

Section '4' - Applications recommended for REFUSAL or DISAPPROVAL OF DETAILS

**Application No :** 13/01526/FULL1

**Ward:**  
**Copers Cope**

**Address :** 32 Church Avenue Beckenham BR3 1DT

**OS Grid Ref:** E: 537344 N: 169598

**Applicant :** Mr And Mrs L O'Connor

**Objections :** YES

**Description of Development:**

Erection of detached 3 bedroom house on land behind 32 Church Avenue, Beckenham, BR3 1DT

Key designations:

Areas of Archaeological Significance  
Biggin Hill Safeguarding Birds  
Biggin Hill Safeguarding Area  
Flood Zone 2  
London City Airport Safeguarding  
London City Airport Safeguarding Birds  
River Centre Line

**Proposal**

Planning permission is sought to erect part one/two storey three bedroom detached dwelling at the land rear of No.32 Church Avenue, Beckenham, set to the rear of Nos. 32-38 Church Avenue. The proposal is contemporary in design and would feature white render and utilise natural materials such as feature hardwood cladding. The ground floor would comprise an open plan kitchen/diner, living room, two bedrooms (one with an en-suite shower room) and the main family bathroom. Upstairs would accommodate the master bedroom with en-suite shower room. The total gross internal area proposed is 117 sqm.

The application has been submitted with the following documents:

- Ecological Assessment
- Archaeological Desk-Based Assessment
- Tree Survey Report
- Flood Risk Assessment

The application also includes a proposed site section drawing which shows the proposed house in relation to the properties in Church Avenue and the permitted flatted scheme on an adjacent site.

## **Location**

The application site is accessed via a shared access road which runs between Nos.32 and 34. The application site is adjacent to Urban Open Space (but does not itself form part of the designated land), is a site of Archaeological Significance and is also site within Flood Zone 2/3. The site is covered by TPO 740, it is a woodland order and covers a wide area to the rear of Church Avenue and The Drive, Beckenham.

## **Comments from Local Residents**

Nearby owners/occupiers were notified of the application and representations received are summarised as follows:

- backland development is contrary to adopted Bromley planning policy
- the land is behind other people's houses, so each affected owner should have the right to veto the application
- the applicant has not publicised the application properly
- the applicant does not own the access road
- the application is invalid as the requisite notice to owners of the rear access road has not been served
- agreement has not been given by other residents to erect a gate
- the proposal is unsuitable backland development which would lead to similar applications elsewhere
- this application is not substantially different to the scheme refused last year
- the site layout and orientation does not reflect the characteristics of the area
- the 'green roof' would be advantageous but does not reflect those of existing dwellings
- the privacy of neighbouring gardens would be invaded
- there would be noise and disturbance and loss of amenity
- the access road is unsuitable for additional traffic
- there is insufficient access for fire fighting appliances
- concerns over refuse collection
- the ecological report is inaccurate
- the Tree Survey is out of date
- the development would result in the loss of mature trees
- the site location plan is misleading
- the development is in an area of protected woodland
- if granted, the application would set a precedent for backland development
- the proposed house has limited light due to being surrounded by other housing
- the area is marshland and unsuitable for building
- the area is a habitat for wildlife and protected trees would be damaged for the building

- it is understood that the owners (L&Q) of the adjacent Stables Green site are interested in purchasing the site
- the proposed new building would be overshadowed by adjacent development
- the access to the site is not sufficient for emergency services
- the access is a shared access, not for use by an additional property
- the garden of No.32 is Locally Listed due to the Monk's Seat and natural pond located in the garden
- the proposed house is out of character with the area
- the proposed house looks directly into the gardens of the neighbouring properties and is overlooked by the block of flats proposed for the adjacent site
- the proposed house is out of architectural character and design with surrounding properties.
- rear access to No.30 Church Avenue impaired
- the proposed paved forecourt would be overly visible from No.30
- all the windows in the proposed house would overlook No.30
- the siting of the proposed house would render the right of way to the garage at the rear of No.30 unusable
- the access is shared and the applicant has no right to widen, pave or alter it
- the wooded outlook from No.30 has been spoilt
- the use of the space in front of No.32 for refuse and recycling should be enshrined in covenant or similar

### **Comments from Consultees**

Trees & Landscaping - The site is covered by TPO 740 which is a woodland order covering a wide area to the rear of Church Avenue and The Drive. The proposal would mean the loss of 3 sycamores which are either dead or in very poor condition. Whilst some tree management would be appropriate, the principle of residential development in a woodland area is considered to be inappropriate.

Highways - The proposal is accessed via a narrow access road approximately 2.8m wide leading to 2 car parking spaces which is acceptable in principle. There would clearly be an increase in private car traffic along the access but it is considered the likely scale of the increase in the use of the access itself would not result in harm.

