

Proposed development: Full Planning Application (Retrospective) for Amendment to Approved Plans 10/21/1060 - 'Double storey side extension, double and single storey rear extension and front extension including porch' - Garage conversion, minor rear amendment to extend up to the boundary line by 100mm and pier removed between the two patio doors to create one large opening

**Site Address:
6 Bargee Close
Blackburn
BB1 1BW**

Applicant: Irfan Mulla

Ward: Blackburn Central

**Councillor Samim Desai
Councillor Mahfooz Hussain
Councillor Zamir Khan**



1.0 SUMMARY OF RECOMMENDATION

1.1 **APPROVE** – Subject to conditions, as set out in paragraph 4.1.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

2.1.1 The application is reported to the Committee in accordance with the Chair Referral Scheme of the Scheme of Delegation due to the objections received, and the previous application being referred to the Committee.

2.1.2 This proposal is essentially the same as the previous approval 10/21/1060, which has been implemented (work in progress) and is therefore an extant consent. The only differences between the current application and the previous approval are minor amendments to the rear extension, including a very slight increase in length at the far end of the garden, and the previously approved integral garage being converted into ancillary living accommodation (utility room and WC).

2.1.3 Assessment of the application finds that the proposal is acceptable in terms of its size, scale and appearance, and would not unacceptably compromise residential amenity or highway safety. The proposal therefore complies with the relevant development plan policies. Therefore, in accordance with the presumption in favour of sustainable development as set out in the NPPF, the proposal is considered acceptable.

3.0 RATIONALE

3.1 Site and Surroundings

3.1.1 The application site is situated on the western side of the residential cul-de-sac Bargee Close, Blackburn. To the rear of the site is a private garden area and a detached garage, and a small driveway is positioned to the side. To the rear is an area of green infrastructure. The site is within the inner urban area of Blackburn in a coal low risk area. The existing dwelling is a two storey detached dwelling constructed in red brick, having a hipped tiled roof form.

3.2 Proposed Development

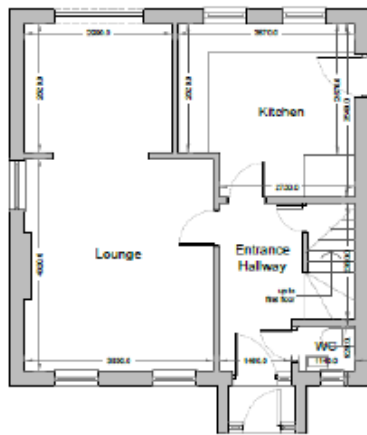
3.2.1 This application is assessed in the knowledge that a previous approval for a very similar development was approved by the Planning and Highways Committee in December 2021, and works have since been taking place on site, so the permission has been implemented. This extant permission is a material planning consideration in the assessment of this current application.

3.2.2 Given the above context, it is considered relevant to show the plans and elevations of the following:

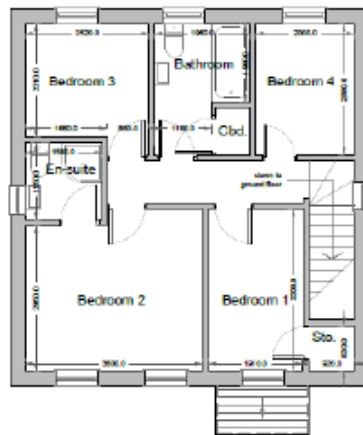
- The dwelling as it previously existed (prior to work commencing on site);
 - The development as previously approved under 10/21/1060 (extant permission);
- and
- The proposed development now applied for under this current application.

These are all shown below:

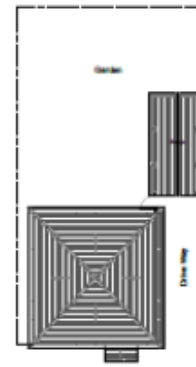
3.2.3 Existing plans and elevations (as the house previously existed, prior to work commencing on site):



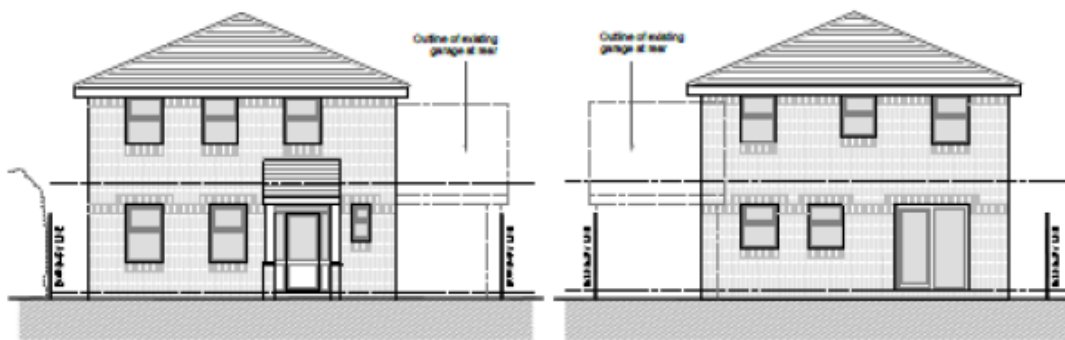
Existing Ground Floor Plan
SCALE 1:50 @ A2



