

Committee Date	17 th February 2022	
Address	27 Birchwood Road Petts Wood Orpington BR5 1NX	
Application Number	18/03950/RECON	Officer - Lawrence Stannard
Ward	Petts Wood And Knoll	
Proposal	Removal of Condition 6 of permission 18/03950/FULL6 (granted retrospectively for single storey detached building in rear garden with temporary use as habitable accommodation during building works to main dwelling, then for ancillary use to main dwelling) relating to the removal of permitted development rights.	
Applicant	Agent	
Mrs Lucia Moseley	N/A	
27 Birchwood Road Petts Wood Orpington BR5 1NX	N/A	
Reason for referral to committee	Councillor call in	
	Previous Case Went to PSC	No

KEY DESIGNATIONS

Chislehurst Road, Petts Wood Conservation Area
Biggin Hill Safeguarding Area
London City Airport Safeguarding
Smoke Control SCA 4

Representation summary	<ul style="list-style-type: none"> • Neighbour notification letters were sent on the 14th October 2021. • A site notice was displayed on the 7th January 2022. • A Press Advert was published on the 19th January 2022.
Total number of responses	3
Number in support	0
Number of objections	3

1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The re-instating of permitted development rights would not result in a harmful impact on the appearance of the host dwelling or character and appearance of the Conservation Area.
- The re-instating of permitted development rights would not adversely affect the amenities of neighbouring residential properties

2 LOCATION

- 2.1 The site is located on the southern side of Birchwood Road and hosts a detached dwellinghouse.
- 2.2 The site lies within the Chislehurst Road, Petts Wood Conservation Area, which was formally designated on 4th January 2022.

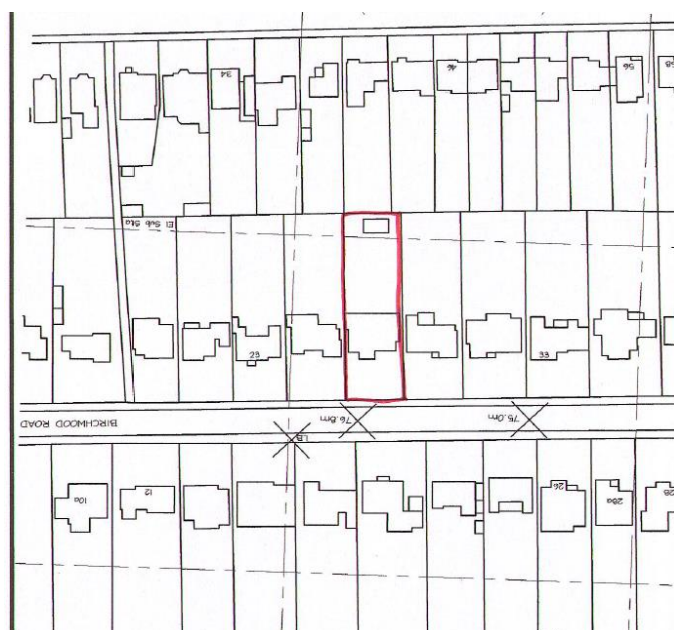


Figure 1: Site Location Plan

3 PROPOSAL

- 3.1 The application seeks to remove Condition 6 of permission 18/03950/FULL6 (granted retrospectively for single storey detached building in rear garden with temporary use as habitable accommodation during building works to main dwelling, then for ancillary use to main dwelling) which relates to the removal of permitted development rights, as outlined below;

Condition 6

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting this Order) no building, structure or alteration permitted by Class A, B, C, or E of Part 1 of Schedule 2 of the 2015 Order (as amended), shall be erected or made within the curtilage(s) of

the dwelling(s) hereby permitted without the prior approval in writing of the Local Planning Authority.

REASON: In the interests of protecting the character of the area and residential amenity of neighbouring properties in accordance with Policy BE1 of the UDP.