However given the distance of the site from highway boundary and width of the access road, emergency/ service/ refuse vehicles would have difficulty servicing the site. The views of the emergency services and Waste Management team should be sought.

Fire Brigade - The Brigade is not satisfied with the proposal. Insufficient detail has been shown for full approval to be made.

Environmental Health (Housing) - The means of escape in the event of fire from the bedrooms is through the living room/dining room/kitchen which is a high risk room and is therefore not desirable. The living space and kitchen area in the

proposed property is combined which is not desirable due to the risk associated with areas used for food preparation and recreation.

Environmental Health (Pollution) - No objection is raised in principle, however, as the site lies within an Air Quality Management Area (AQMA) a condition relating to gas boiler emissions is suggested should permission be granted.

English Heritage (Archaeology) - No comments were received.

Drainage - The proposed measures to reduce surface water run-off to 5 l/s by incorporating rainwater harvesting, green roofs and potentially the use of the existing pond are acceptable. A standard condition relating to surface water drainage is suggested, should permission be granted.

Thames Water - On the basis of the information provided, Thames Water advise that there is no objection to the proposal. A condition relating to water pressure is advised should permission be granted.

Crime Prevention - No comments were received.

Cleansing - No comments were received.

### **Planning Considerations**

The main UDP policies that are relevant for this application are as follows:

- BE1 Design of New Development
- H7 Housing Density and Design
- H9 Side Space
- NE3 Nature Conservation and Development
- NE5 Protected Species
- NE7 Development and Trees
- NE8 Conservation and Management of Trees and Woodlands
- T3 Parking
- T18 Road Safety

London Plan policies

- 3.3 Increasing housing supply
- 3.4 Optimising housing potential
- 3.5 Quality and design of housing developments
- 3.8 Housing choice
- 3.9 Mixed and balanced communities
- 5.3 Sustainable Design and Construction
- 5.12 Flood Risk Management
- 5.13 Sustainable Drainage

The above policies are considered to be consistent with the principles and objectives of the National Planning Policy Framework which is a key consideration in the determination of this application.

Section 6 of the NPPF (Paragraph 53) states: "local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area."

Section 7 of the NPPF (Paragraph 56) states the Government attaches a great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 64 of the NPPF adds that: "permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."

## **Planning History**

No.32 Church Avenue benefits from a loft extension (ref. 07/04004), a single storey rear extension (ref. 07/04304) and a raised deck and balustrade at the rear (ref. 10/02505).

In 2012 under ref. 12/01303, a proposal for the erection of a detached two storey four bedroom house with associated car parking and refuse and replacement garage for No. 30 at land rear of 32 Church Avenue was refused by Members for the following reasons:

"The proposal, by reason of its size and siting, would constitute an inappropriate form of backland development within a protected woodland, thereby contrary to Policies BE1, H7 and NE8 of the Unitary Development Plan.

The proposed development does not provide adequate servicing of the site, contrary to Policy T17 of the Unitary Development Plan".

The Planning Inspectorate upheld the decision of the Council at an appeal hearing in December 2012.

Members will also recall that there is a long planning history to the adjacent site (Land Rear of 86 to 94 High Street Beckenham). The cases of most relevance are ref. 11/01168, which permitted the extension of time for implementation of ref. 04/02976 which was granted on appeal for a total of 38 flats, and ref. 11/02100 where a scheme for 44 flats was allowed by the Planning Inspectorate at appeal in July 2012.

## **Conclusions**

The main issues in this case are whether this type of development is acceptable in principle in this location; the likely impact of the proposed scheme on the character and appearance of the surrounding area, and on the amenities of neighbouring residential properties, having particular regard to the density, layout and design of the proposed scheme, including the proposed access.

Regard must be had for the extent to which the grounds of refusal for the previous application (ref. 12/01303) - a decision subsequently upheld at appeal - have been addressed as part of this revised proposal.

With regard to the principle of the development, the site by reason of its location is considered to be defined as a 'backland' site. The guidance provided within the NPPF (Paragraph 53) encourages LPAs to set out policies to resist inappropriate development of residential gardens, in particular where the development would cause harm to the local area. This would also appear to add weight to the Council's UDP Housing chapter which states, in Paragraph 4.40, that: "Backland development, involving development of land surrounded by existing properties, often using back gardens and creating a new access, will generally also be resisted. Private gardens can be of great importance in providing habitats for wildlife, particularly in urban areas."

The Inspector in para 9 of his report - which ultimately dismissed the previous appeal - concurred with the Council's view that the proposal was a form of backland development. He did, however, state in para 10 that the development that was in compliance with the supporting text of Policy H7 of the UDP "could be acceptable" at the site. Members may remain of the view that the application continues to represent an inappropriate form of backland development.

