

Committee Date	17.10.20		
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	Councillor call in		
	Controversial		No

RECOMMENDATION	PERMISSION
-----------------------	-------------------

<p>KEY DESIGNATIONS</p> <p>Biggin Hill Safeguarding Area London City Airport Safeguarding Open Space Deficiency Smoke Control SCA 15</p>
--

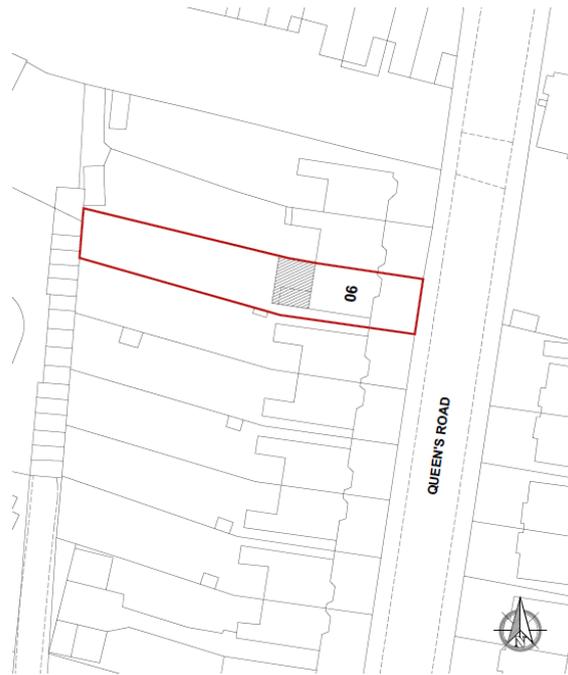
Representation summary	Neighbouring properties were notified of the application by letter dated 23.03.2020 and 17.09.20	
	23.03.20	17.09.20
Total number of responses	5	1
Number in support	4	0
Number of objections	1	1

SUMMARY OF KEY REASONS FOR RECOMMENDATION

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

1. LOCATION

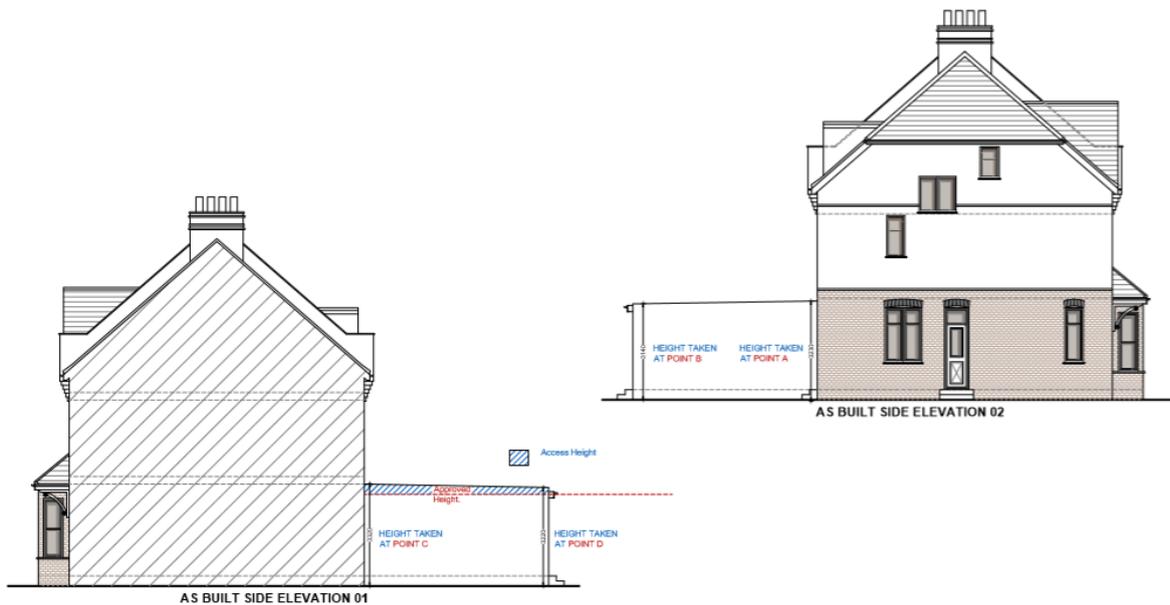
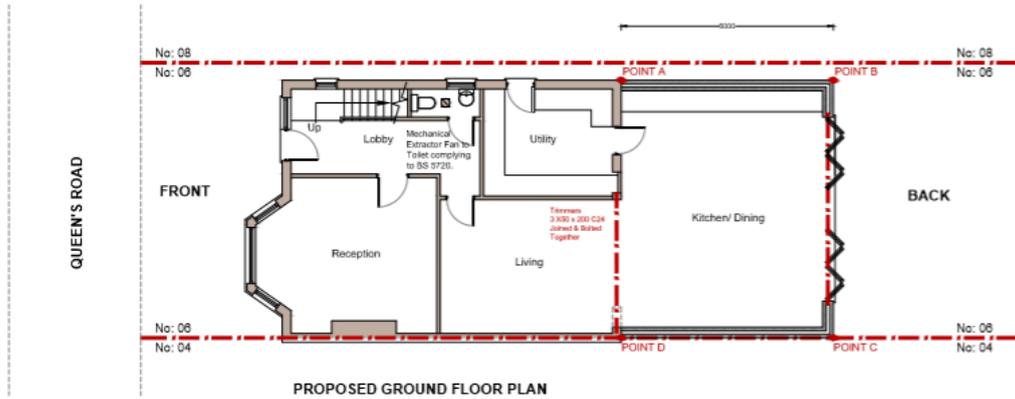
- 1.1 The application site includes a three storey end-of-terrace dwelling which is located on the west side of Queens Road Beckenham. The existing extension has a depth of 6m, a width of 7.3m, and a total height of 3.2m with a retaining wall of 3.5m high.
- 1.2 The extension was built following submission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