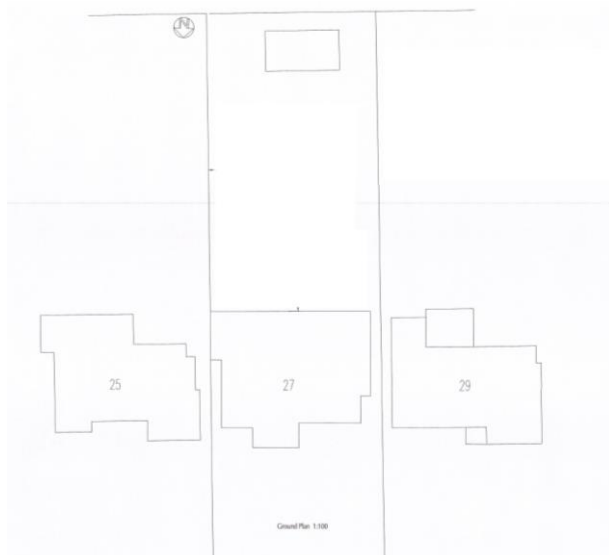


Figure 2: Site Plan

4 RELEVANT PLANNING HISTORY

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

- 17/03951/FULL6 - Single storey side/rear extension, first floor side/rear extension, single storey front porch extension, loft conversion to include rear dormer extension and rooflight windows to side roof slopes and elevation alterations - Permitted
- 18/03574/FULL6 - Single storey side/rear extension, first floor side/rear extension, single storey front porch extension, loft conversion to include rear dormer extension and rooflight windows to side roof slopes and elevation alterations (amendment to approved application 17/03951 to remove single storey rear element of rear extension and increase width of host dwelling along western flank elevation). - Permitted
- 18/03950/FULL6 - Single storey detached building in rear garden. Temporary use as habitable accommodation during building works to main dwelling, then for ancillary use to main dwelling (Retrospective) - Permitted
- 20/02833/PLUD - Installation of swimming pool - Development not Lawful
- 21/00318/FULL6 – Installation of swimming pool in rear garden - Permitted

5 CONSULTATION SUMMARY

A) Statutory

No Statutory Consultations were received.

B) Local Groups

No Comments were received from local groups.

C) Adjoining Occupiers

The following comments were received from adjoining occupiers;

- The shed is being used as a dwelling and overlooks my rear bedroom and living room windows.
- The outbuilding was supposed to be temporary.
- Property is already split into multiple dwellings.
- Concerns over loud music / lighting from the outbuilding.
- Photos submitted with the application do not reflect the true impact on the surrounding properties.
- Given we are now a designated Conservation Area the temporary accommodation should be removed from the garden of No.27 to protect its character.

A response to the objections was received by the applicant on the 1st February 2022 to address each aspect and to state that they are not relevant to this application for the removal of condition 6. These matters are addressed further below in para 7.12 onwards.

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 2019

6.6 The London Plan

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

6.7 Bromley Local Plan 2019

- 6 Residential Extensions

37 General Design of Development
44 Areas of Special Residential Character
123 Sustainable Design and Construction

6.8 Bromley Supplementary Guidance

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

7 ASSESSMENT

Consideration of the removal of Condition 6

7.1 The original application, granted under ref. 18/03950/FULL6, includes the following condition (No.6) which the applicant is seeking to remove:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting this Order) no building, structure or alteration permitted by Class A, B, C, or E of Part 1 of Schedule 2 of the 2015 Order (as amended), shall be erected or made within the curtilage(s) of the dwelling(s) hereby permitted without the prior approval in writing of the Local Planning Authority.

REASON: In the interests of protecting the character of the area and residential amenity of neighbouring properties in accordance with Policy BE1 of the UDP.

7.2 In respect of Condition 6 regarding the removal of permitted development rights (Class A, B, C and E), the General Permitted Development Order enables various works to be undertaken to residential properties, under Schedule 2, Part 1 (Development within the curtilage of a dwellinghouse).

7.3 In effect, the approved scheme under ref: 18/03950/FULL6 was deemed acceptable on the basis that any further development at the site should be properly assessed by the Council to ensure that the interests of the area and neighbouring amenity could continue to be protected.

7.4 Paragraph 55 of the National Planning Policy Framework states: "Planning conditions should be kept to a minimum and only imposed where they are

1. necessary
2. relevant to planning
3. and to the development to be permitted,
4. enforceable,
5. precise
6. and reasonable in all other respects".

