

Planning Statement

Site: 66 Fitzalan Road, London N3 3PE

Proposal: Part single, part two storey front extension. Demolition of existing single storey extension and replacement single storey rear extension. Alteration to the roof including increase in height of ridge of main roof, erection of two side dormers, one rear dormer and replacement front dormer. Alterations to fenestration.

1.0 Application Site

The application property is shown below in the context of the street.



The immediate area on the side of the road the application site is located is very varied in character and appearance.

The site is not located within a conservation area.

2.0 Relevant Planning History

Certificate of lawfulness was approved 18 March 2024 (planning ref: 24/0971/192), for: *“Alteration and extension to the roof including removal of roofs to existing side and rear extensions and addition of 1no. rear and 2no side dormer windows.”*

3.0 The Planning Proposal

- Part single, part two storey front extension
- Demolition of existing single storey extension and replacement single storey rear extension
- Alteration to the roof including increase in height of ridge of main roof
- Erection of two side dormers, one rear dormer and replacement front dormer
- Alterations to fenestration

4.0 Relevant Planning Policies

Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires planning proposals to be considered against planning policies *“unless material considerations indicate otherwise”*.

National Planning Policy Framework (NPPF) 2021

Paragraph 10 of the National Planning Policy Framework Document (NPPF) states; *“So sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).”*

Paragraph 11 states; *“Plans and decisions should apply a presumption in favour of sustainable development.”*

Paragraph 124 states: *“Planning policies and decisions should support development that makes efficient use of land....”*

Paragraph 130 states: *“Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);.....”*

London Plan 2021

- D1 London’s form, character and capacity for growth
- D3 Optimising site capacity through the design led approach

Paragraph 3.1.7 of the London Plan states: *“As change is a fundamental characteristic of London, respecting character and accommodating change should not be seen as mutually exclusive. Understanding of the character of a place should not seek to preserve things in a static way but should ensure an appropriate balance is struck between existing fabric and any proposed change. Opportunities for change and transformation, through new building forms and typologies, should be informed by an understanding of a place’s distinctive character, recognising that not all elements of a place are special and valued.”*

Relevant Policies Within Barnet Councils Adopted Local Plan Policy

Core Strategy (2012)

- Policy CS NPPF National Planning Policy Framework
- CS5 Protecting and enhancing Barnet's character to create high quality places

Development Management Document (2012)

- DM01 Protecting Barnet's Character and amenity

Supplementary Planning Documents

- Residential Design Guidance (2016)

5.0 Planning Considerations

The main issues for consideration in this case are:

- Impact the proposal would have on the character and appearance of the property and the locality
- Impact on the amenity of neighbouring occupiers
- Fall-back position

6.0 The impact the proposal would have on the character and appearance of the property and the locality.

Please also refer to the fall-back section of this statement. Significant weight needs to be given to the permitted development fall-back position.

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Part a. of Policy DM01 (Protecting Barnet's character and amenity) requires all development to represent high quality design.

Part b. of Policy DM01 requires development proposals to preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets – the proposal respects the appearance, scale, mass, height and pattern of surrounding buildings and the street and enhances the character and appearance of the locality

The site is not located within a conservation area.

The immediate area on the side of the road the application site is located is very varied in character and appearance – this is demonstrated by the image below.



The proposed front extensions seek in part to replicate the design form of the neighbouring house at No.68. This part of the proposal would change the design form of the existing house but there is no policy restriction on such changes so long as the resultant design form is sympathetic to the street. The Council's residential design guidance does seek to ensure extensions are subordinate to the main house. However, every case is required to be considered on its own planning merits and the design guidance is not planning policy but just guidance. The proposal should be judged on whether the resultant house's impact on the character and appearance of the locality is acceptable.

The main roof is proposed to be raised slightly to allow the replacement dormer at the front to be set down from the main ridge (the existing front dormer is flush with the ridge of the existing roof). This would significantly improve the character and appearance of the property.

The increase in height of the ridge of the main roof also allows the proposed dormers to sit sympathetically within the roof.

The proposed demolition of the existing single storey extension and replacement single storey rear extension would improve the character and appearance of the property.

The proposed alterations to the fenestration of the property would improve the character and appearance of the property.

7.0 Impact on the amenity of neighbouring occupiers

The proposal would have no demonstrable impact on neighbouring residential amenity.

8.0 Fall-back position

Significant weight needs to be afforded to the permitted development fall-back position (outlined in the planning history section). The proposed development confirmed as lawful is shown below.



