

Date: 15/12/2022  
Your ref: APP/X5210/X/22/3305671  
Our ref: 2022/0567/P  
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The Planning Inspectorate  
3N - Kite, Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

Dear Sir/Madam,

**Town and Country Planning Acts 1990 (as amended)**  
**Planning Appeal Statement (Authority)**  
**Appellant: Mr. Daniel Harvey**  
**Site: 4 Ellerdale Close, London, Camden, NW3 6BE**

I write in connection with the above appeal against the Council's refusal to grant a Lawful Development Certificate (proposed) for the following:

'Single storey extension to the rear'

The Council's case is set out primarily in the delegated officer's report (ref: 2022/0567/P) that has already been sent with the questionnaire and is to be relied on as the principal Statement of Case. Copies of the relevant Camden Local Plan policies and accompanying guidance were also sent with the appeal questionnaire.

In addition, the Council would be grateful if the Inspector would consider the contents of this letter which includes comments on the Appellant's grounds of appeal.

## **1.0 Summary of the Case**

1.1 The appeal site for part of Ellerdale Close which comprises four houses (1-4) all of which were originally fully detached; however, nos. 1-3 appear to have been joined with single storey front/side extensions. The application site is fully detached. The appeal property is not listed but is located in Fitzjohns /Netherhall Conservation Area. The Conservation Area Appraisal describes Ellerdale Close thus:

'Ellerdale Close is described as a group of four neo-Georgian style houses designed by Cough William Ellis dating from the 1920s or 1930s that provide an interesting contrast in scale and design to the adjoining Shaw building (Grade I Listed) as they are two storeys in height.'

1.2 The building is masonry built with a pitched clay roof, painted timber windows and shutters. The ground floor has an existing front garage that sits over one and a half storeys high and what appears to be a non-original ground floor front extension.

1.3 Planning permission was refused on 19th July 2022 on the following grounds:

*'The proposed development, by reason of its extension beyond a side elevation of the original dwellinghouse and its width which is greater than half the width of the original dwellinghouse would be contrary to Condition A.1(j). Furthermore, by reason of its location on article 2(3) land and its extension beyond a side elevation of the original dwellinghouse it would be contrary to Condition A.2(b). Therefore the development is not permitted under Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).'*

1.4 The Council's case is largely set out in the officer's report, a copy of which was sent with the questionnaire. In addition to this information, I would ask the inspector to take into account the following comments.

## **2 Relevant History**

2.1 At the appeal property:

2021/3393/P - Erection of a single storey side extension Granted - 14/10/2021

2021/2788/P - Replacement of existing rear window to French doors on ground floor and enlargement of rear windows at first floor level - Granted 7/09/ 2021

2021/2786/P - Erection of a single storey front extension (in place of existing garage), first floor front extensions, single storey side extension, infilling of front porch and alterations to existing side elevation windows. – Allowed on appeal 2/07/2022 (appeal reference: APP/X5210/D/22/3291770)

2021/5370/P - Formation of bay to garage, alterations to side extension (east elevation) and associated window alterations. - Granted 1/02/2022

2022/0558/P - Addition of rooflights, timber windows to existing rear dormer and lowering of first floor front window cills. Granted 5/05/2022

2022/0960/P - Proposed front porch extension. Granted 15th June 2022

2022/0850/P - Addition of timber louvered bike store, a timber louvered bin store, a new car turner, and amendments to the hard landscaping to the front of the property. - Granted 30/05/ 2022

2022/0567/P - Single storey extension to the rear. - Refused 19/07/2022 – Subject of this appeal.

2022/3976/P - Erection of single storey rear extension. Currently under consideration.

## 2.2 Other relevant history:

### 2 Ellerdale Close

2011/5184/P - Erection of single storey rear ground floor level extension to existing dwellinghouse (Class C3). Granted lawful development certificate (proposed) 05/03/2012

2012/2654/P - Erection of a single storey rear extension to a dwelling (Class C3). Granted lawful development certificate (proposed) 05/07/2012

## 3 **Relevant legislation and guidance.**

3.1 Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (as amended)

3.2 Permitted development rights for householders: technical guidance, published April 2016, updated September 2019.

## 4 **Comments on the appellant's grounds of appeal**

4.1 Appellant's Grounds of Appeal are summarise in italics and addressed subsequently as follows.

Appellant's comments:

4.2 *The appellant's states that the proposed development comprises a full-width rear extension to the property of less than 4m in depth. In refusing the application, the Council have considered that the small existing rear bay window contains side elevations of the original dwellinghouse which the extension would extend beyond, and its width would be greater than half the width of the original dwellinghouse, thus making it contrary to Condition A.1 (j) and paragraph A.2 (b).*