2 PROPOSAL

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

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



3 RELEVANT PLANNING HISTORY

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

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

4 CONSULTATION SUMMARY

A) Statutory

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

B) Non-statutory

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

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

C) Local Groups

No local groups were commented to the application.

D) Adjoining Occupiers

Objections

Notification dated 23.03.20

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

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

Notification date 17.09.20

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

5 POLICIES AND GUIDANCE

- 5.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-
- (a) the provisions of the development plan, so far as material to the application,
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.
- 5.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.
- 5.3 The Development Plan for Bromley comprises the London Plan (March 2016) and the Bromley Local Plan (2019). The NPPF does not change the legal status of the development plan.
- 5.4 The 'Intend to Publish' version of draft London Plan (December 2019) is a material consideration in the determination of this planning application. Paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.
- 5.5 The draft New London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This was version of the London Plan which the Mayor intended to publish, having considered the report and

recommendations of the panel of Inspectors.

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

5.10 National Policy Framework 2019

5.11 The London Plan

7.4 Local character
7.6 Architecture

5.12 Draft London Plan

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

5.13 Bromley Local Plan 2019

6 Residential Extensions
37 General Design of Development

5.14. Bromley Supplementary Guidance

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

6 ASSESSMENT

6.1 Principle of the development – Legal advice

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

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

6.2 Principle of the development - Planning assessment

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

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

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

We were unaware of this for two main reasons:

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

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

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

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

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

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

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

6.3 Design – Layout, scale - Acceptable

- 6.3.1 Design is a key consideration in the planning process. Good design is an important aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF states that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.
- 6.3.2 London Plan and Bromley Local Plan policies further reinforce the principles of the NPPF setting out a clear rationale for high quality design.
- 6.3.3 London Plan Policy 7.4 requires developments to have regard to the form, function, and structure of an area. Policy 37 of the Bromley Local Plan states that all development proposals, including extensions to existing buildings, will be expected to be of a high standard of design

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

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

6.4 Residential Amenity - Acceptable

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

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

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

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

7 CONCLUSION

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

7.2 Background papers referred to during production of this report comprise all correspondence on the files set out in the Planning History section above, excluding exempt information.

RECOMMENDATION: Application Permitted

Subject to the following conditions:

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

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

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

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