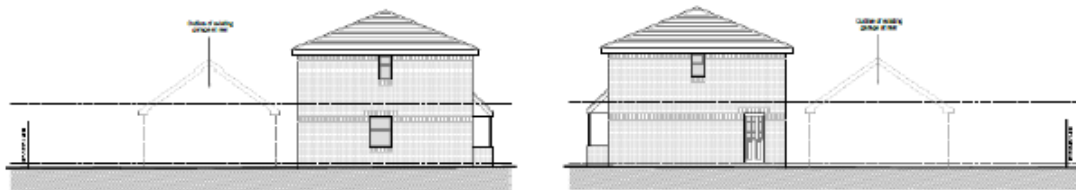
Existing First Floor Plan
SCALE 1:50 @ A2



Existing Roof / Site Plan
SCALE 1:200 @ A2

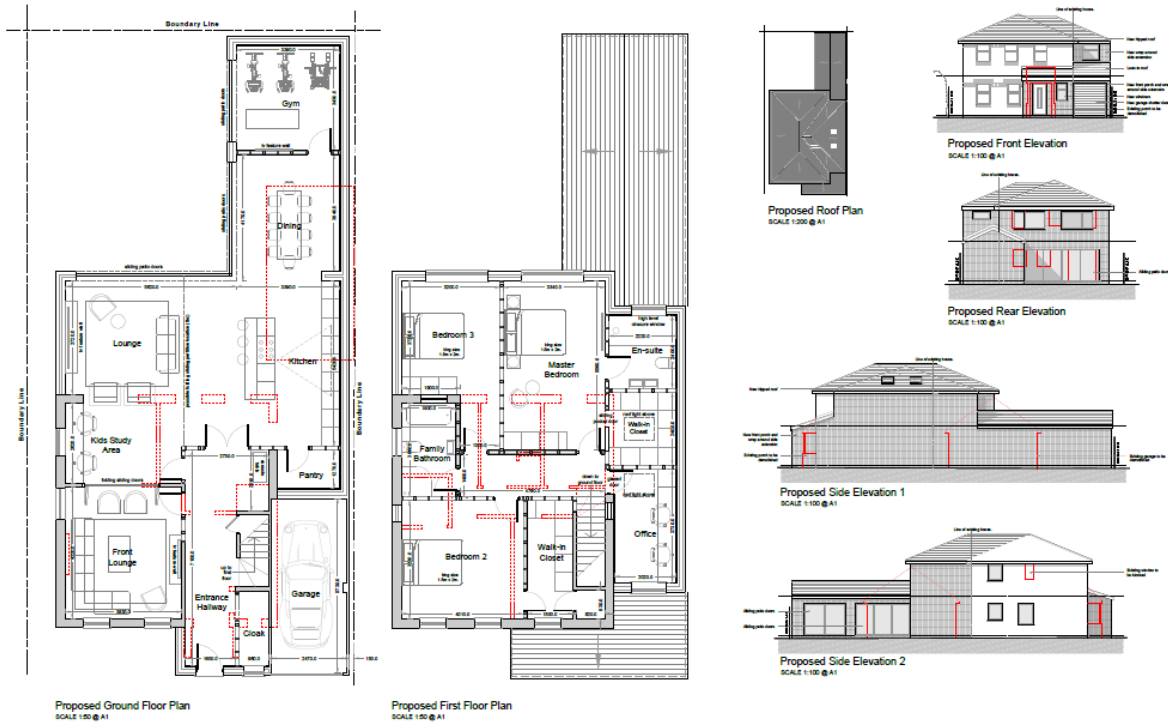


Existing front and rear elevations

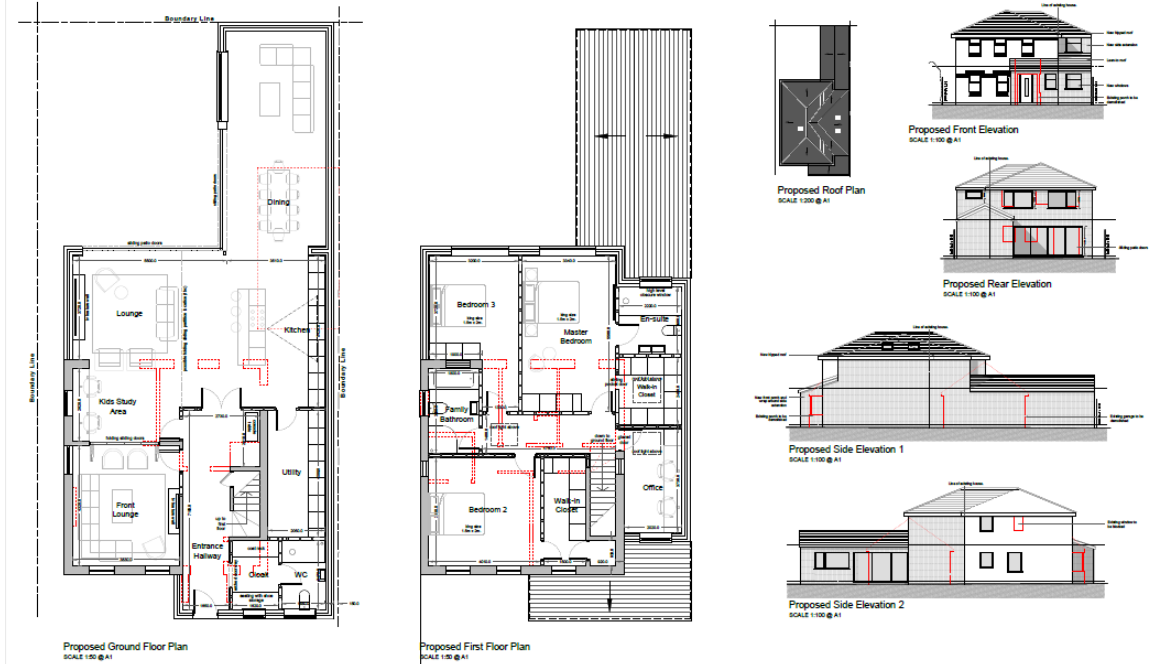


Existing side elevations

3.2.4 Extant permission: Previously approved plans and elevations (as approved under 10/21/1060):



3.2.5 Proposed development (as now applied for in this current application):



3.2.6 Site photos, taken 8th June 2023



3.3 Development Plan

3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.

3.3.2 The Development Plan comprises the Core Strategy (2011) and Local Plan Part 2 – Site Allocations and Development Management Policies (2015). In determining the current proposal the following are considered to be the most relevant policies.

Core Strategy (2011)

Policy CS16: Form and Design of New Development

Local Plan Part 2 (2015)

Policy 1: The Urban Boundary

Policy 8: Development & People

Policy 10: Accessibility & Transport

Policy 11: Design

Other material considerations

Residential Design Guide Supplementary Planning Document (SPD)

BwD Parking Standards

National Planning Policy Framework (NPPF)

3.4 Assessment

3.4.1 In assessing this full application the following important material considerations are taken into account:

- Principle of development
- Visual Amenity / Design
- Residential Amenity

- Highways / Parking
- Neighbour objections
- Conclusion / Planning balance

3.5 Principle of development

3.5.1 There is no objection in principle to the proposed development. The applicant has sought to regularise works which are taking place on site.

3.5.2 The previous approval 10/21/1060 is an extant approval, and is therefore a material consideration in the assessment of this application.

