
Appeal Decision

Site visit made on 2 September 2020 by Hannah Ellison BSc (Hons) MSc MRTPI

Decision by S R G Baird BA (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2020

Appeal Ref: APP/N5090/D/20/3249439

31 Elliot Road, London NW4 3DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Naresh Kadiwar against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/6605/PNH, dated 13 December 2019, was refused by notice dated 28 January 2020.
 - The development proposed is the erection of a single storey rear extension.
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Preliminary Matter

1. For the avoidance of doubt, and for the reasons discussed below, this decision is based on the information and measurements included on the submitted plans rather than the planning application form.

Decision

2. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a single storey rear extension at 31 Elliot Road, London NW4 3DS in accordance with the application 19/6605/PNH made on 13 December 2019, and the details submitted with it, including plan numbers PA-02, PA-04 and PA-05, pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2).

Appeal Procedure

3. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

4. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), under Article 3(1) and Schedule 2, Part 1, Class A, Part A.4(7) require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. Therefore, although concerns have been raised by

neighbouring occupiers regarding the extension harming the character of the host dwelling and the wider area, my determination of this appeal has been made on the same basis as that set out in the GPDO.

5. The Council's decision notice and statement of case refers to the effect of the proposed development on occupiers of No 31 Elliot Road, the appeal dwelling. However, it is clear the Council are concerned with the effect on No 29 Elliot Road. I have considered the appeal on this basis.

Main Issues

6. The main issues are:

- (i) Whether the development is permitted development under Article 3(1) and Schedule 2, Part 1, Class A of the GPDO, and;
- (ii) the effect of the proposed development on the amenity of the occupiers of No 29 Elliot Road.

Reasons

Whether permitted development

7. Proposals for the enlargement, improvement or other alteration of a dwellinghouse constitute permitted development if they satisfy the conditions, limitations or restrictions set out in Schedule 2, Part 1, Class A of the GPDO. Section A.4 sets out the conditions that apply to development permitted by Class A which exceeds the limits in paragraph A.1(f) but fall within those in paragraph A.1(g), which applies to this proposal. Paragraph A.1(g) of the GPDO makes clear that the extension should be single storey, should not extend beyond the rear wall of the original house by more than six metres in the case of a property that is not detached, and must not exceed four metres in height.
8. The Council have raised concerns that the eaves and overall height of the proposed extension are described in the application form as measuring 3m, whereas the plans indicate the eaves would measure 2.22m. Furthermore, they highlight discrepancies between the stated measurements of the existing extension at No 33, the distance to No 29 and the change in ground levels between the appeal site and that of No 29, when compared to actual measurements taken on site. The Council has stated that as a result of these inconsistencies it is unable to establish whether the proposed development complies with the conditions, limitations or restrictions applicable to development permitted by Class A which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g) and, as laid down by paragraph A.4(3)(b), the Council may refuse an application in this instance.
9. The appellant has cited that the drawings and measurements submitted with the planning application are accurate. These indicate that the overall height of the extension would be 3.6m, rather than 3m as described on the application form. The appellant also acknowledges that the proposed extension would be flush with the rear elevation of the extension at No 33, and whilst this has been drawn on the submitted plans as 6m, the actual projection would be 5.3m.
10. In the absence of agreement between the parties on the overall height of the extension and its projection, I have relied on the higher figures as put forward

in the application drawings in order to assess the proposal. These figures represent a worst-case scenario and demonstrate that the proposal would consist of a single storey extension measuring 3.6m in height and 6m in projection. Even using these higher figures, the proposed development would not exceed 4m in overall height and will not have a projection beyond the rear wall of the original dwellinghouse by more than 6m. The proposal therefore complies with the applicable conditions, limitations and restrictions in Schedule 2, Part 1, paragraph A.1(g) of the GPDO.

Amenity of neighbouring occupiers

11. The neighbouring dwelling to the west of the site, No 29, does not have a rear extension and on the rear elevation are transparent windows which appear to serve habitable rooms. No 27 Elliot Road has a two-storey and single storey rear extension which has a significant projection along the shared boundary with No 29. The Council are concerned that the proposed extension, due to its overall projection and siting, would harm the outlook from the rear of No 29, particularly when combined with the existing extension at No 27.
12. The boundary wall between the appeal site and No 29 is currently of a considerable height where it meets the rear elevation of the properties and is adjacent the rear windows of No 29. It runs the length of the raised patio of the appeal site, then lowers to a fence along the remaining length of the garden and there are mature plants along much of its length which provide good screening. The proposed extension would be set off the shared boundary with No 29 and whilst part of the extension may be visible through the existing planting, this would only be at a point further down the neighbouring garden and would not therefore be to an extent which would result in a harmful loss of outlook from the habitable room windows on the rear of No 29. Therefore, despite the projection of the proposal, due to the existing boundary treatment and the set-off from the shared boundary, this proposal would not significantly reduce the outlook from the rear of No 29.
13. It is acknowledged that the existing rear extension at No 27 is of a substantial scale and massing and is positioned along the boundary with No 29. Notwithstanding the scale and mass of the extension to the rear of No 27, given the generous depth and width of the rear garden to No 29 there is no material effect on outlook. Moreover, the proposed extension would be set well back from the common boundary and would not therefore, either on its own or in combination with the extension at No 27, create an overbearing sense of enclosure for occupiers of No 29.
14. For the reasons set out above, the proposed development would not materially harm to the living conditions of the adjoining occupiers at No 29 Elliot Road with regard to outlook. Therefore, the development does not conflict with Policies CS1 and CS5 of Barnet's Local Plan Core Strategy (September 2012) and Policy DM01 of Barnet's Local Plan Development Management Policies (September 2012), which seek to protect neighbours' living conditions.

Conditions

15. Any planning permission granted under Article 3(1) and Schedule 2, Part 1, Class A is subject to the conditions in sections A.3 and A.4 which includes the requirement for the exterior materials to be similar to those used in the construction of the exterior of the existing dwellinghouse. These sections do

not include the time limit requirement and the formal decision includes within it reference to the approved plans. Accordingly, the Council's suggested conditions are unnecessary.

Conclusion and Recommendation

16. For the reasons given above and having regard to all other matters raised, I recommend that the appeal should be allowed, and prior approval be granted.

Hannah Ellison

Appeal Planning Officer

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed, and prior approval is granted.

George Baird

INSPECTOR