

SECTION '2' – Applications meriting special consideration

**Application No :** 14/04076/FULL6

**Ward:**  
**Shortlands**

**Address :** 90 Malmains Way Beckenham BR3 6SF

**OS Grid Ref:** E: 538837 N: 167746

**Applicant :** Dr Sivalingam Sivathanan

**Objections :** YES

**Description of Development:**

First floor front/side/rear extension

Key designations:

Area of Special Residential Character  
Biggin Hill Safeguarding Birds  
Biggin Hill Safeguarding Area  
London City Airport Safeguarding  
Open Space Deficiency

**Proposal**

The application property is a detached dwelling, designed with a front gable feature and a pitched 'catslide' roof orientated away from the north-western site boundary.

The application proposes a first floor front/side/rear extension. The existing front gable feature would be replicated at the opposite side of the house and this gable would have a width of 3.3 metres. The flank wall of this gable would extend rearwards for 9.8 metres and the rear most part of the extension would step out, such that it would be set closer to the boundary than the main flank wall. This part of the extension would measure 4.8 metres in width by 4 metres in depth, with a one metre side space to the boundary, and a hipped roof with a maximum height of 6.2 metres.

**Location**

The property is located at the south-eastern end of Malmains Way close to the junction with Bushey Way. The street is characterised by detached dwellings of varied design mostly dating from the 1920-50's set within an attractive treelined setting. The property falls within Park Langley Area of Special Residential Character (ASRC) and is described within the Unitary Development Plan (UDP) as follows: "...built sporadically between the 1920's and 1950's, whilst not of the same exceptional standard [as the Conservation Area] has the character of a garden estate given by the high quality and appearance of the hedges, walls, fences, and

front gardens. The area, which comprises almost exclusively large detached two storey family homes on generous plots ...represents a coherent, continuous and easily identifiable area, which has maintained its character and unity intact."

### **Comments from Local Residents**

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

- we cannot see how moving the flank wall back by the width of a normal cavity wall will address the issues raised by 3 inspectors on appeal and then issues raised in Inspector Holden's appeal decision.
- the applicants chose this design themselves, which accommodates our kitchen window which was created in 1955, but 90 Malmains Way was built in 1994.
- the erection of 90 Malmains Way was originally refused because it was too large. This application would enlarge the house and therefore, to be consistent, should be refused.
- sun travels around 90 Malmains Way which makes the potential loss of light if this extension was erected much more serious.
- referring to Inspector Holden's decision, she mentioned the Applicant needed to enlarge his home, but the family live elsewhere.
- the rear profile is not significantly different from the previous applications and the rear extension is beyond that of other houses. The design is unpleasing from the street.
- the proposed development would still result in a loss of light to the occupants of No. 88 Malmains Way. The development would present an overbearing effect and would add nothing to the aesthetics of the area.

### **Planning Considerations**

The application falls to be determined in accordance with the following policies of the Unitary Development Plan and the London Plan:

H10 Areas of Special Residential Character  
H8 Residential Extensions  
BE1 Design of New Development

Policy H10 concerns Areas of Special Residential Character, applications in these areas will be required to respect and complement the established and individual qualities of the area.

Policy H8 concerns residential extensions and requires the design and layout of proposals to complement the scale and form of the host dwelling, respect spaces and gaps between buildings where contribute to the character of an area.

Policy BE1 requires a high standard of design in new development generally, and seeks to protect the amenities of the occupants of neighbouring properties.

The application property has been subject to a number of previous planning applications, as detailed in the section below, as well as a number of appeals, all of which have been dismissed. The most recent appeal decisions, for applications refs. 13/03395 and 13/03290, relate to a similar extension. In comparison to application ref. 13/03395, the current application differs in the following way:

- The width of the front gable has been reduced by 0.25 metres.
- The flank wall of the gable is no longer stepped in towards the middle of the dwelling and therefore this section is 0.4 metres closer to the side boundary of the site.