4.3 *As noted above, the only disputed matter therefore is to consider whether the bay window to the rear of the property can be considered to include side elevations to the original dwellinghouse or not. It is the appellant's case that the Council was wrong to conclude that the rear bay window contains side elevations to the original dwellinghouse. Rather, the rear bay window is part of the rear elevation of the property.*

4.4 *In determining what constitutes a side elevation, it is first pertinent to consider the Permitted Development rights for householders Technical Guidance (September 2019). This guidance notes that "a wall forming a side elevation of a house will be any wall that cannot be identified as being a front wall or rear wall. Houses will often have more than two side elevation walls".*

Council's response:

4.5 The appeal site is as detached property benefiting from a two-storey bay window which projects from the rear elevation. In paragraph 5.3 'of the Appellant's Statement - Figure 4 – Existing rear elevation' the drawing evidences that the existing two storey bay window is a prominent feature of the property. The fact the bay extends from the ground up to the first floor results in it being integral part of the building with a two storey high side elevation. It is not merely a feature of the rear elevation.

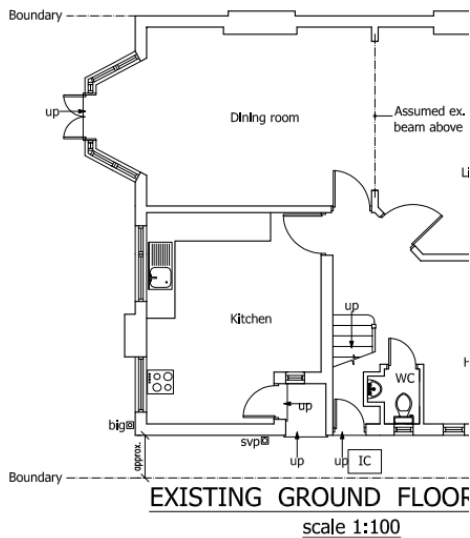
4.6 Although 'Side elevation' is not defined in the GPDO, it is stated within the Governments Technical Guidance April 2017 'Permitted development rights for householders' to be any wall that cannot be identified as being a front wall or a rear wall. It further states that houses will often have more than two side elevation walls. This allows for walls which is not facing the front or rear of the building to be considered as a side elevation. This assessment is supported by an appeal decision in relation to a similar proposal in Barnet, reference: **APP/N5090/X/18/3203408**.

4.7 What was in question in this appeal was "whether or not the development would comply with limitation A.1(j) which states development is not permitted if 'the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would (iii) have a width greater than half the width of the original dwellinghouse.'"

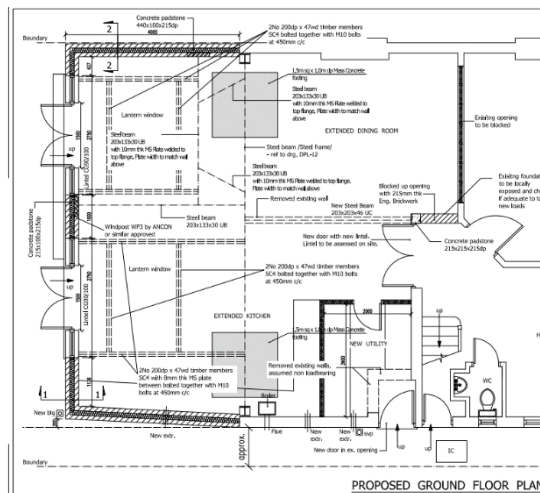
**Barnet appeal drawings –**

**Existing floor plan**

scale 1:100



**Proposed floor plan**



*Existing rear elevation:*



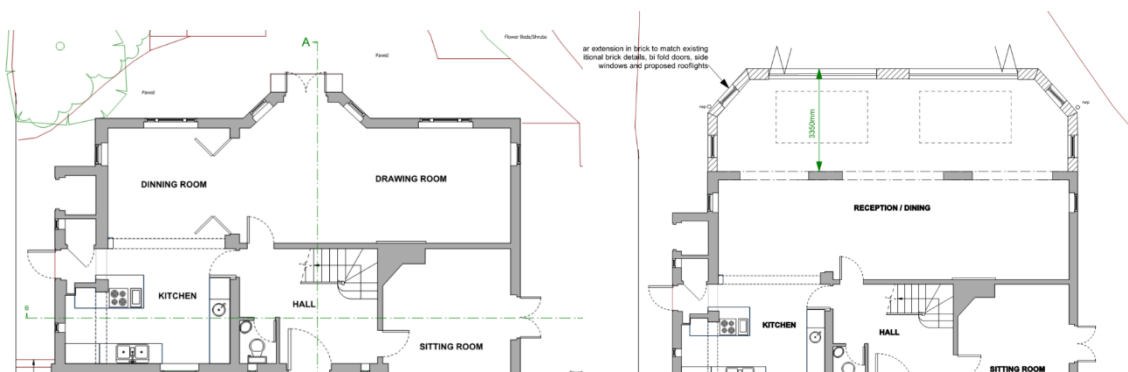
4.8 The planning inspector did not consider that all three elevations of the bay windows are rear elevations. The decision states, *“they do not all face the rear with the angled elevations facing more towards the side boundaries than the rear. In my view, the angled elevations of the bay are not rear or front elevations and thus must be side elevations. I therefore find, as a matter of fact and degree that the bay projection consists of a rear elevation and two side elevations, albeit the side elevations are at an angle.”*