It is noted that this revised application proposes a smaller scale dwelling than the previous application (a reduction of 47% to a dwelling offering 117sqm rather than the previously refused 222sqm), and that the design has been amended to provide a pitched roof in an attempt to better integrate the proposal among neighbouring properties. Members may consider that the proposed dwelling continues to fail to satisfy the conditions of Policy H7 in respect of sensitivity to the surrounding area.

The lack of landscaping provision was highlighted by the Inspector as being absent from the previous application, and as such this application includes provision of a programme of landscaping works. Member may consider that the proposed landscaping provision does not outweigh the harm caused by the principle of development at the site. The site is covered by TPO 740 which is a woodland order covering a wide area to the rear of Church Avenue and The Drive. The proposal would mean the loss of 3 sycamores which are either dead or in very poor condition. Whilst the Council's Tree Officer recognises that some tree management would be appropriate, the principle of residential development in a woodland area is considered to be inappropriate.

With regards to the impact of the proposal upon the residential amenities of the adjacent properties, the proposed dwelling has been designed to minimise overlooking due to the lack of windows in the north-east and south-west elevations. It is considered that although there are windows sited within the southern, eastern and western elevations, Members may feel that the existing mature screening at the site may mitigate any severe loss of amenity to the permitted flats at land rear of 86 to 94 High Street, Beckenham and the rear of properties in Church Avenue, particularly No.30. The two storey bulk of the proposed house has been positioned behind the existing garage of No.30 Church Avenue, and the site sits lower than surrounding properties, which does mitigate its visual impact to some degree.

A number of concerns have been raised with regards to access to the site via the existing access way which runs alongside Nos.32 and 34 Church Avenue. An objection has been submitted to the Council questioning the validity of the application in relation to the Ownership Certificate submitted as part of the application. For clarification, the access way is not part of the planning application site submitted to the Council; however it serves the application site. Based on the checking of titles, the Ownership Certificate for the application site has been correctly submitted. In addition, No.32 Church Avenue and several other properties have a Right of Way over the access way.

Members should note that how far the extent of that Right of Way goes and the use of it by those granted the Right of Way is not a matter for planning consideration, but of law. The use of the access road does not impede the Council from deliberating on the planning application, and, should Members be minded to grant planning permission, a Grampian pre-commencement condition or a Section 106 obligation could be utilised in the above matter. The terms of any obligation would read as a negative condition restricting the applicant not to commence any development or implementation until certain elements are fulfilled and thereafter retained, in this instance, in relation to the shared access road.

Notwithstanding the above, as the Inspector identified in para 14 of his report, the proposal would effectively replace the present right of access for No.32 with that of the new dwelling. It is recognised that there would be an increase in private car traffic along the access way, and the noise, fumes and general disturbance from the use of the paved area to the front of the new dwelling for parking and manoeuvring of vehicles associated with the new dwelling would constitute a damaging intrusion into this established garden area.

Furthermore, the London Fire Brigade (LFB) have responded to consultation and stated that they are not satisfied with the proposal. The Design and Access Statement submitted with the proposal states that a 'dry riser' can be incorporated into the new house. Guidance from the LFB states that, where a building is fitted with a dry fire main, there should be access for a pumping appliance to get within 18m of each fire outlet. The proposed house is set around 47m from Church Avenue, and the access is (at its narrowest) 3.1m wide. This accords with LFB guidance that the minimum width possible for the passage of appliances is 3.1m with a straight approach. Where the approach is at an angle up to 5m width may be required to allow suitable access. With this in mind, Members may be of the view that the access as proposed, even with the provision of a dry rising fire main, is insufficient.

In general, Members may consider that the provision of a new dwelling at the site would conflict with Policies BE1 and H7, resulting in a detrimental impact on the present character of the site. Having had regard to the above, Members may consider that the development in the manner proposed is unacceptable in that it would constitute an inappropriate form of backland development; result in a significant impact on the general amenities of local residents, and a harmful impact on the character of the area.

Background papers referred to during production of this report comprise all correspondence on file ref. 13/01526, excluding exempt information.

### **RECOMMENDATION: APPLICATION REFUSED**

- 1 The proposal, by reason of its size and siting, would constitute an inappropriate form of backland development within a protected woodland, thereby contrary to Policies BE1, H7 and NE8 of the Unitary Development Plan.
- 2 The proposed development does not provide adequate servicing of the site, contrary to Policy T17 of the Unitary Development Plan.

