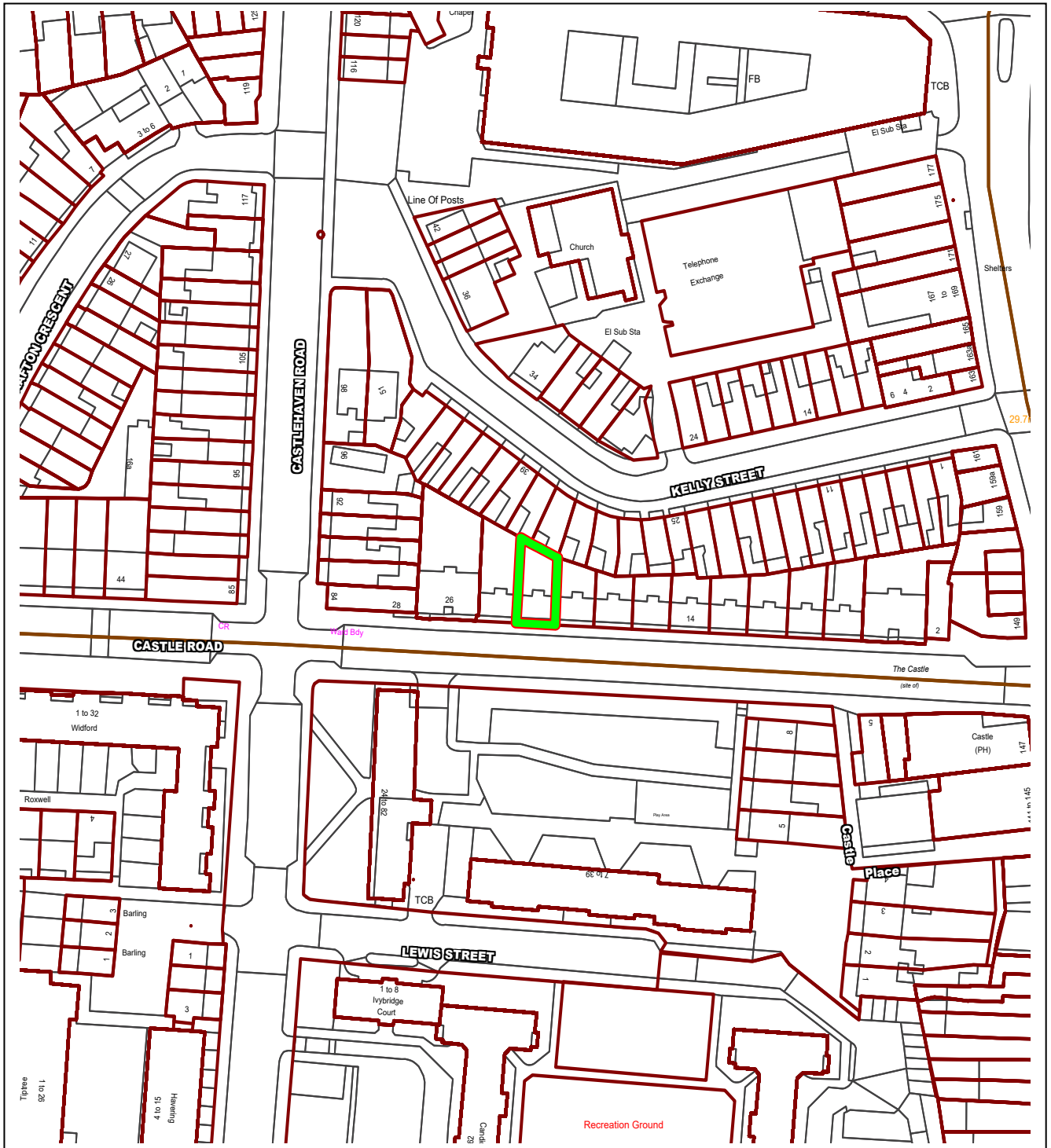


# 2021/4470/P - 22 Castle Road



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# 2021/4470/P - 22 Castle Road

