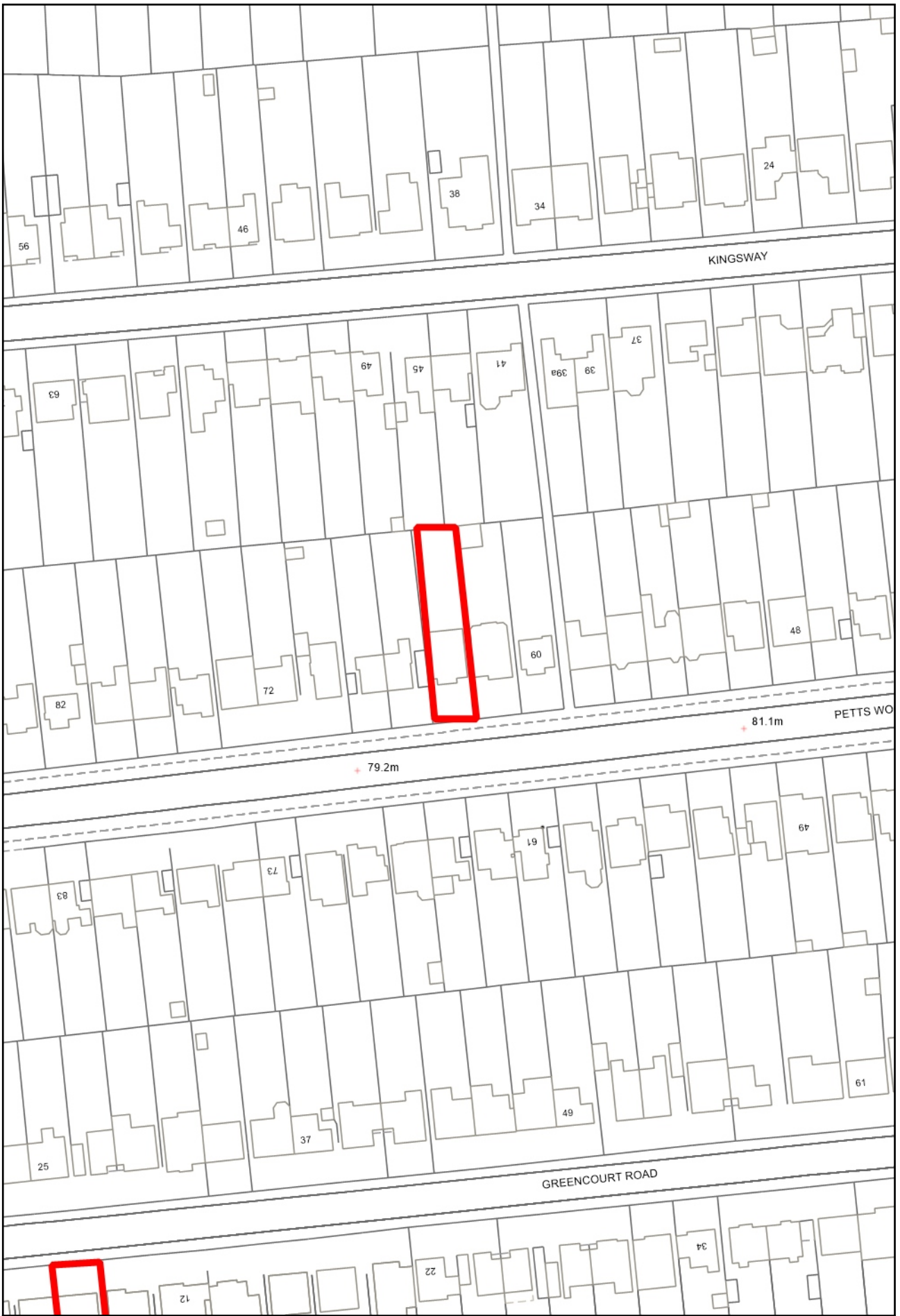
8. CONCLUSION

- 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 of Special Residential Character.
- 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**
- 2. Compliance with plans**
- 3. Matching Materials**



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Agenda Item 4.7

Committee Date	05.08.2021		
Address	Y Buildings Bromley Civic Centre Stockwell Close Bromley		
Application Number	21/03120/RESPA	Officer - Russell Penn	
Ward	Bromley Town		
Proposal	Change of use of Class B1(a) office to Class C3 Residential to form 73 residential units. (56 day application for prior approval in respect of transport and highways, contamination, flooding, noise impacts, natural light to habitable rooms under Class O Part 3 of the GPDO)		
Applicant		Agent	
Moon Y Ltd		City Planning Ltd	
6 Duke Street St James's London SW1Y 6BN		40-41 Pall Mall 2nd Floor West Wing London SW1Y 5JG	
Reason for referral to committee	Outside delegated powers		Councillor call in No

RECOMMENDATION	Refuse Prior Approval
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<p>KEY DESIGNATIONS</p> <p>Areas of Archaeological Significance Biggin Hill Safeguarding Area Bromley Town Centre Area Bromley Town Centre Area Buffer 200m London City Airport Safeguarding Open Space Deficiency Sites of Interest for Nat. Conservation Smoke Control SCA 13 Urban Open Space</p>

Land use Details		
	Use Class or Use description	Floor space (GIA SQM)
Existing	Office (use Class E)	3817
Proposed	Residential (use Class C3)	3817

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	67	6	0	0	73
Affordable (shared ownership)	0	0	0	0	0
Affordable (social rent)	0	0	0	0	0
Total	67	6	0	0	73

Vehicle parking	Existing number of spaces	Total proposed including spaces retained	Difference in spaces (+ or -)
Standard car spaces	32	29	-3
Disabled car spaces	2	0	-2
Car club	0	1	1
Cycle	0	83	83

Electric car charging points	0
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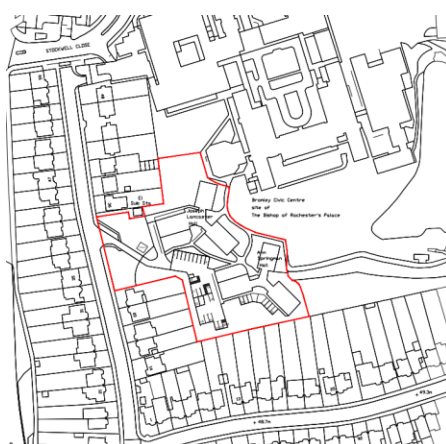
Representation summary	Neighbour letters were sent on 12/07/2021. Site notice for Part 3 GPDO Prior Approval was displayed 13/07/2021	
Total number of responses	TBC	
Number in support	TBC	
General comment	TBC	
Number of objections	TBC	

1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The application for the change of use from B1(a) office space to C3 residential accommodation has been assessed in accordance with the provisions of Class O of Part 3 of Schedule 2 and Article 3 section (9A) of the General Permitted Development Order 2015 (as amended).
- Officers raise objections to the proposal on the grounds that the development does not meet all the limitations of Class O.1 and the criteria of Article 3 section (9A).

