
Appeal Decision

Site visit made on 1 March 2022 by S Witherley CIHCM MRTPI

Decision by J Hunter BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2022

Appeal Ref: APP/Y5420/D/21/3280551

9 Grovelands Road, London N15 6BT

- 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 Mr Neftali Gluck against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2021/1391, dated 20 May 2021, was refused by notice dated 17 June 2021.
 - The development proposed is: Erection of single storey rear extension measuring 4.5 metres in depth and 3 metres in maximum height.
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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, erection of single storey rear extension measuring 4.5 metres in depth and 3 metres in maximum height, at 9 Grovelands Road, London, N15 6BT, in accordance with the terms of the application, Ref HGY/2021/1391, dated 20 May 2021 and the details submitted with it including plan Nos. E00, E01, E02, E03, E04, P01, P02, P03, P04, P05, 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. The Council has referred to various development plan policies and also to Policies D3 & D6 of the London Plan. Whilst the Council has not provided copies of the London Plan policies, 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.

Main Issue

6. The effect of the proposed development on the amenity of the adjoining neighbours.

Reasons

7. The proposed rear extension would sit across the full width of this two-storey terraced property. As stated on the drawings and noted in the delegated report the proposal would project out from the principal rear elevation by 4.5 metres and have an overall height of 3 metres. The roof would be flat.
8. The rear gardens along this short terrace block appear to be modest in size and overlook the flank wall and boundaries of either No. 1 Riverside Road or No. 2 Lockmead Road.
9. The neighbouring property at No. 7 has a large rear structure that projects some distance into the rear garden. Given this, views of the proposed development, from the rear ground floor windows and outdoor amenity areas of this neighbouring property, would be limited. The proposal would not, therefore, as a result of its size and position, affect the amenity of the occupiers of this adjoining property, by way of loss of daylight /sunlight, outlook or feelings of enclosure.
10. The neighbouring property at No. 11 has an existing ground floor rear extension which the Council note extends beyond the rear elevation by 3 metres. The proposal would extend beyond this neighbouring extension with its upper elements visible from the rear windows and external areas of this neighbouring property. Despite its height and depth, the proposal would not appear overly excessive or obtrusive, particular as its roof would be flat and it would appear only as a modest extension above the existing tall boundary fence. It would not therefore result in an increased sense of enclosure or unacceptably affect the outlook of the occupiers of this neighbouring property from what already occurs.
11. Furthermore, given the orientation of the rear of these dwellings, these factors would also similarly minimise potential for any increased overshadowing, and I do not find that the development would cause any significant additional loss of daylight or sunlight from that of the pre-existing situation. The proposal would not therefore harm the amenity of the occupiers of No. 11.
12. The adjoining neighbour No. 1 has parts of its flank wall and rear garden running along the rear boundary of No. 9. Given the separation distance, orientation and open aspect of the rear garden at No. 1, the proposal would not adversely affect the amenity of the occupiers of this neighbouring property.

13. 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.
14. Having regard to the above, it is considered that there would be no conflict with the aims of Policy SP11 of the Haringey Local Plan 2017 and Policy DM12 of the Development Management DPD 2017. These policies amongst other things seek development to be design led and be of a high standard and be reflective of the existing character and appearance.

Conditions

15. 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.
16. The Council has 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

17. The proposed development would not harm the living conditions of the occupiers of the adjoining properties 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

18. 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.

J Hunter

INSPECTOR