

Committee Date	11.06.2020	
Address	6 Queens Road Beckenham BR3 4JW	
Application Number	20/01037/FULL6	Officer - Joanna Wu
Ward	Clock House	
Proposal	Single storey rear extension (RETROSPECTIVE)	
Applicant	Agent	
Mr Simon Coleman	Mr Gary Edwards	
6, Queens Road Beckenham BR3 4JW	83 Clock House Road Beckenham BR3 4JU United Kingdom	
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 15</p>
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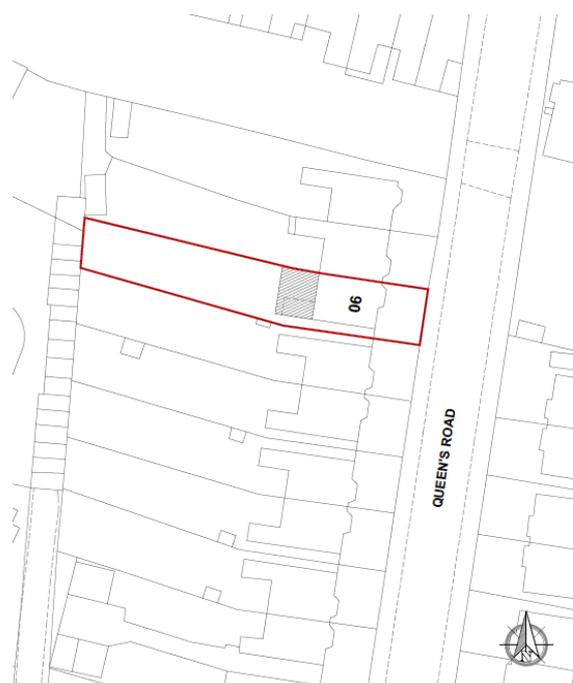
Representation summary	Neighbouring properties were notified of the application by letter dated 23.03.2020	
Total number of responses		5
Number in support		4
Number of objections		1

1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- Prior approval has previously been granted for an extension and this is a material consideration for this retrospective application;
- The development would not result in a harmful impact on the character and appearance of the area.

2 LOCATION

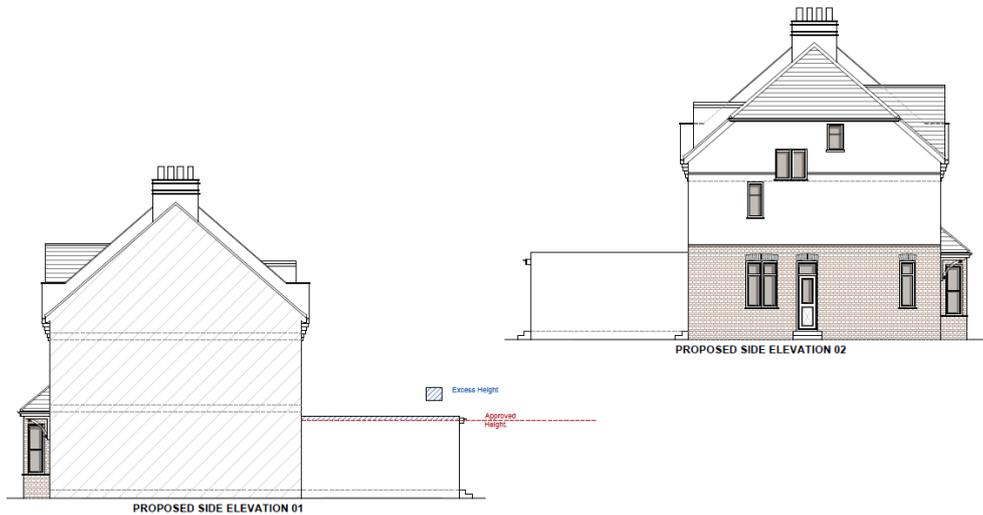
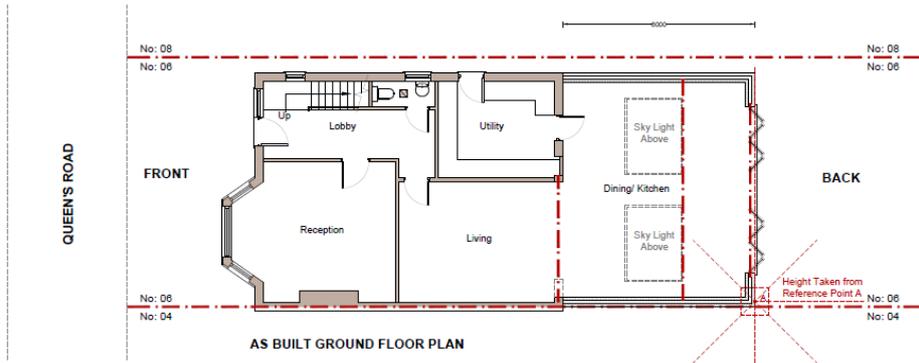
- 2.1 The application site includes a three storey end-of-terrace dwelling which is located on the west side of Queens Road Beckenham. The existing extension has a depth of 6m, a width of 7.3m, a total height of 3.2m with a parapet wall of 3.5m high.
- 2.2 The extension was built following submission of a prior approval application (planning ref: 18/04031/HHPA) for a single storey rear extension with a depth of 6m and a maximum height of 3m which received no neighbouring objections.
- 2.3 The site does not lie within any conservation area and the property is not a listed building. The character of the area is residential in nature.