2 LOCATION

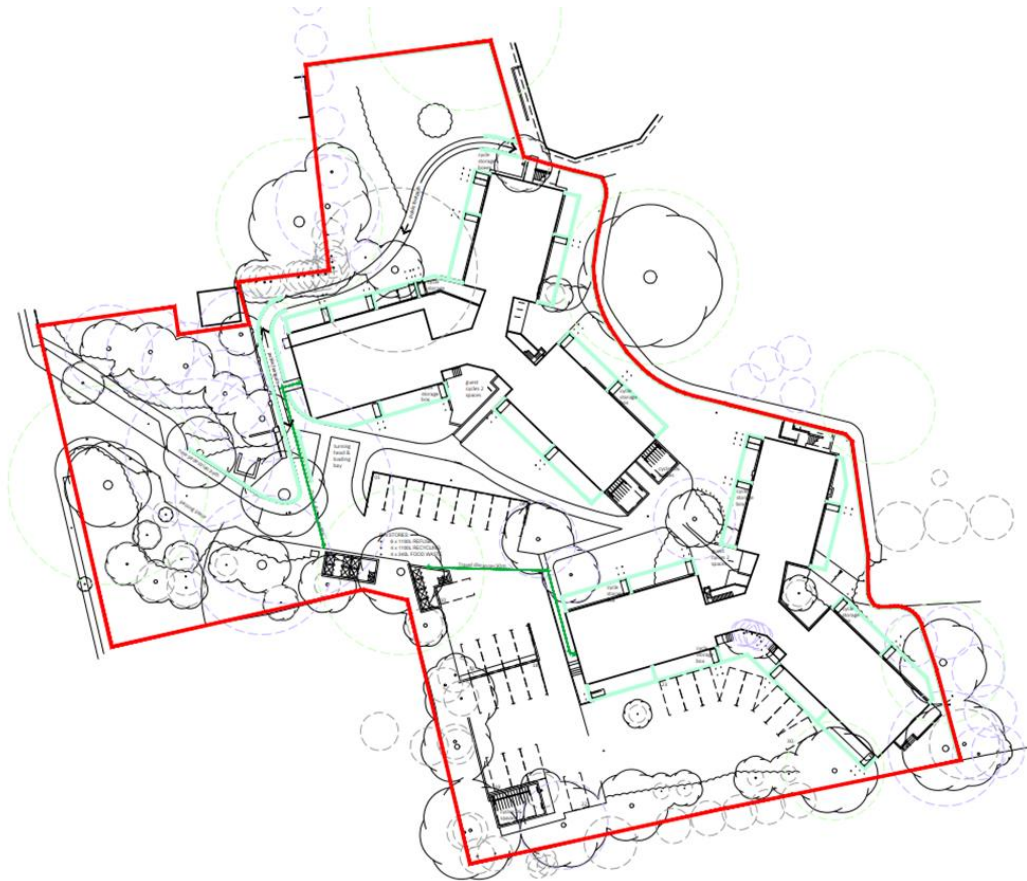
- 2.1 The site comprises two 3 storey buildings known as Ann Springman and Joseph Lancaster Halls, both arranged in a Y-shape and informally referred to as the 'Y' buildings or 'Y' blocks.
- 2.2 The buildings lie within the grounds of the former Bishop of Rochester's Palace. The original Old Palace, together with its later additions (wings and the Council chamber) are all Grade II listed. There are also several listed structures in the grounds including the Grade II listed Victorian Folly of 'Medieval Ruins'.
- 2.3 The site in question is within the curtilage of the listed Old Palace and forms part of the Civic Centre municipal complex which, in addition to office accommodation for Bromley Council workers, provides Committee rooms, the Council Chamber and the Great Hall. The Great Hall is licensed under the Licensing Act 2003 and it is used for entertainment purposes and is available for private hire by the general public, community groups and clubs.
- 2.4 The current application is for the 'Y' buildings and an area of curtilage around them with the land to which the application relates being depicted by a location plan marked with a red line boundary.
- 2.5 To the west, the site in question is bounded by existing residential dwellings and gardens on Rafford Way and by Rafford Way itself with direct access to this road. To the south is further residential development in The Chase. To the north and east are the grounds and associated buildings occupied by Bromley Council's Civic Centre complex and Bromley Palace Park.