**View 1** – showing front of property



**View 2** – aerial view showing rear roofslope of application site



<b>Delegated Report (Members Briefing)</b>	<b>Analysis sheet</b>		<b>Expiry Date:</b>	10/11/2021		
	N/A		<b>Consultation Expiry Date:</b>	30/11/2021		
<b>Officer</b>		<b>Application Number</b>				
Tony Young		2021/4470/P				
<b>Application Address</b>		<b>Drawing Numbers</b>				
22 Castle Road London NW1 8PP		Refer to draft decision notice				
<b>Conservation Area</b>		<b>Article 4 Direction</b>				
No		Basements only				
<b>Proposed description</b>						
Erection of a rear dormer roof extension to the main dwellinghouse (Class C3).						
<b>Recommendation:</b>	<b>Grant Certificate of Lawfulness</b>					
<b>Application Type:</b>	Certificate of Lawfulness (Proposed)					
<b>Conditions and Informatives:</b>	Refer to Draft Decision Notice					
<b>Consultations</b>						
<b>Adjoining occupiers and local residents:</b>	No. notified	<b>0</b>	No. of unsolicited responses	<b>3</b>	No. of objections	<b>3</b>
<b>Summary of comments from local residents</b>	<p>Given the nature of certificate of lawfulness applications, and in particular that purely matters of legal fact are involved in their determination, the Council does not have a statutory duty to engage in a formal consultation process.</p> <p>Notwithstanding this, it is Council practice to allow a short period of time for our local residents and amenity groups to comment should they choose to do so. As such, the details of the application were made available online.</p> <p>3 local residents used the online forms to raise design and amenity concerns about the proposal in terms of the following:</p> <ul style="list-style-type: none"> <li>• excessive size, scale and bulk of proposed dormer</li> <li>• unhelpful precedent for future similar proposals</li> <li>• adverse impact on listed buildings and heritage of Kelly Street</li> <li>• reduced natural light levels and loss of privacy to neighbouring properties</li> </ul> <p>Having carefully considered all responses, no evidence has been provided to contradict or undermine the applicant's proposal or assertions. Therefore, while the above concerns are noted, they are not a consideration in this type of application where purely legal issues are involved in its determination.</p>					

## Site Description

The application site comprises of a 2-storey, mid-terrace dwelling house located on the north side of Castle Road, just east of the junction with Castlehaven Road.

The building is not listed or located within a designated conservation area. The site is situated in the Kentish Town Neighbourhood Area.

## Relevant History

No relevant history at application site

### Nearby site(s)

**2020/4641/P (12 Castle Road)** – Erection of a rear dormer to the main dwellinghouse (Class C3). Granted a certificate of lawfulness (proposed) dated 17/11/2020.

## Relevant Policies

The scheme can only be assessed against the following relevant planning legislation:

- **Town and Country Planning Act 1990 (as amended)**
- **Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)**

## Assessment

### 1. Introduction

1.1 A Lawful Development Certificate application has been submitted to the Council for the proposed erection of a rear dormer roof extension to the main residential dwellinghouse (Class C3) at the application site.

1.2 The application seeks to confirm that the proposed works would be permitted development and lawful, such that, they can be carried out without the specific grant of planning permission from the local planning authority.

### 2. Assessment

2.1 The determination of the application can only be made after an assessment based on the following:

- whether the proposal constitutes “development” as defined under Part III, Section 55 of the Town and Country Planning Act 1990 (TCPA) which sets out the meaning of “development”; and
- whether the proposal is lawful and constitutes permitted development as defined by the criteria set out under Schedule 2, Part 1, Class B of Town and Country Planning (General Permitted Development) (England) Order 2015.

2.2 It is emphasised that this is purely a legal determination. No account can be taken of policy or guidance within the Council’s Local Plan. An assessment of the planning merits of the proposal as to its acceptability under current policies and guidance is therefore not relevant or possible.

#### Definition of “Development”

2.3 Under Part III, Section 55 of the TCPA 1990, ‘Meaning of “development” and “new development” is defined as ‘the carrying out of building, engineering, mining or other operations, in, on, or under land or the making of any material change in the use of any buildings or other land’.