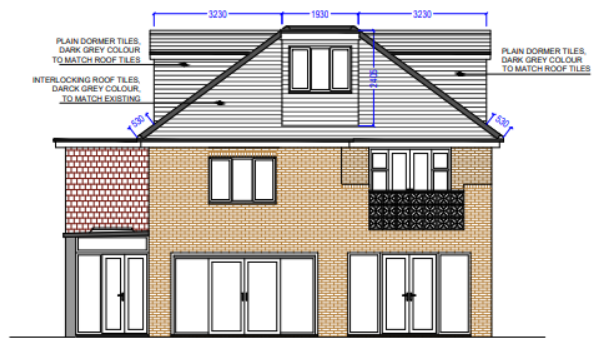
EXISTING FRONT ELEVATION



PROPOSED FRONT ELEVATION

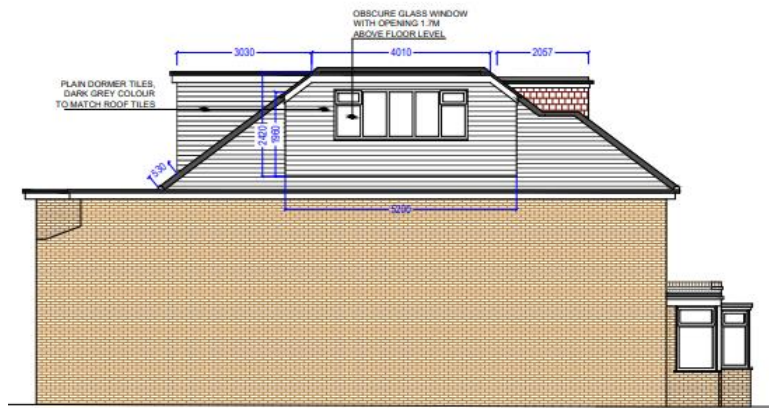


EXISTING REAR ELEVATION

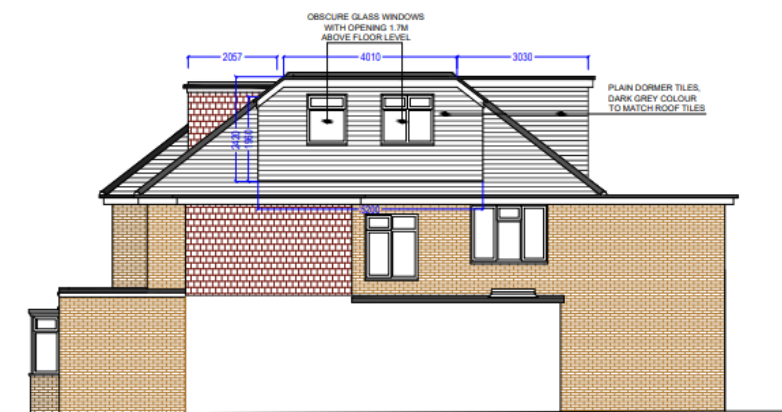


PROPOSED REAR ELEVATION





PROPOSED WEST ELEVATION



PROPOSED EAST ELEVATION

It is considered the proposal would form a house which is acceptable on planning policy grounds alone.

However, if it is considered the proposal does on its own cause some harm then it cannot be reasonably argued that the above fall-back position would have a more detrimental impact on the character and appearance of the property and the area generally.

In particular, the proposal which is allowed to be built under permitted development would have the following negative impacts when compared to the proposed scheme:

- The flat roof of the certificate proposal would have a significant detrimental impact on the character and appearance of the property and the locality
- The dormer roof extensions of the certificate proposal would be flush with the ridge of the main roof and would be larger than the proposed scheme. This would have a significant detrimental impact on the character and appearance of the property and the locality

Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) provides: ***'If regard 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.'***

In the Court case *Mansell v Tonbridge and Malling BC [2017] EWCA Civ 1314*, the Court of Appeal upheld a judgment of the High Court that permitted development rights can properly be taken into account as a fall-back position where some alternative form of development is then proposed.

The judgment confirmed the legal considerations in determining the materiality of a fallback position as a planning judgment were:

- the basic principle is that for a prospect to be a “real prospect”, it does not have to be probable or likely: a possibility will suffice;
- there is no rule of law that, in every case, the “real prospect” will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker’s planning judgment in the particular circumstances of the case in hand.

It is the applicants case that in the event the planning permission is refused then it is a reasonable prospect that the proposal confirmed as lawful by the certificate of lawfulness decision will be implemented as the alternative fall-back position.

Therefore, in line with the Court ruling, significant weight should be afforded to the lawful position confirmed by the certificate of lawfulness. Significant weight can be attributed to the “fall-back” position because it is a real prospect that in the application is refused then the development granted by the certificate of lawfulness would be implemented - the basic principle set by case law is that for a prospect to be a “real prospect”, it does not have to be probable or likely: a possibility will suffice.

There have been many recent appeal decisions on this point, which the applicant can provide if further justification for the fall-back position is required.