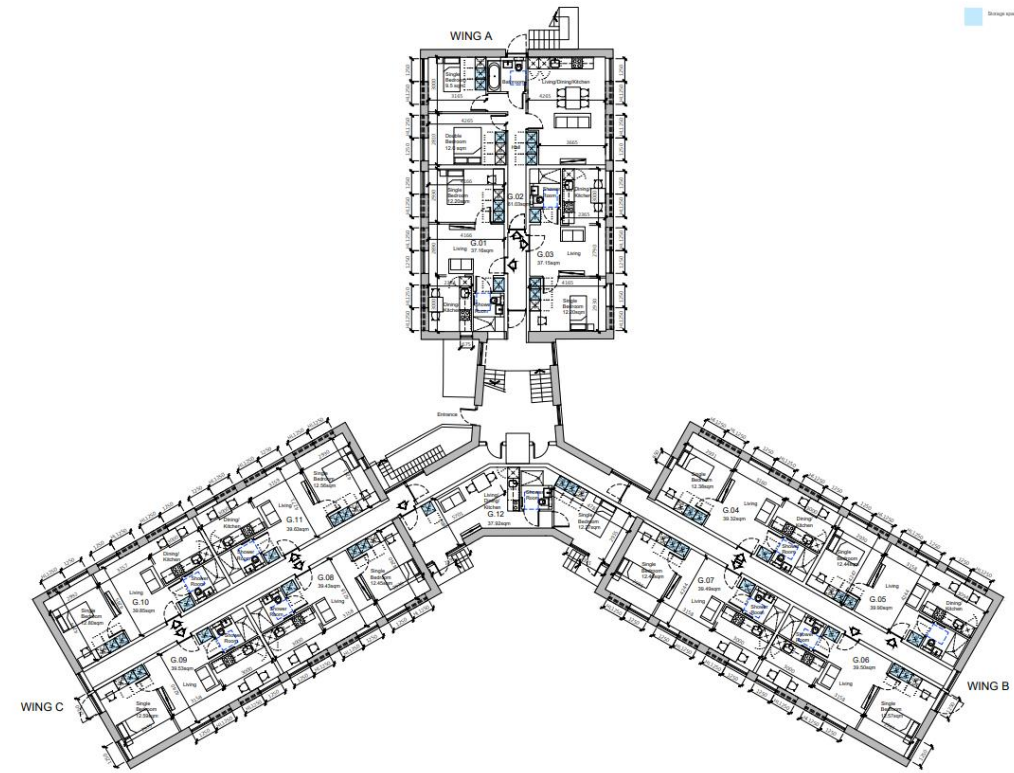
Site Location Plan

3 PROPOSAL

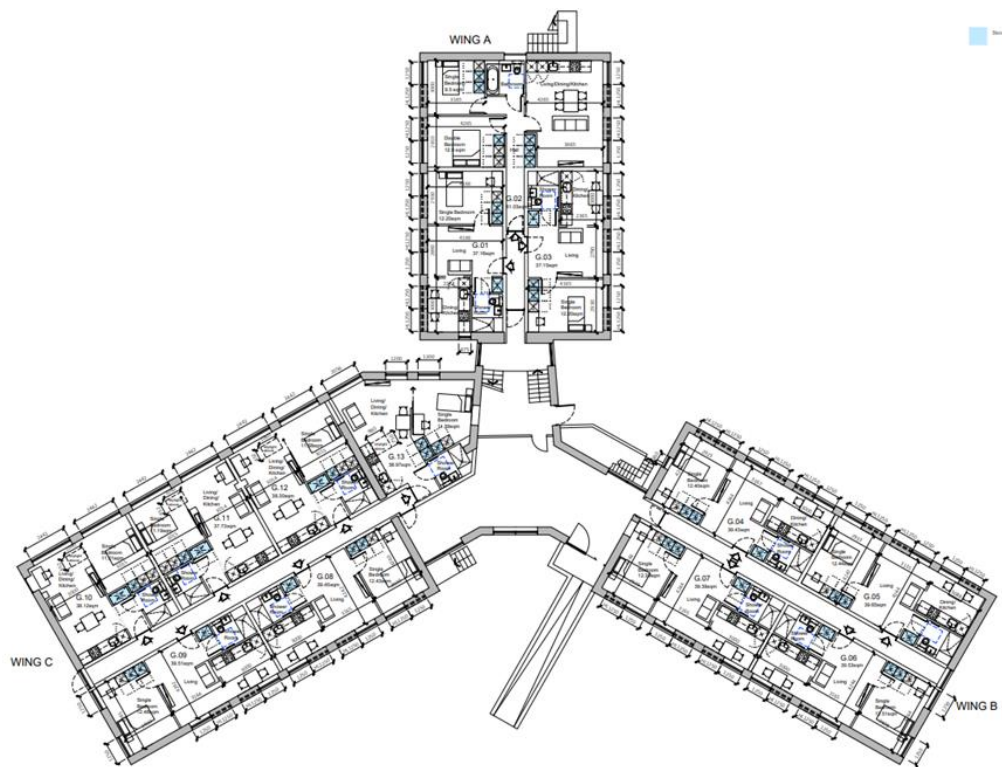
- 3.1 Prior approval is sought for the change of use of Class B1(a) office to Class C3 Residential to form 73 residential units (56 day application for prior approval in respect of transport and highways, contamination, flooding risks and noise under Class O Part 3 of the GPDO 2015)
- 3.2 The submitted plans indicate this involves internal layout alterations to facilitate the 73 residential units comprising of 67 one bedroom flats and 6 two bedroom flats. 37 flats will be provided in the Joseph Lancaster building and 36 flats will be provided in the Ann Springman building.
- 3.3 The application is accompanied by a supporting letter and two additional documents which were provided to the Council in support of the previous application. These are appended to the report so that Members can clearly see the full case being put by the applicant.



Proposed Block Plan



Ann Springman Proposed Ground Floor Plan



Joseph Lancaster Proposed Ground Floor Plan

4 RELEVANT PLANNING HISTORY

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

4.2 The 'Y' Buildings were constructed in the 1960s with planning permission having been granted on 27th August 1963 (ref.WK/3/62/430) for their construction and use as halls of residence by Stockwell College which then occupied the site of the former Bishop of Rochester's Palace. The entire site was later retained by Bromley Council and the buildings within it adapted for civic use with planning permission being obtained for Change of use from College of Education to Civic Offices and use by public of hall and gymnasium on 17th August 1979 (ref. 79/0153).

4.3 19/03228/ELUD: Use as B1(a) offices. Withdrawn

4.4 20/01327/RESPA Change of use of Class B1(a) office to Class C3 Residential to form 120 residential units. (56 day application for prior approval in respect of transport and highways, contamination, flooding risks and noise under Class O Part 3 of the GPDO 2015). Prior Approval required and Refused. 09.06.2020

Refusal reason:

In the opinion of the Local Planning Authority the proposed development does not comply with Class O.1(f) of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in respect that the development is situated within the curtilage of a listed building. The proposal does not therefore comply with the provisions, conditions and limitations of Paragraph W(3) of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

4.5 20/02665/RESPA Change of use of Class B1(a) office to Class C3 Residential to form 73 residential units.(56 day application for prior approval in respect of transport and highways, contamination, flooding risks and noise under Class O Part 3 of the GPDO 2015). Prior Approval required and Refused. 21.09.2020

Refusal reason:

In the opinion of the Local Planning Authority the proposed development does not comply with Class O.1(f) of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in respect that the development is not within the curtilage of a listed building. The proposal does not therefore comply with the provisions, conditions and limitations of Paragraph W(3) of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

4.6 21/01985/RESPA Change of use of Class B1(a) office to Class C3 Residential to form 73 residential units. (56 day application for prior approval in respect of transport and highways, contamination, flooding, noise impacts, natural light to habitable rooms under Class O Part 3 of the GPDO. Prior Approval required and refused 14.6.21.