3 PROPOSAL

3.1 This is a retrospective planning application for the retention of the single storey rear extension, measuring 6m deep, 7.3m wide and 3.2m high with a 2 rooflights.

3.2 In the submitted planning statement, the applicants have confirmed that the existing parapet wall which is 3.5m high would be removed.



4 RELEVANT PLANNING HISTORY

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

4.2 Under planning ref. 18/04031/HHPA, a prior approval permission was granted for a single storey rear extension, extending beyond the rear wall of the house as

existing by 6m, for which the maximum height would be 3m, and for which the height of the eaves would be 2.75m.

5 CONSULTATION SUMMARY

A) Statutory

No consultees were contacted for comment on the application.

B) Local Groups

No local groups were commented to the application.

C) Adjoining Occupiers

Objections

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

There are four letters of support have been received after the neighbouring notification period.

D) Legal team consultation

- Our legal team has been consulted and it will be further discussed under "Principle – Legal considerations" in the "Assessment" section.

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 'Intend to Publish' version of draft London Plan (December 2019) is also a material consideration in the determination of this planning application.
- 6.5 The draft new London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This is the version of the London Plan which the Mayor intends to publish, having considered the report and recommendations of the panel of Inspectors. Where recommendations have not been accepted, the Mayor has set out a statement of reasons to explain why this is.
- 6.6 The London Assembly considered the draft new London Plan at a plenary meeting on 6 February 2020 and did not exercise their power to veto the plan.
- 6.7 Ahead of publication of the final plan, the SoS can direct the Mayor to make changes to the plan. This affects the weight given to the draft plan. At this stage, the Council's up-to-date Local Plan is generally considered to have primacy over the draft London Plan in planning determinations.
- 6.8 The application falls to be determined in accordance with the following policies:-

6.9 National Policy Framework 2019

6.10 The London Plan

- 7.4 Local character
- 7.6 Architecture

6.11 Draft London Plan

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

6.12 Bromley Local Plan 2019

- 6 Residential Extensions
- 37 General Design of Development

6.13 Bromley Supplementary Guidance

7 ASSESSMENT

7.1 Principle – Legal considerations

- 7.1.1 The submission of this application follows the previous submission of a prior approval application (planning ref: 18/04031/HHPA). The prior approval permission was for a single storey rear extension with a depth of 6m and a height of 2.75m with a flank parapet wall of 3m height. No neighbouring objections were received at the time of the application. However, the extension that was built differs from the permitted development as the height of the extension is 3.23m with a parapet wall of 3.5m. In the plans submitted with the current application, the applicants show that the parapet wall will be removed, so that the total height of the extension would be 3.23m.
- 7.1.2 Officers have received objections from the neighbour who also submitted a letter from their solicitors outlining their concerns about the extension. The neighbour considers that the existing extension should be considered as “unlawful” development, given that it was not built in accordance with the approved plans submitted as part of the previous prior approval application (planning ref: 18/04031/HHPA). Their view is that this means that the previously approved scheme should not be considered as the “fall-back” position.
- 7.1.3 As part of the assessment of this application, the Council’s legal team has been consulted. The views from the legal team are in broad terms, they agree with the neighbour’s point that technically, if a person builds outside the permitted development entitlement then that person is building without planning permission.
- 7.1.4 However, the legal team further commented that in this case, that the key issue and consideration is to establish the intention of the applicants when they built the extension, i.e. whether they had built the extension higher than approved by error or if the applicants aimed from the outset to build the extension as eventually constructed. The implication of the latter scenario would mean that the 2018 prior approval scheme would not be a material consideration in determining the current application.
- 7.1.5 In addition, the legal considerations when assessing a fall back have recently been considered by the Court of Appeal in *Mansell v Tonbridge*. The benchmark in fact has been set quite low. The Court said that while there has to be a real prospect of the fall back being implemented, it does not have to be probable or likely, a possibility will suffice.
- 7.1.6 The applicants also provided additional information to explain the circumstances of how the extension was built higher than shown in the plans and why they cannot reduce the height of the extension further from 3.23m to 3m.