**For the purposes of this Act “building operations” includes—**

- a) demolition of buildings;**
- b) rebuilding;**
- c) structural alterations of or additions to buildings; and**
- d) other operations normally undertaken by a person carrying on business as a builder.**

**Section 55(2) of the TCPA states that the following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—**

- a) the carrying out for the maintenance, improvement or other alteration of any building of works which—**
- (i) affect only the interior of the building, or**
  - (ii) do not materially affect the external appearance of the building.**

2.4 The application drawings indicate that the proposed works would involve structural alterations and additions to the main dwelling house which would materially affect the external appearance of the building, and as such, the works would fall within the 'meaning of development' as defined by Section 55 of the TCPA. It is considered therefore that parts 55(1)(c) and 55(2)(ii) apply in this instance.

Class B – erection of a rear dormer roof extension to the main dwellinghouse

2.5 Accordingly, the matter now turns to consideration of whether permitted development rights would apply as defined by criteria set out under Schedule 2, Part 1, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2.6 Class B gives provision to enlarge a dwellinghouse consisting of an addition or alteration to its roof, with restrictions. The section below sets out this criteria in full with officer comments added in bold to denote how the proposal accords with each point:

<b>Class B</b>		
The enlargement of a dwellinghouse consisting of an addition or alteration to its roof		
If YES to any of the questions below the proposal is not permitted development:		Yes/No
B.1(a)	Is permission to use the dwellinghouse as a dwellinghouse been granted only by virtue of Classes G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use)?	No
<b>The use of the existing dwelling house as a dwelling house is not as a result of permission granted for a change of use as set out under Classes G, M, MA, N, P, PA or Q of Part 3 of this Schedule</b>		
B.1(b)	As a result of the works, would any part of the dwellinghouse exceed the height of the highest part of the existing roof?	No
<b>The proposed dormer would sit below the height of the highest part of the existing roof of the dwellinghouse</b>		
B.1(c)	As a result of the works, would any part of the dwellinghouse extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway?	No
<b>The proposed works would be entirely at the rear of the dwellinghouse</b>		
B.1(d)	As a result of the works, would the cubic content of the resulting roof space exceed the cubic content of the original roof space by more than— (i) 40 cubic metres in the case of a terrace house, or (ii) 50 cubic metres in any other case?	No
<b>The cubic content of the proposed roof space would be 39.36 cubic metres</b>		
B.1(e)	Would it consist of or include— (i) the construction or provision of a veranda, balcony or raised platform, or (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe?	No
<b>The proposed works would not consist of or include any items listed in B.1(e)(i) or (ii) above (see also Informative 4 attached to any certificate granted which reminds the applicant of this requirement)</b>		
B.1(f)	Is the dwellinghouse on article 2(3) land?	No



**The dwellinghouse is not located on article 2(3) land (for instance, it is not located within an area designated as a conservation area).**

B.1(g)	Is the dwellinghouse built under Part 20 of this Schedule (construction of new dwellinghouses)?; or	No
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**The dwellinghouse was not constructed under Part 20 of this Schedule**

B.1(h)	Has the existing dwellinghouse been enlarged in reliance on the permission granted by Class AA (enlargement of a dwellinghouse by construction of additional storeys)?	No
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**The dwellinghouse has not been enlarged under Class AA of this Schedule**

Conditions. If NO to the question below then the proposal is not permitted development:

B.2(a)	Would the materials used in any exterior work be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse?	Yes
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**The external materials would be of a similar appearance to the existing (see also Informative 1 attached to any certificate granted which reminds the applicant of this requirement)**

B.2(b)(i)	Other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension, would the enlargement be constructed so that— (aa) the eaves of the original roof are maintained or reinstated?; and (bb) the edge of the enlargement closest to the eaves of the original roof be less than 20 centimetres from the eaves measured along the roof slope from the outside edge of the eaves, so far as practicable?; and	Yes
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**The eaves of the original roof would be maintained or reinstated and the edge of the enlargement closest to the eaves of the original roof would be no less than 20 centimetres from the eaves of the original roof (see also Informative 3 attached to any certificate granted which reminds the applicant of this requirement)**

