
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/21/3285639

16 Melville Gardens, London N13 6ET

- 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 Ms Leena Jugnarain against the decision of the Council of London Borough of Enfield.
 - The application Ref 21/03356/PRH, dated 31 August 2021, was refused by notice dated 6 October 2021.
 - The development proposed is: Erection of a larger householder single storey rear extension 6m deep and 2.9m high (3m high at the eaves).
-

Decision

1. The appeal is allowed and prior approval is deemed to be 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 erection of a larger householder single storey rear extension 6m deep and 2.9m high (3m high at the eaves) at 16 Melville Gardens, London, N13 6ET, in accordance with the terms of the application, Ref 21/03356/PRH, dated 31 August 2021 and the details submitted with it including plan: Proposed plans YT/KR July 2021, 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) and Schedule 2, Part 1, Class A, Part A.4(7) (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 determination of the 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.

Main Issue

6. The effect of the proposed development on the amenity of the adjoining neighbours with particular regard to the occupiers of No. 14 Melville Gardens.

Reasons

7. No. 16 is a two-storey end of terrace property located in a suburban street. At the rear there is an existing extension which runs along part of the shared boundary with No. 14. A tall close boarded fence runs between these neighbouring properties.
8. The proposed development would replace the existing extension with one with a greater depth and width. The roof of the proposal would be flat and would have an overall height similar to the existing brick wall in the extension that runs along part of the shared boundary with No. 14.
9. The upper section of the proposal would be visible in parts from the rear windows and external areas of No. 14. However, given the existing situation of the tall close boarded fencing and the neighbouring rear extension and detached brick-built structure that sits along the shared boundary, visibility of the proposed roof would be limited and obscured in places when viewed from the rear windows and external amenity areas of the neighbouring dwelling.
10. Given the above factors, the proposal would not be significantly different from the existing situation despite its greater depth. Its roof would be modest in height and would not give rise to a significant increase in the sense of enclosure, and the occupiers of No. 14 would still enjoy a reasonably open aspect to their rear garden. The proposal would not therefore be overbearing or result in a harmful loss of outlook. Furthermore, the orientation of the proposal, to the north of No.14, would minimise potential for any increased overshadowing and I do not find that the development would cause any significant loss of light.
11. The neighbour at No. 18 is separated by a shared access and there are several structures that run along the shared boundary of this neighbouring property. The separation distance along with the size and position of the proposal and the neighbouring structures would ensure that the proposal would not adversely affect the amenity of the occupiers of this neighbouring property.
12. Having regard to the above, it is considered the proposal would not harm the amenity of the adjoining neighbours and I find that prior approval should be

granted for the proposed development having regard to the provisions of Article 3(1) Schedule 2, Part 1, Class A, paragraph A.4 of the GPDO.

13. There is no conflict with the aims of the Framework or Policies DMD 8 and DMD 11 of the DMD which combined seek to protect the amenity of existing and future occupiers. Whilst the Council reference in the refusal reason Policy CP30 of the Core Strategy (2010) and Policy DMD 37 of the DMD, these policies do not relate to impact on the amenity of occupiers of any adjoining premises and therefore are not considered to relate to the prior approval matters.

Conditions

14. 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

15. The proposed development would not harm the living conditions of the occupiers of either adjoining property for the above reasons. Therefore, 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 be granted.

S Witherley

APPEAL PLANNING OFFICER

Inspector's Decision

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

Chris Preston

INSPECTOR