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

We were unaware of this for two main reasons:

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

When the breach was flagged to us by our neighbours we immediately addressed the matter and, at significant cost (extra steels, internal ceiling adjustments and labour), reduced the height as much as possible. Had it not been for the doors and kitchen, which were already in manufacture based on the existing measurements, we would have been able to meet the 3m height. The main reason the height cannot be brought down to 3m is because of the floor to ceiling glass doors (see picture), which were already in production and couldn't be altered in size when the issue came to light. The doors are supported by the steel which sits directly above them as in the picture.”

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

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

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

7.1.7 Officers are of the view that it would be difficult, at this stage, to prove the applicants' original intention when they built the rear extension were to deliberately build beyond their permitted plans. Nevertheless, having carefully assessed and considered this application and the supporting statement provided by the applicants, it is the officer's view that the bulk and scale of the extension that has been built is very similar to the approved scheme (planning ref: 18/04031/HHPA). The only difference is that the height of the extension has been increased by just under 0.5m, from 2.75m to 3.23m. Also, in this retrospective application, the supporting statement highlights that they will remove the parapet wall, which currently stands at 3.5m.

7.1.8 In the supporting statement, the applicants state that in order to rectify and reduce the height of the extension to 3m, the floor-to-ceiling glass doors and the supporting steels in the rear elevation would have to be removed and

replaced. This would also require removal and replacement of the existing roof and other features such as the rooflight and internal alterations to door frames etc.

- 7.1.9 Members have to decide whether the request for the partial demolition and rebuilding of the extension is reasonable or not given that the height difference of the proposed height and the approved height is only 0.23m.
- 7.1.10 On balance, it is the officers' view that it was the applicants' original intention to build the extension in accordance with the approved plan and therefore, the prior approval application should be considered as a material consideration in determining this application. The applicants have made efforts to provide some remedy to reduce the height of the extension although it has not been possible to bring this down to the approved height without the need to carry out a significant level of works.

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. 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 London Plan Policy 7.4 requires developments to have regard to the form, function, and structure of an area. Policy 37 of the Bromley Local Plan states that all development proposals, including extensions to existing buildings, will be expected to be of a high standard of design and layout. Policy 6 of the Bromley Local Plan requires that the design and layout of proposals for the alteration or enlargement of residential properties will be required to comply with the following: (i) the scale, form and materials of construction should respect or complement those of the host dwelling and be compatible with development in the surrounding area and (ii) space or gaps between buildings should be respected or maintained where these contribute to the character of the area.
- 7.2.4 The Council will normally expect the design of residential extensions to blend with the style and materials of the main building. Where possible, the extension should incorporate a pitched roof and include a sympathetic roof design and materials.
- 7.2.5 The rear extension would not be visible from the street and the extension has been finished in materials that match those of the host dwelling. It is noted that the extension is 6m deep and the parapet wall is 3.5m high with a flat roof of 3.2m height. In the submitted Planning Statement, the applicants have confirmed that the parapet wall would be removed. Also, the depth of the

extension has already been established in the previous planning application (planning ref: 18/04031/HHPA). Therefore, the proposal, on balance, is considered to be acceptable.

- 7.2.6 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.

7.3 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 neighbouring objections are noted. However, it is considered that the scale and bulk of the extension have already been established by the previous prior approval application (planning ref: 18/04031/HHPA) for which no neighbouring objections were received. In that scheme, the proposal was approved for a single storey rear extension with a depth of 6m and a height of 2.75m with a flank parapet wall of 3m height. The current extension's existing parapet wall would be removed and the total height of the extension would be 3.2m. Given that the height difference to the north elevation, facing No. 4, would be 0.2m higher than the approved proposal, it is considered that the current scheme, on balance, would not be adverse enough to warrant a refusal.

- 7.3.3 The neighbours have stated that the height of the existing extension is higher than the submitted plans. The applicants have confirmed that the extension measures 3.23m high from the rear wall of the host dwelling and then gradually reduces to 3.14m. In terms of the drainage arrangement after the removal of the parapet wall, the applicants have confirmed that the highest part of the southern elevation of the extension would incorporate a small lip to guide rainwater to the western end of the extension. Following the removal of the parapet on the northern elevation, an identical lip would be retained. This measure, combined with the slope of the roof, would prevent rainwater overflowing onto the neighbouring property. The neighbours argued that this would further increase the height of the extension, however, this "roof lip" is not significant in terms of adding to height of the roof.

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

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

Subject to the following conditions:

- 1. The demolition of the parapet wall on the north flank elevation, facing No. 4 Queens Road, as shown on drawing no: WN12, should be carried out within 6 months from the date of this Decision Notice and shall subsequently be permanently retained in accordance as such.**

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