



---

# Appeal Decision

Site visit made on 11 July 2023

**by Jane Smith MA MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 July 2023**

---

**Appeal Ref: APP/Q5300/W/22/3304741**

**35 Beech Hill Avenue, Enfield EN4 0LU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Amir Faizollahi (ADL) against the Council of the London Borough of Enfield.
  - The application Ref 22/01567/HOU, is dated 4 May 2022.
  - The development proposed is described as 'Outbuilding to be used as a gym'.
- 

## Decision

1. The appeal is allowed and planning permission is granted for an outbuilding to be used as a gym, at 35 Beech Hill Avenue, Enfield EN4 0LU in accordance with the terms of the application, Ref 22/01567/HOU, dated 4 May 2022, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans, all dated 22/07/2022:
    - Existing Side Elevation Rev A
    - Existing Back Elevation & Proposed Section Rev A
    - Existing Floor Plan Rev A
    - Proposed Front, Side & Back Elevations, Rev A
    - Proposed Floor Plan & Side Elevations, Rev A
    - Elevation view from No. 33 & No. 35
  - 3) All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

## Preliminary Matters

2. Amended plans were submitted to the Council prior to submission of this appeal. These clarify the proposal's relationship with the adjacent property and with ground and floor levels within the site. However, they do not propose any changes to its design, dimensions or siting. As such, there is no risk of prejudice to the interests of interested parties if the revised plans are taken into account and I have had regard to them when considering the appeal.
3. The proposed development includes a covered barbeque area, between the gym and the existing dwelling. This is clearly identified on the plans and I have had regard to the whole proposal, including the barbeque area, when

considering the appeal. I have also noted that the location plan is not up to date in terms of the scale and footprint of the existing dwelling. However, the current extent of the dwelling is shown on the other application drawings and I also saw it during my site visit.

### **Background and Main Issue**

4. The Council did not issue a decision within the prescribed period or within an agreed extension of time period. The appellant exercised his right to appeal against the failure of the Council, as the local planning authority, to determine the application.
5. The Council's statement of case expressed no objection to the appeal proposal, subject to the imposition of conditions relating to the timescale for commencement of development, compliance with the approved plans and the use of appropriate external materials. However, representations from an interested party raised concerns primarily focussed on the effect of the proposal on a neighbouring property.
6. Against this background, the main issue is the effect of the proposal on living conditions for neighbouring occupiers, with particular regard to its effect on the outlook from 33 Beech Hill Avenue.

### **Reasons**

7. The appeal site contains a detached dwelling of substantial proportions. It is within a residential area of similarly large detached houses, of varied designs. The existing dwelling has been significantly altered and extended and it has a wide, deep plan form. It extends across most of the width of the site, with only narrow gaps to the boundaries on either side. The plot slopes gently upwards from the road and the extended dwelling is set into the slope, with a level patio area and retaining wall between the dwelling and its higher rear garden.
8. The adjacent dwelling at 33 Beech Hill Avenue is also a large, two storey detached house. It is set at a greater distance from the shared side boundary within a mature, generously planted garden. Evidence from an interested party indicates that planning permission has been granted for a living room extension on this side of no. 33, but there was no indication that this had been implemented at the time of my site visit.
9. The boundary between the rear gardens is screened by a close boarded fence and garden planting. Ground level within no. 33 is higher than the adjacent patio within the appeal site and the fence is set on the higher ground level.
10. The proposed barbeque area and gym would abut the site boundary and would be only slightly detached from the host dwelling. Given the insignificant degree of detachment, the combined depth of the host dwelling and the proposed outbuilding would be considerable. There would therefore be a significant expanse of flank wall along the shared boundary, projecting well into the rear garden. However, the proposal would be of significantly lower height than the existing dwelling, being a single storey structure with a flat roof. It would also be set into the rising land, at the same ground level as the patio.
11. The amended drawings clarify the proposed height of the outbuilding and its relationship with existing ground and floor levels. Taking account of the differing ground levels, only a minor proportion of the extension would be

visible above the boundary fencing. It would also be partially screened by garden planting, which exceeds the height of the fence. As a result, although there may be some limited views of the proposal from no. 33, it would not be excessively bulky, prominent or otherwise visually intrusive.

12. Even if no. 33 is extended at a later date, the appeal proposal would remain of relatively modest height and substantially screened from view. It would not become excessively prominent or otherwise harmful to the living conditions of the occupiers. No evidence has been presented indicating any other harm to living conditions for the occupiers of this or any other neighbouring properties.
13. In the Council's Development Management Document Adopted November 2014 (DMD), Policy DMD12 criterion d. requires that proposals for outbuildings maintain an adequate distance from the dwelling. However, no specific minimum dimensions for such separation are included within the policy. The same criterion goes on to refer to considerations of height and bulk, and any associated adverse impact on the character of the local area and amenities of neighbouring properties. Interpreted in this context, there is no substantive evidence that the proposal's very limited separation from the host dwelling would be inadequate, given that it would not result in any such harm. The proposal would also comply with the other criteria in Policy DMD12, including that its size, scale and siting should not unacceptably impact adjoining properties.
14. The Council has also drawn my attention to Policy DMD11, which relates to rear extensions. The proposal would exceed the maximum rearward projection specified in that policy, however it would be a separate building and not an extension. Therefore, Policy DMD12, which relates to outbuildings, is more applicable and that policy does not include a similar maximum dimension. In any case, I have not identified any harm arising from the proposal's projection to the rear of the existing dwelling, for the reasons given above.
15. Having had particular regard to its effect on the outlook from 33 Beech Hill Avenue, I conclude that the proposed development would not harm living conditions for neighbouring occupiers. It would not conflict with DMD Policies DMD8, DMD10, DMD12 or DMD37, Core Policies 4 or 30 of the Core Strategy<sup>1</sup> or Policies D3 or D4 of the London Plan 2021. These policies, amongst other things, set out design requirements for new development, including that proposals are of an appropriate scale, height, bulk and massing, avoiding unacceptable impacts on the amenities of neighbouring properties.

### **Other Matters**

16. I have noted that an interested party expressed concerns regarding compliance with planning requirements both on the appeal site and on nearby sites. However, these do not relate to the proposal which is currently before me, which I have considered on its own merits, as set out above.
17. Given the location of the proposal at the rear of the dwelling, it would be almost entirely screened from public view. No adverse effect has been alleged to the character or appearance of the wider area and I have not identified any such adverse effect based on the evidence before me.

---

<sup>1</sup> The Enfield Plan Core Strategy 2010-2025, adopted November 2010

18. Even if planning permission does exist for an additional outbuilding in the garden, there is no clear evidence that this would render the current proposal harmful, given the extent of the plot.

### **Conditions**

19. The Council has suggested conditions which I have considered against advice in the National Planning Policy Framework (the Framework) and Planning Practice Guidance.
20. I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interests of proper planning. A condition requiring the use of external materials matching those of the existing property is also necessary to ensure that the proposal would harmonise with the immediately adjacent dwelling. The wording of the condition would allow for use of a green roof, as specified on the application form. This would not match any existing external detailing on the host dwelling, but would nevertheless be acceptable in visual terms.
21. The Framework states that permitted development rights should not be restricted unless there is clear justification to do so. Furthermore, the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) places a range of limitations on the scope of permitted development rights, which include limits on percentage coverage within the curtilage of a dwellinghouse. On that basis, there is no clear justification for preventing the exercise of permitted development rights as defined in the above Order.

### **Conclusion**

22. For the above reasons, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed and planning permission granted.

*Jane Smith*

INSPECTOR