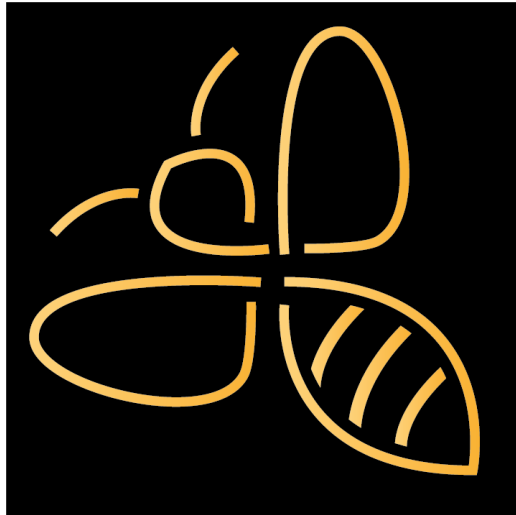




NORTON
TAYLOR
NUNN
LTD

Application for Prior Approval for Larger Rear Extension

17 Cornwall Avenue

Planning Statement

On behalf of Mr G Deacon

Prepared by Ben Norton LLB

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Company Registration Number 11595959
Registered Office: 11 Melton Meadow Road, Melton, IP12 1SB

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01 Introduction

- 1.1 Norton Taylor Nunn is instructed by Mr Giles Deacon to prepare and submit this application for Prior Approval under the provisions of Article 3, Schedule 2, Part 1, Class A, paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) for the erection of a single storey extension which extends beyond the rear wall of the original house by up to 3.66 metres, for which the maximum height would be 3.2 metres and for which the height of the eaves would be 2.99 metres, at the applicant's home at 17 Cornwall Avenue, N22 7DA.
- 1.2 This application follows a previously refused application for Prior Approval for a Larger Home Extension under the same legislation, which was rejected by the Local Planning Authority on the basis of harm to the amenity of a neighbouring resident.
- 1.3 The applicant has sought to overcome the reason for refusal by reducing the depth of the extension, and by removing a corner to reflect the bay window.
- 1.4 A Certificate of Lawfulness for Proposed Development was issued, pursuant to s192 Town and Country Planning Act 1990, covering a proposal to extend beyond the original rear wall of the dwellinghouse by up to 3m. We contend that this forms a legitimate fall-back position.
- 1.5 This Planning Statement will set out the reasons why Prior Approval, if required, should be granted by the Local Planning Authority.

02 Site and Proposal

- 2.1 The application site, 17 Cornwall Avenue, is a Victorian/Edwardian terraced property in North London. It is located just north of Alexandra Palace station, to the south of Bounds Green Road. Cornwall Avenue is a cul-de-sac with the Great Northern Main Line and the Hitachi Bounds Green Train Maintenance Centre to the south.
- 2.2 The property is a standard format Victorian terraced house, which has at some time in the past been extended to the rear with a half width single storey extension. A number of other neighbouring dwellings have replaced such half width extensions with larger rear extensions of full width.
- 2.3 To the north of the site, No. 15 benefits from a larger rear extension, and has just completed a full width rear extension to the depth original considered at 17 Cornwall Avenue. This, therefore, presents a wall to the boundary of the application site which is deeper than the proposed development.
- 2.4 To the south of the site, No. 19 benefits from a half width rear extension, but this is the opposite side of the garden to the boundary with No. 17, and currently the boundary is not developed.
- 2.5 London Borough of Haringey Council issued a Certificate of Lawfulness (Proposed Development) under s192 Town and Country Planning Act on 15th February 2023, reference HGY/2023/0415. This allows for a 3m rear extension (as shown on Drawing Number 23.510-1-2B which accompanied the application).
- 2.6 The proposed development would be of single storey and extend 3.7m to the rear on the boundary with No. 15, and 3m on the boundary with No. 19. The maximum height of the roof will be 3.1m, with the height of the eaves 3m. The proposed rear wall will mirror the bay window on the side with No. 19.
- 2.7 All these amendments, including the reduction in depth, the removal of the parapet, and the change in design, have been undertaken to accommodate the concerns raised previously with No. 19.

03 Planning History

- 3.1 An application for Prior Approval for a Larger Home Extension (Ref HGY/2022/4118) was refused by Decision Notice on 8th December 2022 for the following reason:

“The extension would have an adverse effect on the amenity of neighbouring residents by reason of a material loss of light and outlook and increased sense of enclosure and thereby is contrary to the amenity considerations set out Policies D3 & D6 of the London Plan 2021, Policy SP11 of the Haringey Local Plan 2017 and Policies DM12 of Haringey Development Management DPD 2017.”

- 3.2 Although the applicant has not currently filed an appeal against this decision, it is noted in the appended Appeal Decision Letters that the application of Development Plan policies to a Prior Approval application in reliance on s38(6) Planning and Compulsory Purchase Act 2004 is not a proper process.

- 3.3 Specifically, Inspector J Hunter BA (Hons) MSc MRTPI stated, in a decision¹ issued on 26th April 2022, that:

“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.”

- 3.4 It is clear that in refusing the scheme in December last year, the Council misdirected itself and acted unreasonably; Planning Practice Guidance provides that persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated as acceptable would be grounds for a substantive award of costs against a Local Planning Authority.