3.5.3 The proposed works are very similar to what has already been approved. In the above context, there is no necessity to re-visit the previously approved aspects of the development, which were fully considered at the Planning and Highways Committee meeting in December 2021. Assessment of this application therefore focuses specifically on the minor amendments proposed, and the issues raised in the neighbour objections.

3.6 Visual amenity / Design

3.6.1 CS Policy 16 and Local Plan Policy 11 require a good standard of design and an understanding of the site's wider context. The Design SPD, in relation to siting, scale and appearance, reinforces this.

3.6.2 To the rear, the circa 100mm increased projection of the single storey rear extension, at the far end of the garden, would have a negligible impact on the design and appearance of the approved scheme. Likewise, the introduction of a window in the side elevation of the rear extension to replace full length glazed doors would have a neutral impact on the character and appearance of the house and the surrounding area.

3.6.3 At the front, the introduction of a new and altered window in place of the previously approved garage doors would again have a neutral impact in terms of its impact on the character and appearance of the house and the wider street scene. The fenestration details are considered to be proportionate to the dwelling, and materials would match the house.

3.6.4 Subject to a condition requiring the use of matching materials, the proposal is considered acceptable in terms of visual amenity, and compliance with Policies CS Policy 16 and Local Plan Policy 11 is achieved.

3.7 Residential amenity

3.7.1 LP Policy 8 and the Residential Design SPD require a satisfactory level of amenity for surrounding occupants in terms of light, privacy and overlooking.