7.5 Further guidance regarding the use of planning conditions is found in the National Planning Policy Guidance.

7.6 The restriction to development covered under Class A, B, C, and E of Part 1 of the Second Schedule to the 2015 Order relates to:

- A. The enlargement, improvement or other alteration of a dwellinghouse.

- B. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.
- C. Any other alteration to the roof of a dwellinghouse.
- E. The provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse, or the maintenance, improvement or other alteration of such a building or enclosure.

- 7.7 The applicant is seeking to remove the condition on the grounds and outline their reasoning on the application form, which includes that they had assumed the conditions would no longer apply once the outbuilding was not being lived in, and that they had originally understood the outbuilding did not need planning permission. They also note that the outbuilding also replaced a previous existing large greenhouse.
- 7.8 The applicants intend to make improvements to their rear garden which they consider fundamental to enhancement of their outside space, without the need to apply for planning permission. These include the potential addition of a pergola alongside landscaping works, though the reinstating of permitted development rights would enable any works associated with the Classes outlined above. The applicants also note that other lodges / outbuildings have been erected in the surrounding area and query whether similar conditions have been imposed on these.
- 7.9 It is noted that the current site benefits from a large rear garden, approximately 30m long from the rear elevation to the rear boundary. It is not considered that the current site is overdeveloped, and furthermore most of the GPDO classes have specific size and locational criteria which, in themselves, would limit the degree of additional alterations allowed.
- 7.10 Future alterations under permitted development would also be further limited given that the host dwelling has previously been extended and now lies within the Chislehurst Road, Petts Wood Conservation Area. This would impact upon further future developments under the criteria of the GPDO and further limit any future developments on the site. In particular, Class B permitted development rights do not apply to dwellings located within a Conservation Area.
- 7.11 The Conservation Officer has raised no objection to the current application, and it is also noted that any development constructed under permitted development would be similar to that which would be possible on other similar residential properties within the road / Conservation Area. The outbuilding originally required planning permission on the basis that it was to be used as habitable accommodation whilst works were undertaken to the main dwelling, however this was for a temporary period which has now ceased and in all other respects the outbuilding would be of a size and scale that could normally be constructed without the need for planning permission. It follows that the outbuilding is not itself excess in size or scale, to the extent that the removal of all permitted development rights under Classes A, B, C and E is justified having regard to the statutory tests for planning conditions which have been outline elsewhere in the report.
- 7.11 It is therefore considered that Condition 6 of planning ref. 18/03950/FULL6 (to remove permitted development rights under Class A, B, C and E), is not considered necessary, reasonable or relevant to the development permitted.

Other Matters

- 7.12 It is noted that representations have been received from neighbouring residents, which predominately refer to the use of the existing outbuilding originally approved under ref: 18/03950/FULLL6. This outbuilding benefits from permission to be retained under this approval, with the residential use of the outbuilding the temporary aspect of the original permission.
- 7.13 From visiting the site, it appears that the outbuilding was not in residential use as a separate unit and did not host any primary residential accommodation, with it hosting only a seating area and gym equipment. Therefore, the temporary use can be considered to have ceased. Furthermore, boundary screening and obscure windows have been erected / installed in accordance with the original permission and conditions would be retained as part of any permission to ensure that these are retained.
- 7.14 In any case, the use of the outbuilding or main dwelling does not relate directly to the current application which seeks to re-instate permitted development rights to the site. Any matters relating to a breach of other planning conditions would be a separate matter for investigation if necessary, however is not deemed a material consideration for this application.

8 CONCLUSION

- 8.1 Having had regard to the above it is considered that the condition should be removed, and that re-instating permitted development rights would not result in a significant loss of amenity to local residents, would not result in an overdevelopment of the site, nor impact detrimentally on the character of the Chislehurst Road, Petts Wood Conservation 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: Approve

Conditions

- 1. The development granted under planning ref. 18/03950/FULL6 has been completed.**
- 2. The additional accommodation shall not be severed.**
- 3. The use of the outbuilding for living accommodation has ceased and the use shall remain purely as ancillary accommodation to the host dwelling.**
- 4. Obscure glazed windows retained.**
- 5. Boundary screening shall be retained.**
- 6. Condition Removed**
- 7. No utilities shall be installed in the outbuilding.**