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Planning Statement

For

The erection of joint ground and first floor rear extensions

Land at

19-21 Russell Gardens, London NW11 9NJ

By

Eade Planning Ltd

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Introduction

The plot at 19-21 Russell Gardens is located within the LB of Barnet. The site has an area of approximately 884 sq. m. collectively. At present the site is occupied as dwellinghouses (C3 residential).

The site is surrounded by semi-detached properties which are of similar scale along Russell Gardens characterised by moderately sized 2 storey buildings.

It should be noted the application includes design elements which have been previously approved under REF: 23/2960/PNH.

The primary objectives of this statement are to demonstrate that the involved development is lawful and has progressed in accordance with the National and Local Policies.

This statement should be read in conjunction with the submitted existing and proposed floor plans, elevations and section.

Proposal

This application seeks planning permission for the erection of joint ground and first floor rear extensions to the main house. The previous approval outlined on the plans are a material consideration for what is essentially an infill at No.19. The ground floor extension at No.21 is in any case lawful under PD and it is the smaller extension of the two, no harm is caused to the neighbours. The first floor being joint and is designed in such a way to cause minimal impacts.

The proposed works are to be matching the external appearance in materiality.

Effect on Amenity of Neighbours

The proposed development does not have an overbearing impact or damage the character and appearance of the host dwelling nor the street scene. As the development is situated to the rear of the host property the proposals will not have any adverse effects on the amenity and privacy of the neighbours.

The extension maximises the properties footprint in a sensitive manner without causing harm to the street scene. There will be no negative effect on the openness of the street as there is plenty of width.

Transport

Access to public transport would seem relatively good in terms of buses, which stop nearby as well as trains. The site falls in a PTAL of 4. The property is also reasonably situated for the local amenities of the surrounding area.

Security

It is considered that the property is very secure. Access is provided by the front, there is also direct access to the rear gardens from the side.

Appearance

The appearance of the proposal as a whole is of a traditional style, as previously mentioned, with a view to having a balanced and neutral impact on the existing street scene. The design is also simple in its appearance and not ostentatious nor contemporary.

Landscaping:

No landscaping is proposed on site as the existing garden layout is adequate. It is considered that the existing garden land is sufficient and can be improved to support the local ecology of the site, a landscaping scheme can be provided to the council on request.

Scale

The host dwelling is matching to those of in the larger area with the width and length being within the constraints of the plot. The proposal is in scale with those of the surrounding area and entirely in keeping causing no visual disruptions to the neighbours and no visual harm to the original architecture.

Material Consideration and the Fall-Back

1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states, *"if regards is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise"*.
2. Section 70 of The Town and Country Planning Act 1990 - Determination of applications: general considerations - was amended by the Localism Act 2011 to state as follows,
 - (2) *In dealing with such an application the authority shall have regard to—*
 - (a) *the provisions of the development plan, so far as material to the application,*
 - (b) *any local finance considerations, so far as material to the application, and*
 - (c) *any other material considerations.*

Relevant Case Law

3. In *Mansell (Mansell v Tonbridge and Malling BC)* Planning permission was granted for the demolition of a barn and the construction of four detached dwellinghouses. The permission was clearly in conflict with the development plan, however, the council relied on the fallback position given that Class Q of the GPDO allowed for the change of use of the barn to use as a dwellinghouse.
4. A challenge was brought against the LPA by a member of the public claiming that the LPA should not have relied on the fallback position. The claimant argued that the LPA had no right to rely on PD rights as a fallback position where there was no evidence that the developer would report to such development. There would have to be a 'real prospect' of such a development being carried out. There must be "a finding of actually intended use as opposed to a mere legal or theoretical entitlement" the claimant argued.
5. The Court of Appeal disagreed and held that for there to be a real prospect, it does not have to be probable or likely, 'a possibility will suffice'. How much will be needed to clarify that possibility may be a planning judgement, however, in that case, it was plainly appropriate, indeed necessary, for the LPA to have taken into account the PD rights available. "Not to have done so would have been a failure to have regard to a material consideration, and thus an error of law". At para 27(3) the court included where the developer had said precisely that he would make use of the PD rights.
6. The Court of Appeal endorsed Sullivan L.J.'s passage in *Samuel Smith Old Brewery v SOS (2009)*, *"For a prospect to be a real prospect, it does not have to be probable or likely; a possibility will suffice"*. The court of appeal also held that a scheme that would need a planning application made but which would probably be granted also falls to be considered as a fallback where there is a real prospect of that happening. The court of appeal further held, that where it is clear that the applicant intends to achieve the maximum of his land, it is not necessary for the applicant to have had made the necessary applications, or to have

provided clear indications as to what exactly he would do should the subject planning application be refused.

7. Turning to this case, it is beyond doubt that if planning permission is not granted for this proposal, the approved scheme will be built out in full. therefore, the consideration in this case is whether planning permission should be granted for the development was the application to be made after the above schemes would be implemented. The applicant submits that planning permission would be granted.
8. There is no doubt that it is well worthwhile for the developer to build out the above scheme in their entirety and to then apply for planning permission for the additional first floor rear. The developer would then have the enjoyment of the large extension for many years to come.
9. The whole purpose of this planning application is in order to save going through the process of building the structure in stages, by building the first scheme and then applying for the first-floor rear extension. For the fallback position to be of effect, it would suffice to establish what could, and would be built pursuant to the GPDO. There is no need to erect even a part of it.

Planning Considerations

The council's Residential Design Guidance states that two storey rear extensions need to ensure they do not lead to an overbearing impact or cause harm to the character and appearance of the property and area. The proposed first floor rear extension would have a depth of 2.5m and would maintain a gap of 3.9m to both neighbouring properties, the proposed roof is part pitch and part flat for subordination and to ensure it does not encroach the original roof form, which respects paragraph 14.26 of Barnet's RDG (2016), the guidance stipulates that flat roofs on two storey rear extensions are not normally acceptable because they do not relate sympathetically to the house, it should be noted prior to this development a flat roof was present at the first floor infill extension, its further projection would be not be incongruous design. The alternative option of continuing the original outrigger form would cause greater detrimental impacts to the neighbours and would be unacceptable.

The Residential Design Guidance SPD states that extensions should normally be subordinate to the original house, respect the original building and should not be overly dominant. Extensions should normally be consistent in regard to the form, scale and architectural style of the original building which can be achieved through respecting the proportions of the existing house and using an appropriate roof form. While the street and surrounding area does not predominantly benefit from two storey rear extensions beyond the depth of the original rear wings, the proposed development would be considered to set a good example in the local area as to cause no harm to the neighbours.

Conclusion

The massing and external appearance of the proposal has been carefully considered to ensure that it sits well within the existing context of the street and makes a contribution to the character and appearance to the local area. The proposals have no negative effect on their surroundings and complies with all local and national requirements.

The applicant is keen to ensure that works are completed to high standards of construction, with regard to energy efficiency and sustainability the performance/durability of the building will also be improved.