3.7.2 The application site is a detached dwelling located toward the end of a cul-de-sac, and the only property that would be materially affected is the property to the (north) side, 4 Bargee Close.

3.7.3 The occupiers of this property have objected for a number of reasons, including concerns about loss of light/sunlight to their house and a breach of the 45 degree rule to the front and back.

3.7.4 To the rear, the circa 100mm increased projection of the single storey rear extension, at the far end of the garden, would not have a material impact on the outlook, light or privacy of neighbours. The additional slight increase in length, in the context of the overall length of the wall of the house and extension along the boundary, would be minimal, and barely noticeable when compared to the previously approved scheme.

3.7.5 The alteration to the fenestration on the side elevation of the rear extension would also have no adverse impacts, as the side of the extension along the boundary with the neighbour would remain a blank wall face.

3.7.6 At the front, the replacement of the previously approved garage door with a new window would again have no impact on neighbour amenity.

3.7.7 In their letter of objection, the neighbour raised a number of issues, which relate mainly to the acceptability of the extant permission previously approved by Planning Committee. These issues are referred to later in this report.

3.7.8 However, the proposal as now submitted does not materially or unacceptably increase the amenity impact of the extant permission, and is considered acceptable. In the planning balance, it is considered that the proposal complies with the requirements of LP Policy 8 and the Residential Design SPD.

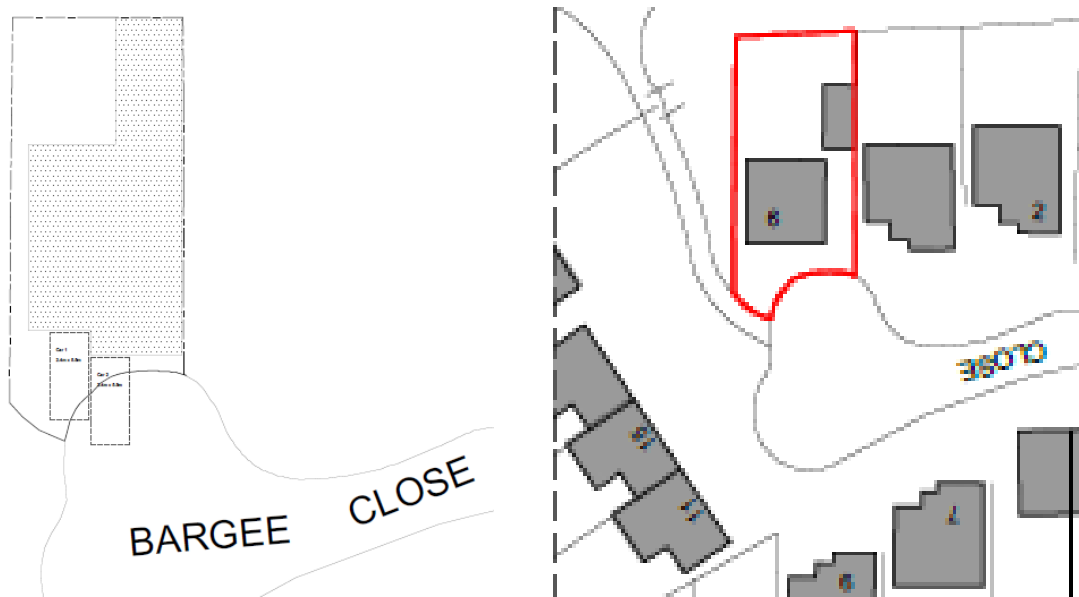
3.8 Highways / parking

3.8.1 Policy 10 requires that highway safety is not compromised, and that there is an adequate level of parking. The BwD Parking Standards require 2 parking spaces for 3 bedroom dwellings.

3.8.2 As discussed in the previous approval, the number of bedrooms in the property would actually decrease as a result of the development; the existing house has 4 bedrooms and this would be reduced to 3 larger bedrooms and a small office room. The on-site parking requirement would therefore not change.

3.8.3 However, the original scheme had a replacement integral garage within the proposed side extension, to compensate for the loss of the detached garage to the rear. This integral garage would now be altered to living space as part of this current proposal, so there would be an overall reduction in parking provision of one space.

3.8.4 Parking provision at the front of the property is not formally laid out. However, during assessment of the application, the applicant was asked to provide a parking plan to show 2 cars can be accommodated within the curtilage of the site. Below is the plan that was provided (along with an extract of the red edge from the site location plan).



3.8.5 Two parking spaces cannot be fully accommodated within the curtilage of the application site, and it is therefore likely that cars parking at the front of the property will overhang part of the highway. However, the parking provision is considered acceptable for a number of reasons. Material considerations and mitigating factors are set out below:

3.8.6 The property is situated at the head of a cul-de-sac where there will be no through traffic. No unacceptable impacts on highway safety are therefore likely to occur.