### **INFORMATIVE(S)**

- 1 You are advised that this application may be liable for the payment of the Mayoral Community Infrastructure Levy under the Community Infrastructure Levy Regulations (2010) and the Planning Act 2008. The London Borough of Bromley is the Collecting Authority for the Mayor and this Levy is payable on the commencement of development (defined in Part 2, para 7 of the Community Infrastructure Levy Regulations (2010)). It is the responsibility of the owner and /or person(s) who have a material interest in the relevant land to pay the Levy (defined under Part 2, para 4(2) of the Community Infrastructure Levy Regulations (2010)).

If you fail to follow the payment procedure, the collecting authority may impose surcharges on this liability, take enforcement action, serve a stop notice to prohibit further development on the site and/or take action to recover the debt.

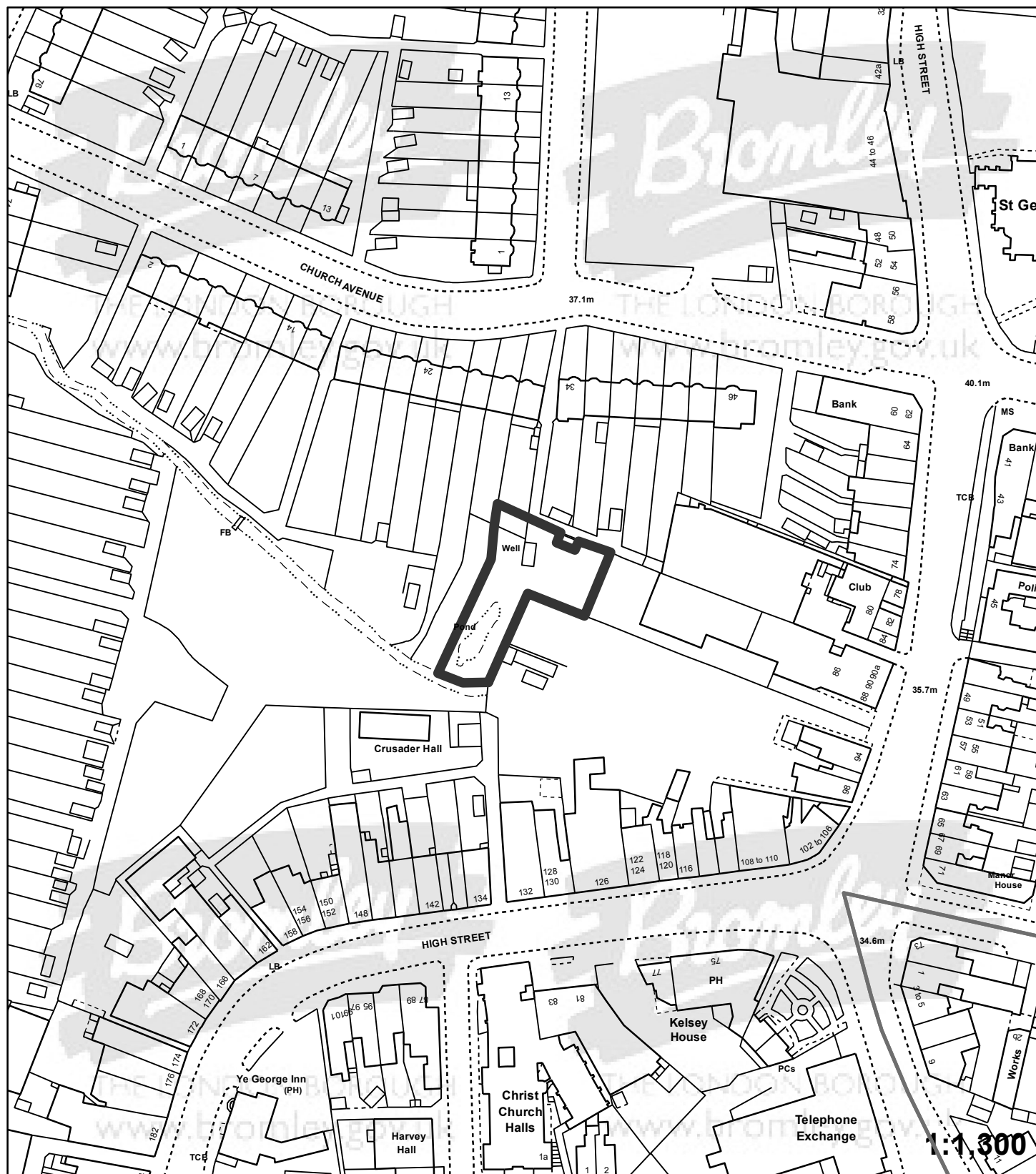
Further information about Community Infrastructure Levy can be found on attached information note and the Bromley website [www.bromley.gov.uk/CIL](http://www.bromley.gov.uk/CIL)



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"This plan is provided to identify the location of the site and should not be used to identify the extent of the application site"

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