

**Location**                            **11 Middleton Road London NW11 7NR**

**Reference:**                        **15/06090/HSE**                            Received: 1st October 2015  
Accepted: 6th October 2015

Ward:                                    Garden Suburb                                Expiry 1st December 2015

Applicant:                            Mr Michal Oshman

Proposal:                                Rear extension at lower ground, ground and first floors and rear garden and side passage level changes. Front lower ground floor extension/ Light well. Alterations to porch, driveway, side elevation and relevant internal changes. (AMENDED PLANS)

**Recommendation:** Approve subject to conditions

- 1     The development hereby permitted shall be carried out in accordance with the following approved plans:
  - 392 EX 00 REV A - EXISTING SITE PLAN
  - 392 EX 01 - EXISTING BASEMENT FLOOR PLAN
  - 392 EX 02 - EXISTING GROUND FLOOR PLAN
  - 392 EX 03 - EXISTING FIRST FLOOR PLAN
  - 392 EX 04 - EXISTING SECOND FLOOR (LOFT) PLAN
  - 392 EX 05 - EXISTING REAR ELEVATION
  - 392 PD 07 - EXISTING FRONT ELEVATION
  - 392 EX 07 - EXISTING FLANK WALL ELEVATION
  - 392 PL 00 - PROPOSED SITE PLAN and MATERIALS SCHEDULE
  - 392 PL 01 REV C - PROPOSED BASEMENT PLAN
  - 392 PL 02 REV C - PROPOSED GROUND FLOOR
  - 392 PL 03 REV B - PROPOSED FIRST FLOOR
  - 392 PL 05 REV B - PROPOSED GARDEN ELEVATION
  - 392 PL 06 REV C - PROPOSED FLANK WALL ELEVATION
  - 392 PL 08 REV C - PROPOSED STREET ELEVATION
  - 392 PL 12 REV C - PROPOSED ROOF PLAN
  - COVERING LETTER DATED 10.11.2015
  - Design and Access Statement dated 29th September 2015.

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 2     This development must be begun within three years from the date of this permission.

Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3 The materials to be used in the external surfaces of the building shall match those used in the existing building or as shown in approved plans.

Reason: To safeguard the visual amenities of the building and surrounding area in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012) and Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012).

- 4 The use of the basement hereby permitted shall at all times be ancillary to and occupied in conjunction with the main building and shall not at any time be occupied as a separate unit or dwelling.

Reason: To ensure that the development does not prejudice the character of the locality and the amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012).

- 5 Before the building hereby permitted is first occupied the proposed first floor windows in the side elevation facing towards no.13 Middleton Road shall be glazed with obscure glass only and shall be permanently retained as such thereafter and shall be permanently fixed shut with only a fanlight opening.

Reason: To safeguard the privacy and amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012) and the Residential Design Guidance SPD (adopted April 2013).

- 6 The roof of the extension hereby permitted shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to or used as a balcony, roof garden or similar amenity or sitting out area.

Reason: To ensure that the amenities of the occupiers of adjoining properties are not prejudiced by overlooking in accordance with policy DM01 of the Development Management Policies DPD (adopted September 2012).

- 7 Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order) no windows or doors, other than those expressly authorised by this permission, shall be placed at any time in the side elevations, of the first floor rear extension hereby approved, facing towards nos.9 or 13 Middleton Road.

Reason: To safeguard the privacy and amenities of occupiers of adjoining residential properties in accordance with policy DM01 of the Development Management Policies DPD (adopted September 2012).

- 8 The screens to the proposed rear terrace shall be installed in accordance with the approved plans before first occupation or the use is commenced and retained as such thereafter.

Reason: To ensure that the development does not prejudice the amenity of future occupiers or the character of the area in accordance with policies DM01 and DM02 of the Development Management Policies DPD (adopted September 2012), the

Residential Design Guidance SPD (adopted April 2013) and the Sustainable Design and Construction SPD (adopted April 2013).

