
Appeal Decision

Site visit made on 8 February 2022 by S Witherley CIHCM MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2022

Appeal Ref: APP/Q5300/D/21/3282194

165 Prince George Avenue, London N14 4TD

- 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) Schedule 2, Part 1, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by P. Ghalay against the decision of the Council of the London Borough of Enfield.
 - The application Ref 21/02298/PRH, dated 11 June 2021, was refused by notice dated 28 July 2021.
 - The development proposed is: Single storey rear extension 6.00m deep x 3.47m high (2.58m high to eaves).
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Decision

1. 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 the single storey rear extension 6.00m deep x 3.47m high (2.58m high to eaves) at 165 Prince George Avenue, London, N14 4TD, in accordance with the terms of the application, Ref 21/02298/PRH, dated 11 June 2021, and the details submitted with it including plan Nos. 2020-273-03.001 2020-165 PGA-03.100 2020-165 PGA-03.101 OS Map 1:1250 2020-165 PGA-03.201 2020-165 PGA-03.200, pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2).

Appeal Procedure

2. 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.

Preliminary Matters

3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended under Article 3(1) Schedule 2, Part 1, Class A, Part A.4 (7) (the GPDO) 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. The recommendation of this appeal has been made on the same basis.
4. If the need for prior approval is triggered by a relevant representation, then the proposed development is to be assessed on the basis of its impact on the amenity of all adjoining premises and land. Regard must be had to the

representations, and also to the impact on all adjoining occupiers, even those who didn't make representations.

5. Prior approval appeals should not be determined, expressly or otherwise, on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004 or as though the development plan must be applied. The principle of development is established through the grant of permission by the Order. The Council has referred to various development plan policies. These policies have only been considered insofar as they may be relevant to the context of specific prior approval matters. Therefore, the policies are not determinative of themselves, and the proposal has been considered on its merits in the confines of the prior approval regime.
6. The delegated report refers to the application site *paired with number 165* and also contains an ariel view depicting the neighbouring property, No. 163 as No. 165. Whilst these are discrepancies in the report itself, it is clear that the officer's assessment was carried out having regard to the appeal site.

Main Issue

7. The effect of the proposed development on the amenity of the adjoining neighbours with particular regard to the occupiers of No. 163 Prince George Avenue.

Reasons

8. No. 165 is a semi-detached dwelling located in a suburban street. It has a long rear sloping garden with a detached outbuilding which is accessed via a shared driveway. The adjoining neighbour is No. 163. This neighbour has a 1.6-metre-deep single storey rear extension. There is a tall close boarded fence that runs between these neighbouring properties, which, due to the sloping ground levels, reduces in height as it follows the contours of the land.
9. The proposal would extend along the shared boundary and beyond the neighbouring extension by a further 4.4 metres. From the end of the neighbouring extension the roof of the proposal would be chamfered with its overall height reduced as a result of the drop in ground levels. These factors along with the height of the existing fencing would ensure the proposal would appear subordinate and unobtrusive, particularly when viewed from both the internal and external areas of No. 163. The proposal would not therefore give rise to a significant increase in enclosure, ensuring the occupiers of No. 163 would still enjoy the open aspect to their rear garden. Whilst it would be partially visible above the existing boundary fence, the proposed increase is not considered excessive and would not give rise to unacceptable levels of loss of outlook, daylight, and sunlight. The proposal would not therefore adversely affect the amenity of the occupiers of No. 163.
10. With regard to the neighbour at No. 167, this property is separated by a shared access and a single storey rear extension. The separation distance along with the size and position of the proposal would ensure that it would not adversely affect the amenity of the occupiers of this property.
11. Having regard to the above, it is considered the proposal would not harm the amenity of the adjoining neighbours with particular regard to the occupiers of No. 163 Prince George Avenue. within view of the above, I find that prior

approval should be granted having regard to the provisions of Article 3(1) Schedule 2, Part 1, Class A, paragraph A.4 of the GPDO.

12. For the above reasons, it has been found there is no conflict with the general aims of the Framework or Policies DMD 8 and DMD 11 of the DMD which seek to protect the amenity of existing and future occupiers. Whilst the Council reference Policies CP4 and CP30 of the Core Strategy (2010) in the refusal reason, these policies do not relate to impact on the amenity of occupiers of adjoining premises and therefore are not considered to relate to the prior approval matters.

Conditions

13. Any planning permission granted under Article 3(1) and Schedule 2, Part 1, Class A is subject to conditions in sections A.3 and A.4. These include a requirement for the exterior materials to be similar in appearance to those used in the construction of the exterior of the existing dwellinghouse. In addition, the formal decision includes within it reference to the approved plans. The Council have requested a condition stating the works are to commence within 3 years. However, had the Government wished to impose a time related condition for commencement that would have been included within the Order. Similar conditions are attached to other forms of permitted development but not those under this Class. Under paragraph A.4(12) conditions can only be imposed where they are reasonably related to neighbouring amenity which is not the case in relation to a time limit for commencement. In those circumstances it would be inappropriate to require the development to commence within a specified period. A permission granted by the Order is continuous while the Order is in force or re-enacted, and unless the permission is revoked or withdrawn.

Conclusion

14. The proposed development would not harm the living conditions of the occupiers of either adjoining property for the above reasons, and therefore prior approval should be granted having regard to the provisions of Schedule 2, Part 1, Class A, paragraph A.4 of the GPDO. It is recommended that the appeal should be allowed, and prior approval granted.

S Witherley

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall grant prior approval.

Chris Preston

INSPECTOR