Refusal reason:

In the opinion of the Local Planning Authority the proposed development does not comply with Class O.1(f) of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) with respect to the requirement that the development is not within the curtilage of a listed building. The proposal does not therefore comply with the provisions, conditions and limitations of Paragraph W(3) of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 4.7 21/02042/ELUD The use of the "Y" Buildings as offices for the carrying out of administrative functions (Use Class E(g)(i)). LAWFUL DEVELOPMENT CERTIFICATE (EXISTING) : Resolved to grant certificate at Plans Sub Committee on 10th June 2021

5 CONSULTATION SUMMARY

Consultation responses from previous application 21/01985/RESPA are reported below with updates where appropriate

A) Statutory

Environmental Health Officer – No objection

- No further comments received. However, comments received under ref 20/02665/RESPA remain relevant to the current application and are repeated as follows:
- I have considered the above and have no objections within the grounds of consideration. The application limits me to only comment on noise and contamination. In regard to noise I do not believe there will be any issues and as for contamination I recommend the following informative:
- If during the works on site any suspected contamination is encountered, Environmental Health should be contacted immediately. The contamination shall be fully assessed, and an appropriate remediation scheme submitted to the Local Authority for approval in writing.
- Although it is not something I can comment on, the application site is within an Air Quality Management Area declared for NOx. I would therefore recommend that the following conditions are attached:
- The application site is located within an Air Quality Management Area declared for NOx: In order to minimise the impact of the development on local air quality any gas boilers must meet a dry NOx emission rate of <40mg/kWh to minimise the effect of the development on local air quality within an Air Quality Management Area.
- I would recommend a CEMP for this building.

Highways – No objection

- This application is similar to the previous scheme under Application No. 20/02665/RESPA. The site is in an area with PTAL rate of 6a on a scale of 0 – 6b, where 6b is the most accessible. There are no waiting restrictions outside the development. The area is part of Bromley Town Centre's Controlled Parking Zone (CPZ). Vehicular access is from Rafford Way via an existing access arrangement leading to the surface car parking area.
- Parking beat surveys were undertaken during the overnight period to determine the level of demand for on-street car parking spaces. Surveys were undertaken on Wednesday 22nd May 2019 (04:45) and Friday 24th May 2019 (03:45) with a 48% occupancy on both dates.
- The applicant should be aware that Lambeth Methodology states that parking surveys for sites close to any of the following land uses, additional survey times may be necessary. In respect of Town Centre locations: surveys should be undertaken Monday-Wednesday only. "A snapshot survey between the hours of 0030-0530 should be undertaken on two separate weekday nights (i.e. Monday, Tuesday, Wednesday or Thursday)." Therefore, the survey on Friday 24th is invalid.
- Currently there are 32 car parking spaces at the site. 30 car parking would be provided for the development. 83 cycle parking spaces would be provided which area secure and undercover, which is acceptable.
- Bin store, servicing and deliveries and refuse collections would be undertaken on-site within a dedicated loading area. In addition, vehicles will be able to enter and exit the site in forward gear. This is acceptable. A swept path analysis of a Bromley refuse vehicle entering and exiting the site in forward gear is also required.
- The applicant should be aware that a contribution to linking the development to the cycle network proposed in the LIP and some other minor pedestrian improvements to enhance the walking route to the town centre and Bromley South station will be sought.

Drainage Officer – No objection

- No further comments received. However, comments received under ref 20/02665/RESPA remain relevant to the current application and are repeated as follows:
- No increase in footprint area. No Comment.

Thames Water – No objection

- Water Comments - The applicant is advised that their development boundary falls within a Source Protection Zone for groundwater abstraction. These zones may be

at particular risk from polluting activities on or below the land surface. To prevent pollution, the Environment Agency and Thames Water (or other local water undertaker) will use a tiered, risk-based approach to regulate activities that may impact groundwater resources. The applicant is encouraged to read the Environment Agency's approach to groundwater protection and may wish to discuss the implication for their development with a suitably qualified environmental consultant.

- Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
- On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application.

B) Local Groups

No comments have been received from local groups

C) Adjoining Occupiers

Responses from previous application 21/01985/RESPA are reported below with updates where appropriate

Objection comments:

Curtilage of Old Palace

- The Y buildings are on 'The Palace Park', within the boundary of the 'property edged green'. The Y Buildings clearly fall within the curtilage of the Old Palace, a listed building. The entire southward site of the Old Palace, extending to Rafford Way, being as it is a green space, is so intimately connected with the Old Palace as to lead to the conclusion that the entirety of The Palace Park forms part and parcel of the Old Palace, including the Y Buildings.

Character and use of site (addressed in para 7.2 as relevant to considerations)

- Seventy three units is excessive quantity with impact to infrastructure services.
- Overdevelopment that will damage local character and be a congested form of development.
- Support redevelopment but not in this form
- Y Buildings fall within the curtilage of The Old Palace, The Ice House and Ha Ha Wall, and the Victorian Folly of Medieval Ruins and are therefore not permitted development under Class O as they are within the curtilage of an existing building.
- The resultant design and proposal is not in keeping with surrounding dwellings.
- Buildings should remain for office use to boost local economy and business.

- Comments that the land for forms part of the wider site of the Old Palace and current Civic Centre and is not within a separate curtilage. Comments detail the connected uses of the site.

Neighbouring Amenity (Not a consideration under Class O)

- Concerns with overlooking from residential occupiers and increased loss of privacy.

Accommodation standard (addressed in para 7.2)

- Size of flats are minimal. Preference to see lesser number of larger flats.

Highways, access and parking (addressed in para. 7.3)

- Concerns with access to park be constrained and made worse.
- Level of parking provided in inadequate. Occupiers should not be allowed parking permits.

Noise and disturbance (addressed in para. 7.3)

- Concerns with increased noise and disturbance from residential occupiers as opposed to business use.

Other comments

- General comment that the proposal is a design for the millennium.
- Parkland should remain open to public – proposal will worsen access especially for wheelchair and pushchair users also making it less obvious that it is a park.
- Proposal breaches Restrictive Covenant relating to the Old Palace land and the number of houses allowed per acre.
- The council is ruining the Palace View Estate for money.
- The land was given to residents of Bromley for recreation.
- Concerns regarding the validity of Moon Y Ltd company now closed/dormant
- Proposal not ecologically sound with no car charging points or waste storage

Support comments:

Housing type (Not a consideration under Class O)

- Support to see disused office brought back into use as long as the use is for affordable housing first homeowners and key workers and on the maintenance of full public access to the park (including the Rafford Way entrance).

6 LEGAL CONTEXT AND POLICY CONTEXT

- 6.1 The Town and Country Planning (General Permitted Development) Order 2015 Class O (as amended) allows for the change of use of a building and any land within its curtilage from a Class B1a (office) use to a use falling within Class C3 (dwelling houses) subject to certain restrictions and conditions. The change of use from B1a

(office) to C3 (residential) is subject to the condition that before beginning the development, the developer shall apply to the local planning authority for a determination as to whether prior approval will be required as to:

- Transport and highways impacts of the development
- Contamination risks on the site; and
- Flooding risks on the site.
- Impacts of noise from commercial premises on intended occupiers
- Provision of adequate natural light in all habitable rooms of the dwellinghouses.