3.8.7 There are no parking restrictions along Bargee Close, and on street parking outside the house, is therefore possible without interrupting traffic flow or affecting highway safety.

3.8.8 In reality the garage was unlikely to be used for parking vehicles in any case. The integral garage previously approved was slightly below the desired standards for garages as set out in the Parking Standards (internal measurements would not meet the dimension set out in the Parking Standards for a garage parking space).

3.8.9 There was no condition attached to the previous approval requiring the integral garage to be retained. Should the applicant have so desired, upon completion of the previously approved development, the integral garage could have been converted into ancillary living space at any time, without the need to apply for planning permission to do so.

3.8.10 The number of bedrooms at the property would remain as per the previous approval, which actually decreased the number of bedrooms from 4 to 3.

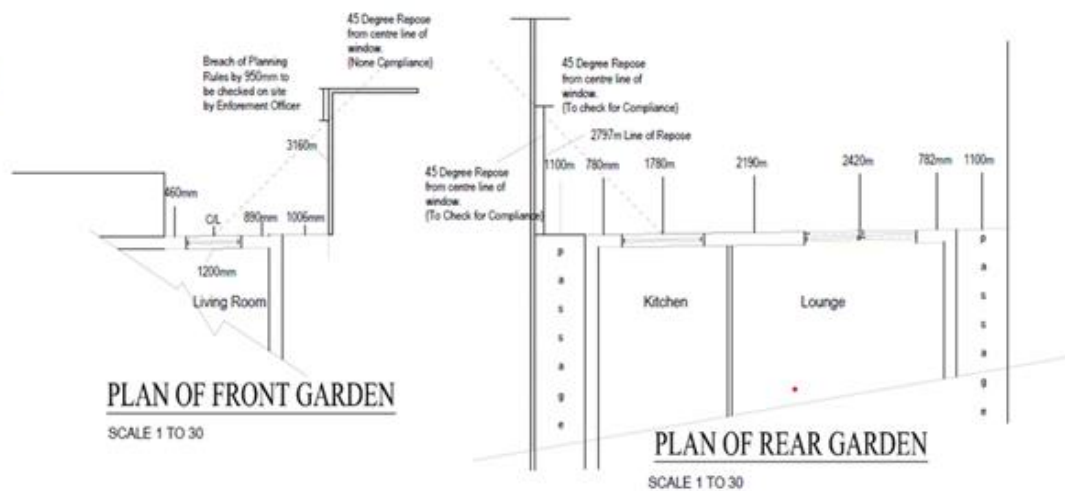
3.8.11 On balance, and having due regard to all the above factors, it is considered in the planning balance that there would not be an unacceptable impact on highway safety as a result of the proposal, and compliance with Local Plan Policy 10 and the NPPF is therefore achieved.

3.9 Neighbour objections

3.9.1 The proposal has prompted a strong objection from an adjoining neighbour. These have been fully considered in the main body of this report, insofar as they relate to the aspects of this current proposal that differ from those of the extant permission.

3.9.2 Other specific matters raised in the objections refer to the acceptability of the extant planning permission, rather than the proposed changes now applied for. The matters raised which relate to the extant permission previously approved include the following:

- *The front single storey extension breaches the 45-degree rule (see image submitted in the letter of objection, below).*



Officer comment:

3.9.3 Each planning application is assessed on its own merits. Notwithstanding the minor breach of the 45 degree rule in this instance, the application has been approved and is an extant permission.

- *This restricts light into neighbouring house habitable room window.*

Officer comment:

3.9.4 Any loss of light, and how great that loss might be, is just one factor, in addition to numerous other factors, that are taken into consideration in the planning balance when assessing the acceptability of a planning application.

- *This contravenes the Right to Light Act 1959.*

Officer comment:

3.9.5 Matters controlled under Building Regulations or other non-planning laws cannot be taken into account in the assessment of a planning application.

- *Blocks views.*

Officer comment:

3.9.6 Loss of view cannot be taken into account in the assessment of a planning application.

- *The 45 degree rule is legislation that must be enforced, and the Council is not doing this.*

Officer comment:

3.9.7 Criteria ii) of Policy 8 of the Local Plan “Development and People” states that development will be permitted where it can be demonstrated that:

“.. it would secure a satisfactory level of amenity and safety for surrounding uses and for occupants or users of the development itself, with reference to noise, vibration, odour, light, dust, other pollution or nuisance, privacy / overlooking, and the relationship between buildings”.

3.9.8 The “45 Degree Rule” is referenced under RES E2 of the Residential Design Guide Supplementary Planning Document (SPD). Whilst SPD’s are a material consideration, they do not form part of the development plan itself – they provide further guidance to expand on the application of adopted policy. RES E2 of the SPD states:

RES E2: ‘45 Degree Rule’

The Council will normally implement the ‘45 degree’ rule when assessing applications for house extensions to ensure there will not be an over bearing impact on adjoining properties.