B.2(b)(ii)	Other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement would extend beyond the outside face of any external wall of the original dwellinghouse; and	Yes
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**No part of the enlargement would extend beyond the outside face of any external wall of the original dwellinghouse**

B.2(c)	Would any windows inserted on a wall or roof slope forming a side elevation of the dwellinghouse— (i) be obscured-glazed; and (ii) be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed?	N/A
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**The proposed works are entirely at the rear of the dwellinghouse (see also Informative 2 attached to any certificate granted which reminds the applicant of this requirement)**

2.7 The proposal is considered to satisfy all criteria as set out under Schedule 2, Part 1, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and as such, would be permitted development and lawful.

**Recommendation:** Grant Certificate of Lawful Development

#### DISCLAIMER

The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 31st January 2022, nominated members will advise whether they consider this application should be reported to the

**Planning Committee. For further information, please go to [www.camden.gov.uk](http://www.camden.gov.uk) and search for 'Members Briefing'**

Application ref: 2021/4470/P  
Contact: Tony Young  
Tel: 020 7974 2687  
Email: [Tony.Young@camden.gov.uk](mailto:Tony.Young@camden.gov.uk)  
Date: 21 January 2022

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
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WC1H 9JE

Phone: 020 7974 4444

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DRD Planning  
3 Walnut Cottages  
Station Road  
Sawbridgeworth  
CM21 9QJ

# DRAFT

Dear Sir/Madam

## DECISION

Town and Country Planning Act 1990

### **Certificate of Lawfulness (Proposed) Granted**

The Council hereby certifies that the development described in the First Schedule below, on the land specified in the Second Schedule below, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 as amended.

First Schedule:

Erection of a rear dormer roof extension to the main dwellinghouse (Class C3).

Drawing Nos: Drawing pack - Sheets 1 to 8 inclusive (ref. 22CastleRdDRD21) dated 18/08/2021.

Second Schedule:

**22 Castle Road**  
**London**  
**NW1 8PP**

Reason for the Decision:

- 1 The rear dormer roof extension is permitted under Class B of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

Informative(s):



- 1 The development, subject to the grant of this certificate, would only constitute permitted development if the materials used in any exterior work to the rear roof extension, subject to the grant of this certificate, shall be of a similar appearance to those used in the construction of the exterior of the existing dwelling house, in accordance with Condition B.2 of the Town & Country Planning (General Permitted Development) Order 2015 as amended.
- 2 The development, subject to the grant of this certificate, would only constitute permitted development if any windows on a wall or roof slope forming a side elevation of the dwelling house are obscure-glazed and non-opening, unless the openable parts of any windows are more than 1.7m above the floor of the room in which the window is installed, in accordance with Conditions B.2 of the Town & Country Planning (General Permitted Development) Order 2015 as amended.
- 3 The development, subject to the grant of this certificate, would only constitute permitted development where the edge of the enlargement closest to the eaves of the original roof shall, so far as practicable, be not less than 20 centimetres from the eaves of the original roof in accordance with Condition B.2 of the Town & Country Planning (General Permitted Development) Order 2015 as amended.
- 4 You are advised that in order to comply with the parameters of permitted development as set down in the Town & Country Planning (General Permitted Development) Order 2015 as amended, you must ensure that the works do not include:
  - (i) the construction or provision of a verandah, balcony or raised platform; or
  - (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe.
- 5 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 6 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444). Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 7 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at [www.camden.gov.uk](http://www.camden.gov.uk)) or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and

08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2021.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

Chief Planning Officer

#### Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use\*/operations\*/matter\* specified in the First Schedule taking place on the land described in the Second Schedule was\*/would have been\* lawful on the specified date and thus, was not\*/would not have been\* liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the use\*/operations\*/matter\* described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use\*/operations\*/matter\* which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the Certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.