In the most recent appeal decision, the Inspector commented that "the proposal would be harmful to the living conditions of the occupants of No. 88, as a result of loss of light". The Inspector also raised additional concern regarding the overbearing effect of the proposal on the outlook from the kitchen window, stating that in the absence of any information in relation to the effects on outlook, she was not able to conclude that the development would not be harmful to the amenity of the neighbours.

The principle issues in this case are whether the current scheme complies with the main policies quoted above and also whether the new proposal addresses and overcomes the issues set out by the Inspector in dismissing the previous proposal.

## **Planning History**

03/01919/FULL1 Single storey side/rear extension and single storey rear extension for conservatory (amendment to scheme permitted under ref. 02/01238, alteration to roof design). Conditional permission.

10/02118/FULL First floor side extension. Application refused. Appeal dismissed.

11/03032/FULL First floor side and rear extension. Application refused. Appeal dismissed.

13/00771/FULL First floor side and rear extension. Application refused. Appeal dismissed.

13/03290/FULL First floor front/side and rear extension. Application refused. Appeal dismissed.

13/03290/FULL First floor front/side and rear extension. Application refused. Appeal dismissed.

13/03395/FULL First floor side and rear extension. Application refused. Appeal dismissed.

## **Conclusions**

The main issues relating to the application are the effect that it would have on the character of the area and the impact that it would have on the amenities of the occupants of surrounding residential properties particularly the loss of light to the neighbouring property at No.88, and the impact on the outlook from the kitchen window of this property.

The application site was visited by the case officer and the aims and objectives of the above policies, national and regional planning guidance, all other material planning considerations including any objections, other representations and relevant planning history on the site were taken into account in the assessment of the proposal.

The current proposal differs from the previously refused scheme, which was also dismissed at appeal, with the width of the front gable being reduced such that this section is 0.25 metres further from the window at No. 88 than previously proposed, with a resultant 0.4 metre shift in the position of the roof. However, the central section of the flank wall was previously stepped in, but this section has now been brought 0.4 metres closer to the window than previously proposed. Under the previous application, a light assessment was submitted, and the Inspector determining the appeal concluded that this demonstrated that "the proposal would be harmful to the living conditions of the occupants of No. 88, as a result of loss of light". No such light assessment has been submitted as part of this application and, whilst it is acknowledged that the width of the gable has been reduced, the central part of the flank elevation is now closer to No. 88 than previously proposed, which would impact upon the light received by this window. In a previous appeal on the site for a similar proposal in 2013, the Inspector stated that "without detailed information as to the impact of the scheme in terms of loss of sunlight/daylight to the kitchen window of 88 Malmaims Way... I have no alternative but to conclude that the appeal should be dismissed". Therefore, with regard to the current scheme, in the absence of a light assessment it is not possible to conclude that the extension would have an acceptable impact on the light to this window, and objections are raised in this regard. Furthermore, in determining the most recent appeal, the Inspector raised additional concern regarding the overbearing effect of the proposal on the outlook from the kitchen window, stating that in the absence of any information in relation to the effects on outlook, she was not able to conclude that the development would not be harmful to the amenity of the neighbours. Given the modest scale of the alterations to the extension, and taking into account the previous Inspector's comments, it is considered that, in the absence of any information to the contrary, the proposed extension would appear overbearing and visually intrusive when viewed from the kitchen window of No. 88 Malmaims Way.

Given the above, the proposed extension would adversely impact on the amenities of the neighbouring property at No. 88 Malmaims Way.

Background papers referred to during production of this report comprise all mcorrespondence on the files refs. 13/03395, 13/03290, 13/00771, 11/03032 and 10/02118, set out in the Planning History section above, excluding exempt information.

**RECOMMENDATION: PERMISSION BE REFUSED**

The reasons for refusal are:

- 1 The proposed extension would result in an unacceptable reduction in the light received by the adjacent kitchen window at the neighbouring property, No. 88 Malmaison Way. In addition, the extension would appear as an overbearing and visually intrusive feature, which would result in a loss of outlook from this window. The proposal is therefore contrary to Policy BE1 of the Council's Unitary Development Plan.

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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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