- 9 The premises shall be used for a single family dwellinghouse (C3(a)) and for no other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order, 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To enable the Local Planning Authority to exercise control of the type of use within the category in order to safeguard the amenities of the area.

**Informative(s):**

- 1 In accordance with paragraphs 186 and 187 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.
- 2 The applicant is advised that this permission cannot be implemented together with the development specified in the lawful development certificate 15/06053/192 as this would render the proposed loft works unlawful. A further planning application would be required.

## **Officer's Assessment**

The application was deferred from the January meeting of this committee so that an inaccuracy in the previous officer report could be addressed. The report at section 5.3.2 has been amended to state that "The proposed ground floor extension would project 0.75 metres beyond the rear building line at No.13". The original report stated that the extension would not project beyond the rear building line at No. 13.

This section has also been amended to clarify the nature of the windows in the side elevation of No. 13.

### **1. Site Description**

The application property is a two storey, semi-detached dwellinghouse located on the North side of Middleton Road, NW11 7NR. Either side of the application site is nos.9 (adjoining) and 13 (adjacent) Middleton Road. The applicant properties are not listed nor located on land designated as Article 2(3) (Conservation Area). There exist no outstanding conditions on the applicant properties which might limit development. There are no protected Trees on or adjacent to the application site. Levels drop from front to rear of the site and this has been utilised to create a basement to the property. The front garden area is currently hard surfaced and is used for parking.

### **2. Site History**

Reference: 15/06053/192

Address: 11 Middleton Road, London, NW11 7NR

Decision: Lawful

Decision Date: 14.10.2015

Description: Demolition of existing dormers and creation of new partial hip to gable and rear dormer roof extensions and 1. no rooflight to front to facilitate loft conversion. Lowering of existing basement.

Reference: F/05597/13

Address: 11 Middleton Road, London, NW11 7NR

Decision: Refuse

Decision Date: 08.12.2014

Description: Retention of extension to raised rear terrace.

Reference: 15/07926/HSE

Address: 11 Middleton Road, London, NW11 7NR

Decision: Under consideration

Decision Date:

Description: Extensions to the rear at basement, ground and first floor level. Re-modeling of the front entrance and proposed new windows and doors. New light well and new openings. Lowering of the internal and external basement level, changing of the roof tiles and relevant internal changes

### **3. Proposal**

Following a site visit, the case officer for the application formed an initial review of the scheme. In response to a number of concerns raised, the applicant submitted a revised scheme which is now subject to consideration. This revised scheme proposes a number of alterations/extensions to the existing dwelling including:

- Enlargement of the existing basement to include a new front lightwell as well as no.3 side lightwells and an exposed lower ground floor terrace to the rear.
- Ground floor rear extension to project 0.75m beyond the existing rear elevation of the dwelling for a width of 5m. Alterations to the existing raised rear terrace; proposed terrace would project 2.75m beyond the rear building line of no.09 and 3m beyond the existing rear building line of the application property at its Eastern edge. The proposed terrace would have a maximum width of 4.6m, would be at the same level as the ground floor of the property and would feature a set of stairs that would run from the terrace down to the level of the rear garden. To the front of the property, the proposed light well would be enclosed by a glass balustrade with a height of 1m.
- At first floor level a rear extension is proposed to project 2.8m beyond the rear elevation of the dwelling with a width of 5m. The proposed first floor rear extension would support a shallow crown roof with an eaves height to match the original dwelling and a maximum height set below the main ridge height by 4m.
- New boundary screening. Along the western side boundary in front of the dwelling for a length of 9.5m as well as along the Eastern side boundary for a length of 22m timber fencing with a height of up to 1.8m is proposed. Along the Eastern boundary towards the rear of the property timber fencing is proposed with a height of 2.5m.
- Alterations to the curtilage of the dwelling including resurfacing of the front and sides of the property and alterations to levels. A porous 'Ecopave' material is proposed to the front of the site and Grey Indian Sandstone is proposed along the side of the dwelling. The alterations to levels would include a continuation of the ground floor level along the side of the property 3m further towards the rear, where a new set of steps are proposed down to the rear garden level.
- Alterations to the fenestration of the dwelling including replacement of the existing front bay window (depth/projection to match existing) to the front, no.5 replacement windows on the side elevation of the main dwelling and no.1 to the rear.