Each application will be dealt with on its individual merits.

3.9.9 Each case is assessed on its own merits. RES E7 states that the Council “will normally implement the 45 degree rule”, and that “Each application will be dealt with on its own merits”.

3.9.10 RES E15 and RES E16 of the SPD provide further guidance on Front extensions and Porches, as set out below:

RES E15: Front extensions

Front extensions on properties will only be acceptable where:

- i) there is no set build line in place;
and
- ii) the extension is not detrimental to the character of the property and the street scene.

RES E16: Porches

Proposals for porches will be required to meet the following criteria:

- i) they do not dramatically alter the appearance of the house;
- ii) are modest in scale and reflect the style and materials of the house;
- iii) are in keeping with the appearance of the street and do not detract from the character of the street scene;
- iv) the porch roof reflects the roof style of the existing house; and
- v) facing materials match the existing house using the same bond and mortar wherever possible.

3.9.11 The Council made a decision under the previous application that the impact of the front porch / extension was considered acceptable in terms of neighbour amenity, and the impact on the street scene.

- *The Council's and government's rules do not allow extensions to be built in front of or beyond the original wall.*

Officer comment:

3.9.12 This assertion is not the case. The above policies clearly allow development at the front of properties, providing the impacts are appropriately considered when making a decision.

3.9.13 In many cases, planning permission is not even required for front porches, subject to certain criteria, set out below:

Adding a porch to any external door of your house is considered to be permitted development, not requiring an application for planning permission, provided:

1. the ground floor area (measured externally) would not exceed three square metres.
2. no part would be more than three metres above ground level (height needs to be measured in the same way as for a house extension).
3. no part of the porch would be within two metres of any boundary of the dwellinghouse and the highway.

- *The front extension protrudes too far out and is out of keeping with the street scene.*

Officer comment:

3.9.14 A balanced assessment of the visual impact of previous approval concluded that the proposed development would have an acceptable impact on the host building, and on the character of the street scene.

3.9.15 In the report to the Planning and Highways committee, officers commented that “the addition of a replacement (slightly larger) front porch and the continuation of the roof canopy over the garage to the side of the house would serve to further emphasise the set back of the first floor”.

- *Works were carried out not in accordance with the previously approved plans prior to the current application to regularise the works being submitted.*

Officer comment:

3.9.16 The applicant has not committed any criminal offence by carrying out the presently unauthorised works. All works not in accordance with the approved plans have been carried out at the applicant's own risk. The applicant has now sought to regularise the works through the correct channels, by submitting a planning application to accurately reflect what is being built on site.

3.10 Conclusion / Planning balance

3.10.1 In conclusion, each planning application is different and is assessed on its own merits. The majority of issues raised by the neighbour relate to aspects of the proposed development that have already been approved by the extant permission.

3.10.2 These impacts have already been assessed and have been deemed to be acceptable. Therefore, despite the issues raised in the objections, the proposal is considered to meet policy requirements and is considered acceptable development.

4.0 RECOMMENDATION

4.1 Delegated authority is given to the Strategic Director of Growth and Development to approve planning permission, subject to the following conditions;

1. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Dwg no. BB325-001: Location Plan

Dwg no. BB325-501-C: Proposed Plans and Elevations

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

2. Notwithstanding the submitted details, the external walling and roofing materials to be used in the construction of the development hereby permitted shall match those used in the existing building.

REASON: To ensure that the external appearance of the development is satisfactory in accordance with Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2 and the adopted Blackburn with Darwen Design Guide Supplementary Planning Document.

5.0 PLANNING HISTORY

- **10/21/1060** - Full Planning Application for Double storey side extension, double and single storey rear extension and front extension including porch – **APPROVED by Planning and Highways Committee in December 2021.**
- 10/21/0063 – Prior approval for Proposed construction of third storey and roof above existing, max height 9.5m, height to eaves 7.5m - REFUSED

- 10/89/1458: The site is situated within a residential area that was granted approval for the erection of 140No. dwellings in 1989 under planning app ref. 10/89/1458. Permitted development rights were not removed from any of the plots.

6.0 CONSULTATIONS

6.1.1 The application was registered on 31st May 2023. 8 neighbours were notified about the proposed development by letter on 2nd June 2023. Section 9 contains the full summary of the representations received.

6.1.2 1 letter of objection was received from a neighbour on 21st June, raising the following concerns:

6.1.3 On 23rd June, amended plans were submitted correcting some minor inaccuracies in the original submission: *“Pier removed between the two patio doors to create one large opening. There is a pillar in the middle of 300mm and then rather than a patio opening a window opening of 2440mm x 1160mm.”*

6.1.4 Although only a very minor alteration to the originally submitted plans, a 14 day reconsultation was undertaken on 26th June. A further letter of objection was received from an interested party on 29th June, also referring to a breach of the 45 degree rule to the neighbour’s property at the front of the house.