4.9 It was therefore concluded that the proposed extension would have extended beyond side elevations of the original dwellinghouse and as the width of the proposed extension was greater than half the width of the dwellinghouse it would not comply with A.1 (j).

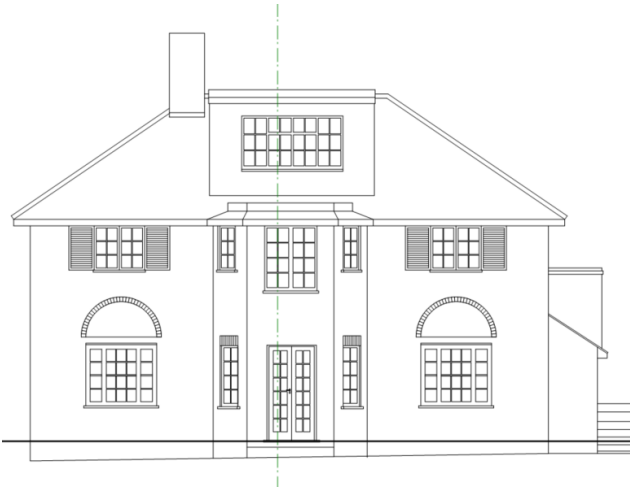
**Current appeal drawings:**

Existing ground floor plan:

Proposed ground



Existing rear elevation:



4.10 As mentioned in Camden's refusal, the appeal scheme is very similar to the proposal considered in the Barnet appeal. The two sides of the bay windows cannot be considered as front or rear elevations and therefore can be identified as side elevations. The proposal therefore fails to comply with Class A in two of the criteria:

- A.1 (j) – as the extension extend beyond a wall forming a side elevation of the original dwellinghouse, and has a width greater than half the width of the original dwellinghouse; and
- A.2 (b) – on article 2(3) land the extension would extend beyond a wall forming a side elevation of the original dwellinghouse.

Appellant's comments:

4.11 *The rear elevation of the appeal property is very different to the diagram shown within the technical guidance, as shown above.*

Council's response:

4.12 Although the illustrations in the GDPO are shaped differently it doesn't mean that the principle doesn't apply. The illustrations show elevations at different recesses where the elevations would move further and further to the centre of the rear elevation just because the bay window doesn't have a right angle it doesn't mean that the principle shouldn't apply. The guidance under Class A.1(jii) also stipulates that a house may have more than two side elevations.

Appellant's comments:

4.13 *It is noted that the Technical Guidance does not directly address whether a bay window is to be defined as containing side elevations for the purposes of the permitted development rights. Notwithstanding this, when discussing what comprises a front, principal elevation, the Technical Guidance notes that bay windows would be defined as such, stating that this "usually contain (s) the main architectural features such as the main bay windows or a porch serving the main entrance to the house".*

- 4.14 *The same conclusion must be drawn in respect of rear bay windows such as those found on the appeal property. Applying the same logic, the rear bay window must similarly be identified as being part of the rear wall of the house.*
- 4.15 *Indeed, the rear bay window walls of the appeal property are most naturally characterised as comprising rear walls of the house. The bay protrudes by only some 74cm, with its angled walls facing more towards the rear than the sides, being at an angle of 43.1 degrees. The Council's characterisation of the bay as containing side elevations of the original dwellinghouse ignores the fact that its walls face more towards the rear than the sides and is not a natural interpretation having regard to the shallow angle, small projection and position of the bay. Rather, the bay feature is clearly and naturally read as being part of the rear elevation of the property.*

Council's response:

