

Draft Note on Prior Approval of Permitted Development Extensions

1. Background

1.1 'Permitted development' is the term for development that is authorised by Statutory Instruments known as development Orders. In certain circumstances dwellinghouses¹ can be extended as permitted development, meaning that planning permission from the Council is not required. However, permitted development allowances are automatically reduced in conservation areas whilst in other circumstances, for example where there is an 'Article 4' Direction or special conditions on the original housing development, permitted development may also be restricted. It is always advisable to check with the Council before proceeding with an extension.

1.2 On 30th May 2013 the Town and Country Planning (General Permitted Development) (Amendment) Order 2013 came into force. Among the amendments included in the Order is an allowance for most dwellinghouses to be enlarged beyond the rear wall of the original dwellinghouse by up to 8 metres, in the case of a detached dwellinghouse, or up to 6 metres in any other case, and in either case up to a height of 4 metres. The new allowance does not apply to dwellinghouses in conservation areas.

1.3 The new allowance for dwellinghouses is time limited² and is subject to the following procedure (summarised):

- before beginning the development, the developer must notify the Council with certain details about the proposed extension;
- the Council must then notify adjoining neighbours about the proposed extension, allowing 21 days to make representations, and send a copy of the notification letter to the developer;
- **if any adjoining neighbours object to the proposed extension, the prior approval of the Council is required as to the impact of the proposed extension on the amenity of adjoining neighbours;**
- in considering the impact upon the amenity of adjoining neighbours, the Council must take into account any representations received and consider the amenity of all adjoining neighbours (not just those that objected); and
- the Council must notify the developer of its decision within 42 days from the date of the developer's notification to the Council about the proposed extension.

1.4 The Council may decide that prior approval is not required, that prior approval is required and is granted, or that prior approval is refused. If, upon the expiry of 42 days, the Council fails to notify the developer of its decision then prior approval is not required by default. However the development will still need to comply with all other relevant limitations of permitted development before it can go ahead without planning permission.

1.5 It should be noted that the above allowance and procedure is only one of the limitations to be satisfied for a proposed single storey extension to be permitted development. Others include (summarised):

¹ The definition of dwellinghouses does not include flats or houses that have been converted to flats.

² The development must be completed on or before 30th May 2016.

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- that the total ground area covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) cannot exceed 50% of the total area of the curtilage;
- that the extension would extend beyond a wall that fronts a highway and forms the principal elevation or the side elevation of the original dwellinghouse; and
- that the extension would be within 2 metres of the boundary of the curtilage of the dwellinghouse and the height of the eaves of the extension would exceed 3 metres.

1.6 There are other limitations if the extension would be higher than the eaves of the existing dwellinghouse (e.g. in the case of a bungalow), if the extension would extend beyond the side wall of the original dwellinghouse, or if it would consist of certain other works such as the construction of a veranda, balcony or raised platform. Development is permitted subject to the use of materials similar in appearance to the existing dwellinghouse.

1.7 Those proposing an extension as permitted development may apply for a certificate of lawful proposed development for a formal determination from the Council as to whether or not planning permission is required. For those proposing an extension under the new allowance, i.e. more than 4 metres beyond the rear wall of the original dwellinghouse (in the case of a detached house) or 3 metres in any other case, a certificate application should be made after the above notification and (if relevant) prior approval procedure has been satisfied³.

2. Prior Approval of Amenity Impacts

2.1 As explained above, proposed extensions under the new allowance are subject to a notification and, if triggered, prior approval procedure. The following paragraphs explain how the Council will consider amenity impacts in the event that the prior approval of the Council is required. **It should be noted that the Council can only exercise prior approval of any amenity impacts if the prior approval procedure is triggered and that this does not apply to other permitted development extensions (for example side extensions, or rear extensions up to 4 metres deep on a detached house and 3 metres deep in any other case).**

2.2 Harrow's Residential Design Guide Supplementary Planning Document (2010) includes design and layout guidance for householder development. The amenity considerations associated with householder development are amplified in the Guide. Consistent with the Guide, the Council will address the following amenity considerations when exercising prior approval under the new procedure:

Overlooking

2.3 The Council will seek to ensure that proposed extensions do not result in significant loss of privacy to neighbouring occupiers. Doors and windows (other than high level and obscure-glazed windows) in the side wall of a rear extension that is within 3 metres of a boundary can lead to overlooking of adjoining houses and gardens, to the detriment of the amenity of neighbouring occupiers. Relevant site considerations may include the distance of the proposed extension from the boundary, the degree and permanence of landscaping or boundary treatment, any change in levels between the properties and any existing extensions to the adjoining properties.