- 6.2 Paragraph W(10) of the GPDO requires the local planning authority, when determining an application for prior approval, to have regard to the National Planning Policy Framework (NPPF)
- 6.3 Regulation 3 of SI 2020 No. 757 [2020/757] includes the following transitional and saving provision relating to the GPDO: “(2) Any references in the GPDO to the uses or use classes specified in the Schedule to the Use Classes Order are to be read as if those references were to the uses or use classes which applied in relation to England and were specified in the Schedule to the Use Classes Order on 31st August 2020.”
- 6.4 Article 3 - Permitted Development (as amended) by SI 1243 (coming into force 6th April 2021) states at section (9A) of the GPDO that Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse (a) where the gross internal floor area is less than 37 square metres in size; or (b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.
- 6.5 This application was received after 6th April 2021 and as such Article 3 section (9A) is now a consideration.

National Policy Framework 2019

- 6.6 The NPPF was published in January 2019 and the guidance relating to transport, flood risk, land contamination, noise and natural light in relation to quality of accommodation is a material consideration in the determination of applications for prior approval.
- 6.7 **London Plan 2021**

- | | |
|------|--|
| D3 | Optimising site capacity through the design-led approach |
| D4 | Delivering good design |
| D14 | Noise |
| SI12 | Flood risk management |
| SI13 | Sustainable drainage |
| T3 | Transport capacity, connectivity and safeguarding |
| T4 | Assessing and mitigating transport impacts |
| T5 | Cycling |
| T6 | Car parking |

- T6.1 Residential Parking
- T7 Deliveries, servicing and construction

6.8 Bromley Local Plan 2019

- 30 Parking
- 32 Road Safety
- 37 General design of development
- 115 Reducing flood risk
- 116 Sustainable Urban Drainage Systems (SUDS)
- 118 Contaminated Land
- 119 Noise Pollution

7 ASSESSMENT

7.1 Considerations criteria

- 7.1.1 Class O permits development consisting of a change of use of a building and any land within its curtilage from B1(a) (offices) to C3 (dwellinghouses) if the property meets the criteria within O.1 and the conditions within O.2 (1) and (2).
- 7.1.2 The reader is reminded with respect to transitional arrangements for the Use Classes Order (as amended) at the time of consideration of this application.
- 7.1.3 Development is not permitted by Class O, O.1 where:
 - (b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order immediately before 29th May 2013 or, if the building was not in use immediately before that date, when it was last in use;
 - (d) the site is or forms part of a safety hazard area;
 - (e) the site is or forms part of a military explosives storage area;
 - (f) the building is a listed building or within curtilage of a listed building
 - (g) the site is a scheduled monument
- 7.1.4 Class W sets out the procedure for prior approvals under Part 3. Section W(3) states that the local planning authority may refuse an application where, in the opinion of the authority:
 - (a) the proposed development does not comply with, or
 - (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions except for conditions in paragraph M.2(1)(f), paragraph N.2(1)(e), paragraph O.2(1)(e), paragraph PA.2(1)(v), or paragraph Q.2(1)(g), limitations or restrictions specified in this Part as being applicable to the development in question.
- 7.1.5 Class W(4) goes on to state that sub-paragraphs (5) to (8) and (10) do not apply where the local planning authority refuses an application under sub-paragraph (3).

7.1.6 In respect of O.1 (d) and (e), there are no areas of safety hazard or military explosives storage within the Borough.

7.2 Considerations assessment – Unacceptable

O.1 (b) “used for a use falling within Class B1(a) (offices)”

7.2.1 It is noted that Lawful Development Certificate (Existing) application for the use of the "Y" Buildings as offices for the carrying out of administrative functions (Use Class E(g)(i)), was subject to a resolution to grant the certificate at Plans Sub Committee on 10th June 2021.

7.2.2 At the time of writing, therefore the Council's decision is that the use of the buildings was Use Class E(g)(i) 'an office to carry out any operational or administrative functions' (formally B1(a) offices) on or immediately before 30th May 2013.

O.1 (e) “The site is a scheduled monument.”

7.2.3 The site is not a scheduled monument.

O.1 (f) “the building is a listed building or within curtilage of a listed building.”

7.2.4 The applicant has provided its own analysis in respect of this criteria with regard to case law and summarises at para 3.27 of their Planning statement that “there is no definitive approach to assessing curtilage and certainly no definitive list of factors to consider.” It is also opined that due to the differing architectural language of the Y buildings to the Old Palace that the two areas are quite distinctly different. It is also opined that there is a well-established line of trees which lies between the Old Palace and the Y-buildings forming a clear delineation between the two.

7.2.5 Contrary to the above assertions, it is considered that the 'Y' blocks are within the curtilage of the Old Palace and are therefore within the curtilage of a listed building. The layout of the site currently and historically shows that the 'Y' Blocks were built in what was previously the gardens of the Old Palace, which may reasonably be taken to be within the curtilage of the Old Palace. The 'Y' Blocks have also been built very close to the Old Palace. Currently there is no distinct physical separation, with only random clumps of trees respective of an ornamental park layout, between the Old Palace and the 'Y' Blocks which are within the same enclosure, essentially that of the Civic Centre as a whole.

7.2.6 There is also continuity of ownership of the 'Y' Blocks and the Old Palace for the entire existence of the former. When the 'Y' Blocks were built in the 1970s the Old Palace was owned by the teacher training college which was responsible for building the new blocks. The ownership of both the 'Y' Blocks and the Old Palace then passed together to the Council in 1982 after the college had closed and both have remained in the Council's ownership to date.

7.2.7 Similarly, the function of the 'Y' Blocks has throughout their existence been linked to that of the Old Palace. From the time of the construction of the 'Y' Blocks until

the closure of the college in 1980 both were used by the college and from 1982 until 2012 both were used by the Council.

- 7.2.8 The applicant clearly provides a different view on this matter, being convinced that the buildings have their own curtilage and stating that this is even more apparent following the decision to grant the certificate of lawfulness to confirm the office use of these buildings at committee on 10th June 2021.
- 7.2.9 The applicant considers that the buildings fail the intimacy test which is often used in establishing curtilage, being in their view no intimacy between the Old Palace and the Y Buildings.
- 7.2.10 It is considered the folly does not have its own curtilage and the 'Y' blocks cannot therefore be said to fall within it.