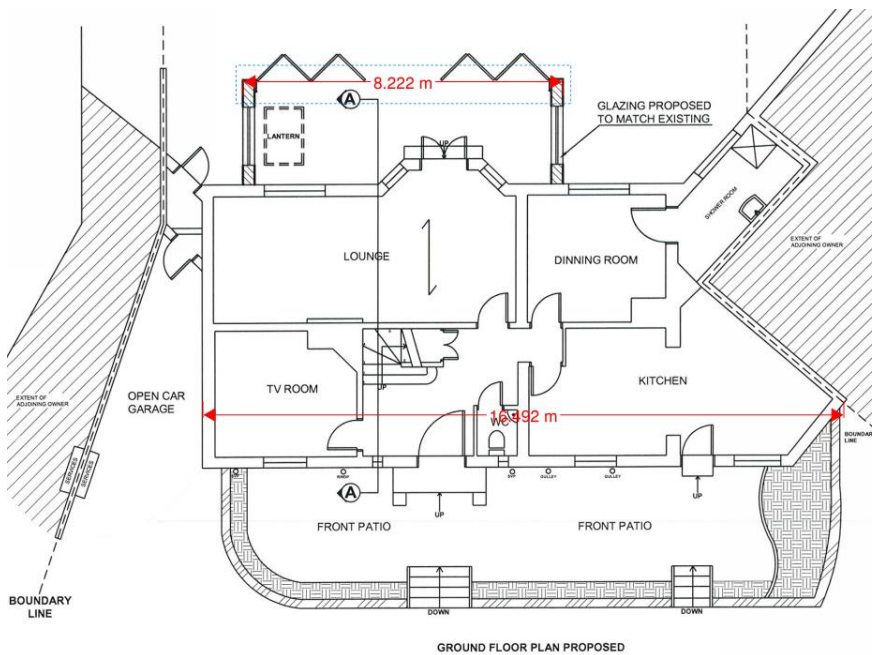
- 4.16 The GPDO doesn't specify the angle at which a side wall should be to be identified as a side elevation it is a matter of fact and degree. This is supported by the Barnet appeal decision referred to the case officers' report and above. In this current appeal case the side elevation of the bay is angled at 43.1 degrees. This is not slight and it can clearly be seen on the side elevation of the property as a whole projecting 0.74m from the rear elevation. Furthermore, the elevation is two storeys in height clearly distinguishes it from being merely a feature on the rear elevation.

Appellant's comments:

- 4.17 *In that respect, the Council previously considered very similar CLOPUD applications at 2 Ellerdale Close for rear extensions under permitted development rights (references 2011/5184/P and 2012/2654/P). In both of these cases, the Council concluded that the development would not extend beyond a side elevation and duly granted CLOPUD's.*

Council's response:

- 4.18 In the two case at 2 Ellerdale Close were assessed over 10 years ago under a previous version of the GPDO. However, it is noted that extensions do not extend to more than half of the original dwelling house. This property differs from the application property due to trapezoid shape of the floorplan (see floorplan below). This is not a relevant example as the proposal would have complied with the GPDO at the time of being granted.



Appellant's comments:

4.17 *In addition to the above, it is also pertinent to review case law and appeal decisions relevant to this matter. Indeed, in refusing the application, the Council cited a decision under appeal reference APP/N5090/X/18/3203408 in the London Borough of Barnet. In the Barnet appeal, the Inspector concluded that the side walls of the much larger and much greater angled bay window in that case would form side elevations of the original dwellinghouse.*

Council's response:

4.18 This decision does define or identify that a bay window would be considered as a side elevation based on the size of it. It states that it is a matter of fact and degree, see point 4.16 above. The existing rear bay window is not a single storey feature but a double height element of the building which can be read from the side elevation of the building and is therefore identified as a side elevation.

Appellant's comments:

4.19 *The appellants refers to a further two appeal decisions reference: APP/P5870/X/17/3173437 (the Cheam appeal), where the Inspector noted that a rear bay window was "merely a detail of the rear wall of the original dwelling as a matter of fact and degree". And, APP/B/1930/X/10/2133000 (the Harpenden appeal), where the Inspector considered that the bay window did not come within a "reasonable definition of the term 'wall forming a side elevation' and should be regarded as the "rear wall".*

Council's response:



4.20 Both of the stated appeals relate to bay windows which were single storey construction only, and one of which was of particularly lightweight construction. They present a different context from the appeal site which has a two storey bay of solid construction. The Barnet appeal decision is a more appropriate example in terms of similarity with the appeal site proposal.

## 5.0 **Conclusions**

- 5.1 Based on the information set out above, and having taken account of all the additional evidence and arguments made, it is considered that the proposed single storey rear extension by reason of its extension beyond a side elevation of the original dwellinghouse and its width which is greater than half the width of the original dwellinghouse would be contrary to Condition A.1(j). Furthermore, by reason of its location on article 2(3) land and its extension beyond a side elevation of the original dwellinghouse it would be contrary to Condition A.2(b). Therefore the development is not permitted under Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 5.2 The information submitted by the appellant in support of the appeal does not overcome or address the Council's concerns. For these reasons the proposal fails to meet the requirements of policy and therefore the Inspector is respectfully requested to dismiss the appeal.
- 5.3 If any further clarification or submissions are required, please do not hesitate to contact Sonia Cupid by the direct dial telephone number or email address quoted in this letter.

Yours faithfully,

**Sonia Cupid**  
Planning Technician  
Supporting Communities Directorate