¹ Appeal Ref: APP/Y5420/D/21/3280551

04 The Legislative Framework

- 4.1 The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GDPO) provides for a number of permitted developments in relation to houses in England.
- 4.2 Schedule 2, Part 1, Class A of the GDPO provides for the enlargement, improvement or other alteration of a house.
- 4.3 The format of the GDPO is that, unless something is not permitted by the limits and conditions under Class A, it is considered to be lawful and the Council should allow it.
- 4.4 Specifically, Class A provides for larger single-storey extensions, extending beyond the original house by more than 3 metres and less than 6 metres, subject to a neighbour consultation scheme to assess the impact of the proposed development on the amenity of their property.
- 4.5 Householders wishing to build a larger extension must notify the Council about the proposed extension, and the Council must give adjoining neighbours notice and the opportunity to object. If the neighbours do not object, then Prior Approval is not required and the development may begin immediately. If the neighbours do object, the Council are required to assess the impact of the proposed development on the amenity of the neighbours property, and either grant or refuse Prior Approval. If a decision is not made within 42 days of the notification, consent is deemed to have been granted.
- 4.6 Development under the GDPO is not required to comply with a Development Plan, and decisions are not to be taken in accordance with s38(6) Planning and Compulsory Purchase Act 2004 or s70(2) Town and Country Planning Act 1990. Rather they are governed by s59 Town and Country Planning Act 1990. As a consequence, the adopted or emerging Development Plan is not a part of the decision making framework.
- 4.7 There is no requirement within the GDPO or controlling primary legislation for the application of planning balance or material considerations.

05 Assessment

- 5.1 The application site was granted consent for development prior to the 1st July 1948 and consequently has not been granted residential use under Class M, N, P, PA, or Q of Part 3 of Schedule 2 of the GDPO.
- 5.2 As a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) will not exceed 50% of the total curtilage (excluding the ground area of the original dwellinghouse).
- 5.3 The height of the part of the dwellinghouse enlarged, improved or altered will not exceed the height of the highest part of the roof of the existing dwellinghouse.
- 5.4 the height of the eaves of the part of the dwellinghouse enlarged, improved or altered will not exceed the height of the eaves of the existing dwellinghouse.
- 5.5 the enlarged part of the dwellinghouse will not extend beyond a wall which forms the principle elevation of the original dwellinghouse, or which fronts a highway and forms a side elevation of the original dwellinghouse.
- 5.6 The dwellinghouse is not on article 2(3) land nor on a site of special scientific interest.
- 5.7 The enlarged part of the dwellinghouse will have a single-storey and will not extend beyond the rear wall of the original dwellinghouse by more than 6 metres, or exceed 4 metres in height.
- 5.8 The enlarged part of the dwellinghouse will be within 2 metres of the boundary of the curtilage of the dwellinghouse, but the height of the eaves of the enlarged part will not exceed 3 metres.
- 5.9 The development will not consist of or include the construction or provision of a veranda, balcony or raised platform; the installation, alteration or replacement of a microwave antenna; the installation, alteration or replacement of a chimney, flue or soil and vent pipe; or any alteration to any part of the roof of the dwellinghouse.
- 5.10 The materials used in any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.
- 5.11 The proposed development will, consequently, meet the requirements of the GDPO and should be assessed by the Council against the impact on the residential amenity on neighbouring properties.
- 5.12 Number 15 Cornwall Avenue already has a single-storey full width rear extension built on the boundary with the application site. This extension extends further from the

original rear wall of the dwellinghouse than the proposals discussed here. There can, therefore, be no impact on the residential amenity of No. 15.

- 5.13 Number 19 Cornwall Avenue does not benefit from a rear extension on the boundary with the application site (though it does have one on its boundary with No. 21). As a result, the previous application for Prior Approval failed on the basis of an alleged harmful impact on the levels of daylight and sunlight experienced by the neighbour at the nearest window.
- 5.14 The proposals have, therefore, been softened to take account of the concerns of the neighbour. On the boundary with No. 19, the proposal is reduced in depth to just 3m. The proposed development benefits from an approved fall back position (HGY/2023/0415). This provides that, in the event Prior Approval is deemed necessary but is withheld, the development could in part proceed in any event. The eaves height will be 3m, which is below the current eaves. Again, this height can be achieved without the Prior Approval, due to the fall-back position.
- 5.15 As a result of the fall-back position, it would be unreasonable of the LPA to refuse Prior Approval, should it be deemed necessary. It is highly unlikely that an appeal against a refusal would be dismissed by a Planning Inspector in the circumstances where a fall-back position is accepted.
- 5.16 It should be noted that the full depth of the proposed extension will, in fact, be less deep than the existing extension. The proposal will, rather, be a full width extension, providing additional space for the applicant's new family, without creating any greater impact on neighbouring residents than has already been approved.
- 5.17 It is understood from the applicant that the LPA has advised of an internal policy on the height of Larger Home Extensions, limiting these to 2.3m at the eaves on shared boundaries. This is an arbitrary limit, unsupported in the legislation, which (if applied) suggests an approach to amenity impact that is not based on a case by case assessment, but rather a blanket approach. Such a policy is foundationally unreasonable, and should not be applied in this case.

06 Conclusions

- 6.1 The application site is lawfully developed as a C3 Residential Dwellinghouse. It benefits from Permitted Development Rights, pursuant to the GDPO. There are no planning limitations on permitted development.
- 6.2 The proposal meets the technical requirements of a larger home extension under Class A of the GDPO. Such an application falls under the Neighbour Consultation Scheme. Should a neighbour object, it falls to the LPA to assess the impact on residential amenity for that neighbour.
- 6.3 As demonstrated, there can be no greater impact on amenity than already allowed for in the extant Certificate of Lawfulness relating to existing Permitted Development Rights for which Prior Approval is not required.
- 6.4 Given there can be no greater impact on amenity than that already accounted for and approved, there are no reasonable grounds for an LPA to withhold Prior Approval for this application, and it should be granted without further delay.