7.3 Class O, Conditions O.2

- 7.3.1 Given that the development is not permitted in respect of Class O.1 (f) 'the building is a listed building or is within the curtilage of a listed building' and in respect of Article 3 section (9A) for internal space standards, further considerations of the Conditions at Class O.2 –(1) (a) transport and highways impacts of the development; (b) contamination risks on the site; (c) flooding risks on the site; (d) impacts of noise from commercial premises on the intended occupiers of the development and (e) the provision of adequate natural light in all habitable rooms of the dwellinghouses, are not considered to be a further requisite consideration in the determination of this prior approval application as the development is not permitted development in the first instance.

8 CONCLUSION

- 8.1 The application for the change of use from B1(a) office space to C3 residential accommodation has been assessed in accordance with the provisions of Class O of Part 3 of Schedule 2 and Article 3 section (9A) of the General Permitted Development Order 2015 (as amended). Officers raise objections to the proposal on the grounds that the development does not meet all the limitations of Class O.1.
- 8.2 The key question is whether or not the Y Blocks are within the curtilage of the listed building – the Palace or not. This is not a matter of law. The question is one of fact and degree and is a decision which on this occasion falls to Members to make. The Council's officers and Counsel instructed by the Council take the view that it is more likely than not within the curtilage. The applicant and their Counsel take the contrary view.
- 8.3 Members in reaching the decision must consider the situation on the ground – any benefits e.g. financial benefits from the proposed development or disbenefits e.g. a restriction on conditions which may be imposed if it is permitted development are not material to the decision and must not be taken into account.
- 8.4 As long as only material factors are taken into account then if members are able to conclude that factors advanced by the applicant outweigh those advanced by their

officers and as a question of fact and degree consider that the Y Blocks aren't within the curtilage of the Palace it is arguable that the decision may just be within the range of decisions a reasonable committee could make.`

RECOMMENDATION: Prior Approval Required and Refused

For the following reasons:

1. In the opinion of the Local Planning Authority the proposed development does not comply with Class O.1(f) of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) with respect to the requirement that the development is not within the curtilage of a listed building. The proposal does not therefore comply with the provisions, conditions and limitations of Paragraph W(3) of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Any other reasons for refusal considered necessary by the Assistant Director of Planning

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Tel: 020 7839 8999

8 June 2021

Assistant Director of Planning and Building Control
London Borough of Bromley
Stockwell Close
Bromley
BR1 3UH

FAO: Tim Horsman

Dear Sir/Madam

'Y-BUILDINGS', RAFFORD WAY, BROMLEY, BR1 3UH

Application ref 21/01985/RESPA: Change of use of Class B1(a) office to Class C3 Residential to form 73 residential units. (56 day application for prior approval in respect of transport and highways, contamination, flooding, noise impacts, natural light to habitable rooms under Class O Part 3 of the GPDO)

Supplementary submission by applicant

Background

1. We understand that the above application for prior approval is to be considered by the London Borough of Bromley's Plans Sub-Committee on 10 June 2021.
2. We understand that officers have recommended that the application be refused and have done so on two grounds. We respectfully disagree with those proposed reasons for refusal and explain why below, before concluding that prior approval should be granted.
3. We also understand that in considering this application for prior approval, officers have declined to come to a view on whether the Y-buildings were in use as an office on the relevant day, despite being obliged to do so in an application such as this. Instead, officers have indicated that they will rely on the outcome of an application for a lawful

development certificate (LDC), which is to be considered at the same meeting of the Plans Sub-Committee.

4. As things stand, the prior approval application is to be considered by the Plans Sub-Committee before the LDC application. Logically, the LDC application needs to be considered before the prior approval application, as a decision on the latter relies on a decision on the former.
5. That being the case, we urge officers to request that the Plans Sub-Committee considers the lawful development certificate before it considers the prior approval application.

First recommended reason for refusal

6. The first recommended reason for refusal is that the Y-buildings fall within the curtilage of a listed building, namely the Old Palace. We disagree.
7. As we explained in the planning statement submitted in support of the application:
 - Whether a building falls within the 'curtilage' of another building is a matter of judgment (and in this case it is Members of the Plans Sub-Committee who must make that judgment)
 - In a recent Court of Appeal case (Blackbushe Airport Ltd v Hampshire County Council, R (on the application of) & Ors [2021] EWCA Civ 398), Lady Justice Andrews explained that 'the concept of curtilage is most clearly explained' in the Court of Appeal case Methuen-Campbell v Walters [1979] 2 QB 525
 - In the Methuen-Campbell case, Lord Justice Buckley explained that the test of whether a piece of land lies within the curtilage of a building is whether it is:

so intimately connected with [the building] as to lead to the conclusion that the former forms part and parcel of the latter
8. The questions for Members are, therefore:
 - Whether the land on which the Y-buildings sit is 'intimately connected' with the Old Palace
 - If it is 'intimately connected', whether that connection is sufficiently intimate that it forms 'part and parcel' of the Old Palace
9. Whilst we readily accept that the Old Palace has a curtilage, our firm view is that it does not extend to include the Y-buildings, as there is no 'intimate connection' between the former and the latter.
10. That is evident in two ways. First, the Old Palace and Y-buildings are of entirely different architectural styles with, as officers put it in their report, 'differing architectural language'. Second, there is a physical separation between the Old Palace and the Y-buildings, with an established line of trees between the former and the latter. That line of trees is far more than 'random clumps of trees' as officers put it in their report.

11. Given the absence of an 'intimate connection' between the Old Palace and the Y-buildings, the only reasonable conclusion to draw is that the Y-buildings do not fall within the curtilage of a listed building. That cannot, therefore, form a reason for refusal of this application.

Second recommended reason for refusal

12. The second recommended reason for refusal is that some of the flats within the proposed development would not comply with the nationally described space standards.
13. Officers' concern seems to be that some of the bedrooms in the one-bedroom flats intended for occupation by one person exceed the standard for a double/twin bedroom. That would, they indicate, allow two people to live in the flat, despite the flat falling short of the overall minimum space standard for two-person occupancy of a one-bedroom flat.
14. To address this concern, we have revised the proposed layout plans so that the bedrooms in the one-bedroom flats intended for occupation by one person no longer meet or exceed the standard for a double/twin bedroom. Instead, the bedrooms in those flats meet the standard for a single bedroom.
15. The revised plans are enclosed and we would be grateful if officers would substitute the proposed layout plans submitted previously with the revised proposed layout plans. We trust that the revised plans will address officers' concerns.