³ If prior approval is refused, the proposed extension does not constitute permitted development and a planning application should be made.

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Loss of Light or Outlook

2.4 Large extensions in close proximity to the boundary can cause loss of light and outlook to windows of neighbouring dwellings as well as overshadowing of adjoining garden areas. Where a proposed rear extension is adjacent to the boundary of any unextended adjoining property, the Council will normally consider a depth of 4 metres in the case of detached houses, and 3 metres in any other case, to be the appropriate depths at which reasonable light to, and outlook from, the adjoining dwellings and garden areas can be maintained. However a greater depth may not have an unacceptable impact upon the adjoining property if:

- the extension would be sited away from the boundary;
- the rear building line is staggered;
- the adjoining dwelling is sited away from the boundary; or
- where the neighbouring dwelling is itself already extended at the rear.

2.5 Relevant site considerations may include the orientation of the proposed extension in relation to adjoining property (especially relevant for overshadowing impacts), changes in ground levels and any existing features for example outbuildings, landscaping and boundary treatment.

2.6 If the proposed extension is within 2 metres of a boundary its eaves height cannot exceed 3 metres without triggering a need for planning permission.

2.7 The Residential Design Guide focuses assessment of light and outlook impacts to adjoining properties upon 'protected windows'. Protected windows are defined as the main window to habitable rooms and to most kitchens⁴. Where there is a protected window facing the proposed extension, the Guide applies the 45 degree code (horizontal plane) to determine the acceptable impact of development upon light to, and outlook from, that window. The 45 degree line is taken from the lower edge of the glazed area of the protected window and across the full width of the window; development either side of the resulting 45 degree plane to secure technical compliance with the code does not maintain satisfactory light to, and outlook from, the window and is therefore unacceptable.

Visual Amenity

2.8 Proposed extensions can also affect the visual amenity of neighbouring occupiers. As noted above, it is a condition of permitted development that the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. Proposals in non-similar materials (such as an extension of contrasting modern design) may still be acceptable to the Council but would require planning permission.

Encroachment

2.9 Proposals that encroach over the physical boundary with adjoining properties may not be within the curtilage of the dwellinghouse to be extended and, as such, would require planning permission. Developers are also reminded that Building Regulations approval and the provisions of the Party Wall Act (1996) may apply.

⁴ Where the kitchen is 13m² or over.

3. Submitting Additional Information (developers) and Representations (neighbours)

3.1 If prior approval is required, the Council may require the developer to submit additional information in order to consider the impact of the proposed development on the amenity of any adjoining neighbours. However, as the prior approval procedure is subject to a 42 day determination period, with a minimum of 21 days allowed for consultation with neighbours, there will be limited time available for submission of additional information. Developers are therefore strongly encouraged to submit any extra information that they consider may be needed to determine the impact of the proposal upon amenity.

3.2 Similarly, those making representations about the amenity impact of a proposed extension are strongly encouraged to submit with their representation any material that they consider may be needed to determine the impact of the proposal upon amenity.

4. Certificates of Lawful Proposed Development and Planning Applications

4.1 The Council's determination under the prior approval procedure (if triggered) relates solely to the amenity impact of the proposed extension. A grant of prior approval by the Council is not a confirmation that the proposed extension is lawful as permitted development. For a determination as to the lawfulness of a proposed extension, developers may apply to the Council for a Certificate of Lawful Proposed Development.

4.2 In the event that a proposed extension is not lawful as permitted development, planning permission is required before development commences. A grant of prior approval by the Council does not mean that a proposed extension is acceptable in all other respects. If planning permission is required the Council is obliged to consider all other potential impacts of development, not just the amenity impact. Other impacts may include the effect of the proposal on the character of the area, any drainage or flooding implications, and the impact upon any protected trees.