6.1.5 All the issues raised in the letters of objection have been addressed in this report. Should any further consultation responses be received before the consultation expiry date of 10th July, these will be reported to members in the Update Report.

7.0 CONTACT OFFICER: Tom Wiggans, Planner

8.0 DATE PREPARED: 30th June 2023

9.0 SUMMARY OF OBJECTIONS:

Objection – Mr & Mrs Dhanchora, 6 Bargee Close, Blackburn. Received: 21/06/2023

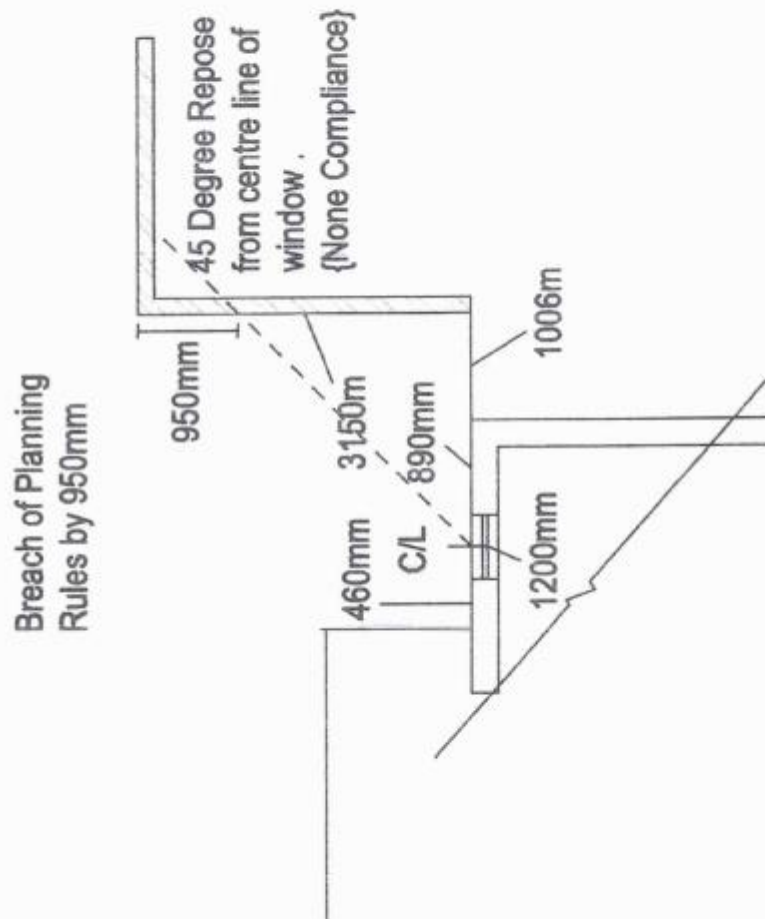
We have received the retrospective full planning application notice Ref No: 10/23/0455, for 6 Bargee Close, Blackburn, BB1 1BW and we at No 4 Bargee Close, strongly object to this plan from going ahead. The reasons are as follows:

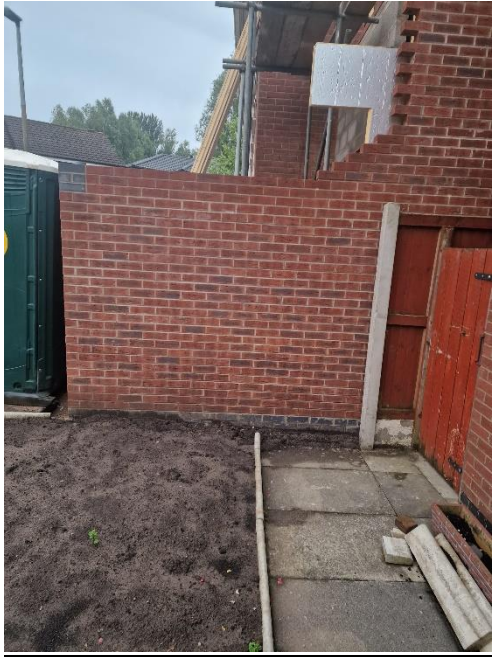
- The front single storey extension is breaching the 45-degree rule which blocks our natural daylight and sunlight (please see the attached plan). Mr Mulla's architect has repeatedly ignored the 45-degree rule as mentioned on the council's portal and it was the failure of the case officer to enforce a rule that all homeowners must abide by. This suggests that the Council chooses whether or not to follow legislation that has been set, suggesting it is one rule for one and one rule for another. It is clear that all parties did not take our house into account nor the effect the new extension would have on our lives.
- The above breach has deprived us from natural light which we have enjoyed for the past two decades. This new extension has taken this away from us and has made our lounge extremely dark. This has contravened with the Right to Light Act 1959.
- Mr Mulla's plan has gone against the council's and government's rules *not* to build an extension in front of or beyond the original wall. In the neighbourhood and in the surrounding areas, there are no houses with protruding front extensions. Furthermore, we have neighbours in the neighbourhood and surrounding areas who have made extensions that are all set back at least a metre from their original walls to be in line with the appearance of the close. This extension protrudes out blocking our view to the Cul de Sac and our neighbours' homes and more concerning blocking our natural light (please see the attached pictures as proof).
- The front extension is also destroying the natural beauty of the cul de sac by the way the house protrudes out.
- We believe that the owner of the property intentionally deceived the council into believing that the development included a garage when applying for the initial planning permission but the foundational work and total build shows Mr Mulla had no intention of making a garage but rather a room as detailed in the retrospective application. It was only after a visit by the council was it found that Mr Mulla was not building according to the approved plan.
- The back extension also has been extended till the end of the garden boundary. Again, he has deceived the council in his application setting out to build something else and extended it further.