Conclusions

16. As we explain above, we think it essential that the application for a lawful development certificate is considered at the Plans Sub-Committee on 10 June 2021 before the application for prior approval.
17. If the lawful development certificate application is then approved, and assuming Members are content that officers' concerns about space standards have been addressed, the only issue to be considered by Members in their consideration of the prior approval application will be that of curtilage.
18. For the reasons set out above, our view is that the Y-buildings do not fall within the curtilage of the Old Palace and, therefore, prior approval should be granted.
19. We trust that members of the Plans Sub-Committee will be provided with a copy of this letter in advance of the meeting of the Sub-Committee.

Yours faithfully

SAV Group

cc Russell Penn, London Borough of Bromley

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Head of Planning
London Borough of Bromley
Civic Centre
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BR1 3UH

Attention: Tim Horsman

Our Ref
IG/10270401

Your Ref

Date
8 June 2021

Dear Sirs

Y Buildings, Rafford Way, Bromley
Application for a Certificate of Lawfulness of Existing Use or Development
Application Reference Number: 21/02042/ELUD

We act for Moon Y Limited in respect of the above-referenced application ('the Application').

1 Background

- 1.1 The Application seeks a Certificate of Lawfulness of Existing Use or Development ('CLEUD') to confirm that the lawful use of the Y Buildings at Rafford Way, Bromley ("the Property") is offices (per use class E(g)(i), formerly use class B1(a)).
- 1.2 The Application is scheduled to be considered by the Council's Planning Committee at its meeting on 10 June. Related to this, we have been provided with a copy of the officer's report ('the Report') that is to be considered by Members at that meeting. The Report recommends that the Application be rejected. Our client's separate application (reference 21/01985/RESPA) for prior approval ("the Prior Approval Application") in respect of the proposed change of use of the Property from office use to residential use is on the same agenda for consideration by the Committee.
- 1.3 Unfortunately, the Report does not fully and accurately record the case in support of the Application and omits to report upon the significant amount of material that has been submitted in support of the case for a CLEUD. If this omission is not corrected, it is likely to significantly mislead Members (per Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314). This omission is particularly significant given that the officer's overall recommendation (that the Council declines to grant a CLEUD) is expressed to be *on balance* and the Report acknowledges that there are factors pointing in the opposite direction.

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2 The Report

2.1 The officer's analysis is predicated upon an argument that the entirety of the Civic Centre municipal complex - which, in addition to office accommodation for Council employees, provides Committee rooms, the Council Chamber, the Great Hall and public parkland – being a single planning unit.

2.2 The officer's recommendation to Members is presented in the following terms:

'Whilst there is some evidence which could point to a separate Class B1/Class E(g)(i) use for the 'Y Buildings', including the 1979 permission for use of the site as offices, on balance it is not considered sufficient to warrant granting this certificate, as the most persuasive evidence is that the Y Buildings were used as part of the overall Civic Centre use, which is a 'sui generis' use comprising a number of different components such as receptions, public halls, offices etc which are found at a Civic Centre site which was operated as a single planning entity'

2.3 It is, therefore, clear that the officer has informed Members that the lawful use of the Property is *sui generis* (in association with the overall Civic Centre use). It follows that, in the officer's view, planning permission is required to use the Property for office use because it would comprise a *material* change of use of the relevant planning unit (being, in the officer's view, the complex as a whole). It is unclear whether this conclusion proceeds on an assumption that the lawful use of the wider complex is a mixed use and/or whether the lawful use of each and every building within that complex is deemed to be *sui generis*.

2.4 Nevertheless, and in any event, we would argue (with respect) that the officer's approach is misconceived and inconsistent with the Council's oft-stated position in respect of the Property (as to which please see further below). Related to this, we are concerned that the officer has downplayed – and/or left out of account - the nature and extent of the evidence that has been submitted in support of the Application. The officer's reference to *some evidence* conveys a false impression to Members. We also note that, by reference to the material that has been submitted in support of the Application, the officer adds that:

'There are numerous references to the use of the word office in planning and other documents in reference to [the Property]. However the use of this word in the contexts provided does not preclude the offices being a component of another use...'

2.5 In fairness to our client, it was incumbent on the officer to articulate (or, at least, to fairly summarise) the nature and extent of the evidence that has been submitted in support of the Application. This evidence includes the following:

- (a) on 11 July 2018, the Council's Executive resolved to dispose of the Property and on 30 April 2019 it resolved to appropriate the Property from office use to residential use. Throughout this process of disposal and appropriation, the Council has consistently referred to - and represented to prospective purchasers - the office use of the Property;
- (b) related to this, on 25 July 2019, the Council published (in a local newspaper) notice of its appropriation of the Property from office use to housing. Later, on 16 October 2019, the Council's Executive considered a report from the Council's Head of Asset and Investment Management in respect of objections that had been received in response to the proposed appropriation of land for residential purposes. In this report, the officer records the office use of the Property and the intention (by a developer) to convert it into residential use pursuant to established permitted development rights (being our client's precise intention). It is trite that

such a change of use would only be permissible if the lawful use of the Property is as offices: it would not be a permissible change from any *sui generis* use;

- (c) related to the above, a marketing brochure produced by the Council's own retained agents, Cushman & Wakefield, in relation to disposal of the Property describes the Property as *existing office buildings*;
- (d) the Application is supported by a letter dated 7 August 2019 from Mr Andrew Champion who is the Council's Facilities and Support Services Manager and has been employed by the Council since 2003 (his letter was submitted in support of a previous application for a CLEUD that was later withdrawn). He states:

‘...

To my understanding [the Property has] been in office use since 1982 and certainly to the best of my recollection, they have been used as offices for the duration of my time with the Council until they were vacated in 2012. During this time, the Council have owner occupied [the Property] as offices and the following functions have been housed within [the Property]: Children's Social Care, Property Services and Environmental Services.

I can confirm that this statement for the CLEUD application to establish the existing use of the [Property] is true to the best of my knowledge and recollection.’ [our emphasis]

- (e) similarly, a letter is produced from Amy Milton who is the Council's Head of Estates and Asset Management pursuant to which she confirms:

‘...it is my understanding that [the Property was] used from 1982 solely as administrative offices (Class E use) for various council departments until 2012 when they were vacated. They have remained vacant since this time.’ [our emphasis]; and

- (f) on 14 August 2020, the Council granted planning permission for the change of use of North Lodge from residential purposes to class D1/B1 (use for the provision of services for young people). The related officer's report to Committee made it plain that North Lodge is located within the confines of the wider Civic Centre site but, nevertheless, concluded that it was in lawful residential use. It is evident that the officer regarded the building as its own planning unit benefitting from its own (residential) use. This is wholly inconsistent with treating the entirety of the Civic Centre site as a single planning unit.

2.6 Individually and cumulatively, this is powerful evidence that easily crosses the evidential threshold (being *on the balance of probability*) to warrant the grant of a CLEUD. Yet, inexplicably, it does not feature expressly in the Report and/or it is not specifically drawn to the attention of Members. This is an important omission. Had Members been provided with this information, they would have been driven to the inexorable conclusion that the case for a CLEUD is satisfied.

2.7 The officer's conclusion also relies heavily upon the judgment of the Court of Appeal in London Residuary Body v Secretary of State for the Environment [1989]. However, reliance on this case – which concerned the planning status of County Hall in London – should be exercised with caution. As was accepted by the Court in that case, it very much turned on its own facts and the exercise of a planning judgement by the decision-maker in response to those facts. It is clear that the Court was concerned with the *singular features* and *precise use* of County Hall.

2.8 Moreover, the submitted evidence in respect of the Application demonstrates (on the balance of probability) that the Property was functionally and physically separate from the activities carried on in the wider Civic Centre complex (per Burdle v Secretary of

State for the Environment [1972] 3 All ER): its use was almost exclusively confined to office use throughout the relevant period. In response to the officer's observation above, it is trite law that, even though the entirety of the Civic Centre complex had been occupied by the Council, for the purposes of planning control it is perfectly appropriate to identify the Property as a separate planning unit(s). Not only would this be consistent with the Council's own approach in respect of North Lodge, it would also accord with the approach of the Court in Church Commissioners v Secretary of State for the Environment (1995) 71 P & CR 73. Ultimately, it is a matter of fact and degree as part of an overall planning judgement to be exercised by Members.

3 Request of Members

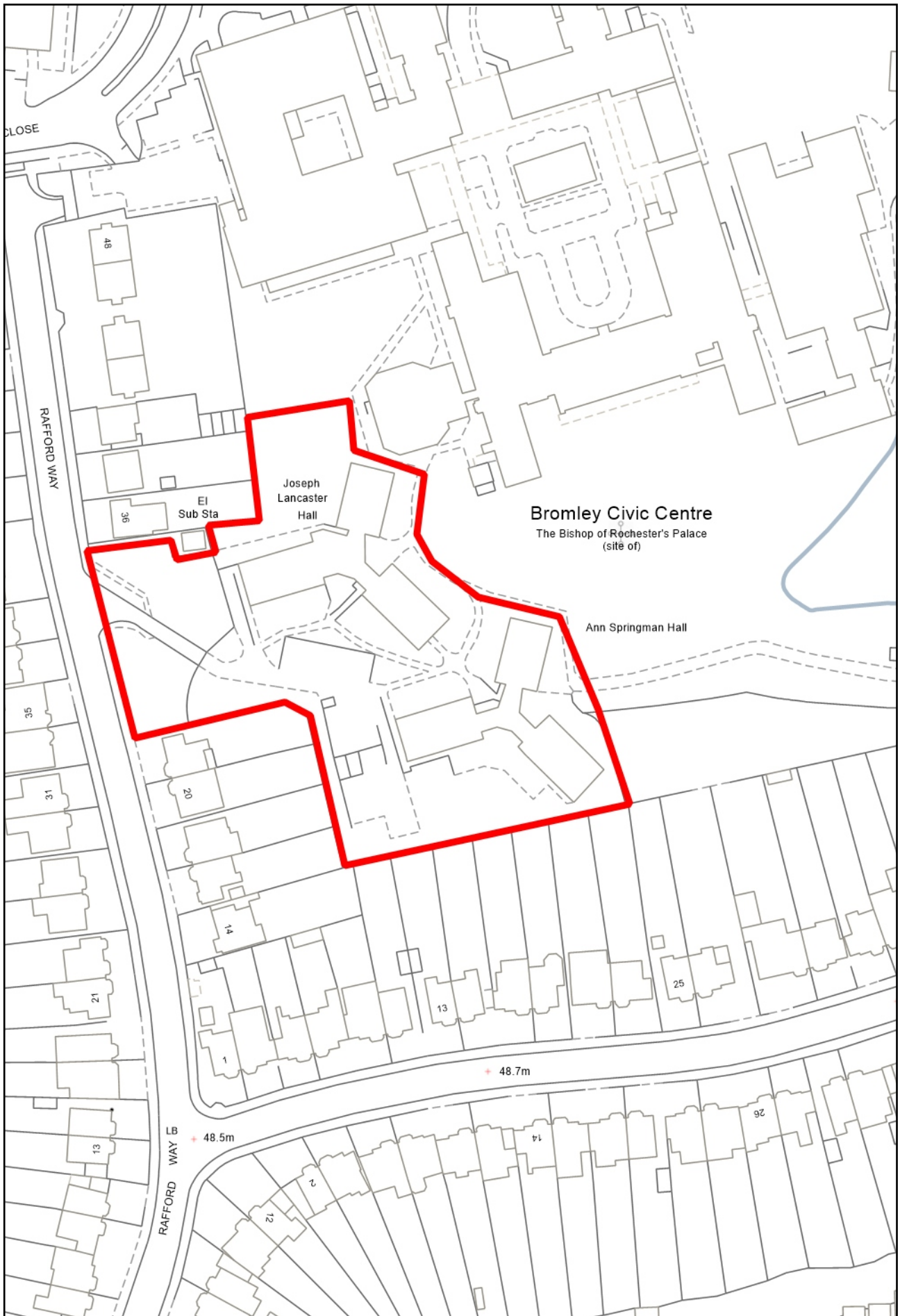
- 3.1 Members will be aware that, as a matter of law, they are entitled to depart from their officer's recommendation provided that their reasons for doing so are properly articulated and otherwise reasonable. In this respect, it is important to note that the officer's conclusion was expressed to be *on balance* and recognised that it is possible to conclude that the Property was used separately (as offices) from the rest of the Civic Centre site in any event. As a whole, there is sufficient evidence before Members to justify the lawful grant a CLEUD in the proper exercise of their planning judgement and we would respectfully invite the Committee to do so.
- 3.2 If, without prejudice to the above, Members do not feel able to do so, then the appropriate course of action would be to defer their determination of the Application in order to allow officers to prepare a further, more accurate report that presents the full case in support of a CLEUD. If so, it would also be sensible to defer the Prior Approval Application given the Council's intention that it be considered alongside the Application.

Please confirm that a copy of this letter will be shared with Members of the Committee in advance of their consideration of the Application.

Yours faithfully

Clyde & Co LLP

CC: Russell Penn (Case Officer)



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