All the above has caused us major stress as instead of the peaceful and comforting home we once knew, we are now forced to sit in a room which has become darker by this extension.

We strongly urge the council to reject this application and to finally take our concerns into consideration. We would like the front single storey extension to be reduced in size setting it back so it does not affect our natural light. If the council fails to stop this application and allows the build to continue, we will have no choice but to take legal action against our

neighbours and also bring to public notice through the media how the council stipulates rules on their planning portal but fails to act when someone does not abide by them.













Objection – Ashraf Adam, Received 29.06.2023

Dear Gavin,

Good Afternoon my dear friend i am writing to you as the regards the 45 Degree ruling for planning applications,

alot of planners ask for this ruling , but in the case of 6 Bargee close the ruling has not been applied to the front of number 4 Bargee close, as Areeba The Architects have not provided this information,

I have bee on site and conveyed a survey regarding this ruling and the neighbour 6 Bargee close has exceeded the 45 degree ruling and this should be addressed to the Architects to provide this ruling as a mater of peace of mind so that the NEIGHBOURHOOD WARS CAN STOP,

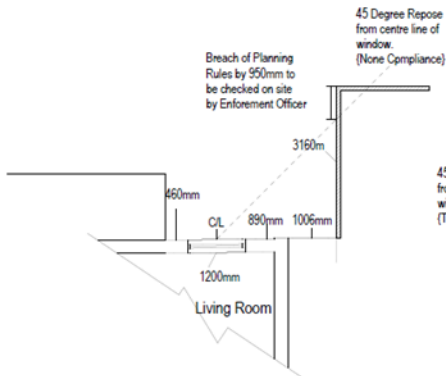
please see attached an e mail regarding the front of the house which is the problem. The back of the house is not a problem.

lets sort this minor issue out and stop this NEIGHBOURHOOD WAR .

Thank you very much

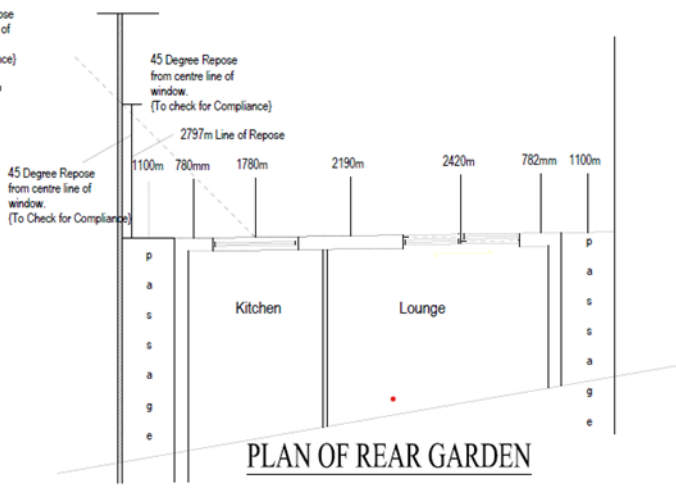
Kind Regards

Ash



PLAN OF FRONT GARDEN

SCALE 1 TO 30



PLAN OF REAR GARDEN

SCALE 1 TO 30

	Project: Add Breach of 45 Degree
	Client: Mr & Mrs. Smeeth
10/20/2017 10/20/2017 10/20/2017	Date: 10/20/2017 Date: 10/20/2017 Date: 10/20/2017
10/20/2017 10/20/2017 10/20/2017	Date: 10/20/2017 Date: 10/20/2017 Date: 10/20/2017