The applicant has amended the plans following discussions with officer:

- The front basement light well has been reduced
- The proposed fence height at the front has been reduced to 1m high, 2.5m from the back of the pavement.

#### **4. Public Consultation**

Consultation letters were sent to 7 neighbouring properties. Following the submission of a revised scheme, a full re-consultation was completed where letters were resent to neighbouring properties and the time in which to submit comments was extended by a further 21 days.

Responses have been received from 17 contributors, comprising 19 letters of objection.

The objections received can be summarised as follows (some of the comments received are in relation to superseded plans):

- Proposal would deleteriously affect the street environment and scene

- Consultation period too short
- Lack of proper consultation/ lack of notice / undue haste in process
- Impacts on Privacy
- Impacts on light
- Impacts on outlook
- Impacts on parking
- Parked cars would protrude onto pavement
- Overdevelopment of site / original dwelling
- Extensions disproportionate
- Development out of character with local area
- Noise and disruption
- Cumulative impact of permitted and proposed development
- Proposed lightwell oversized / out of character
- Potential for basement to be used as a self-contained unit
- Size/depth of extensions visual overbearing
- Over fenestration
- Recent refusal along the street would mean that this proposal is not justifiable.
- Development will lead to structural instability
- Development will lead to drainage issues
- Proposed basement would be prone to flooding
- Proposed works would affect the water table
- Works would increase risk of flooding and sewers overflowing during heavy rainfall
- Building operations have been commenced prior to a planning determination
- Belief that applicants would be required to give an indemnity against costs of any future remedial works
- Proposals would set a precedent for future development
- Proposals against Design Guidance
- Proposed development would not be allowed in the nearby Conservation Area
- Development is outside the parameters of draft Neighbourhood Development Plan
- Proposal would 'add to danger' of parents dropping children to nearby school
- Resulting dwelling could be used as an HMO

## **5. Planning Considerations**

### **5.1 Policy Context**

#### National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

### The Mayor's London Plan March 2015

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2031. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

### Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5.
- Relevant Development Management Policies: DM01, DM02.

The Council's approach to extensions as set out in Policy DM01 is to minimise their impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and make a positive contribution to the Borough. The development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

### Supplementary Planning Documents

#### Residential Design Guidance SPD (adopted April 2013)

- Sets out information for applicants to help them design an extension to their property which would receive favourable consideration by the Local Planning Authority and was the subject of separate public consultation. The SPD states that large areas of Barnet are characterised by relatively low density suburban housing with an attractive mixture of terrace, semi detached and detached houses. The Council is committed to protecting, and where possible enhancing the character of the borough's residential areas and retaining an attractive street scene.
- 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.
- In respect of amenity, states that extensions should not be overbearing or unduly obtrusive and care should be taken to ensure that they do not result in harmful loss of outlook, appear overbearing, or cause an increased sense of enclosure to adjoining properties. They should not reduce light to neighbouring windows to habitable rooms or cause significant overshadowing, and should not look out of place, overbearing or intrusive when viewed from surrounding areas.

#### Sustainable Design and Construction SPD (adopted April 2013)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

## **5.2 Main issues for consideration**

The main issues for consideration in this case are:

- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents.

### **5.3 Assessment of proposals**

#### 5.3.1. Potential impacts upon the character and appearance of the existing building, the street scene and the wider locality

The Council's Residential Design Guidance SPD 2013 advises that extension should be subordinate additions constructed with materials which are in keeping with the rest of the house. For semi-detached dwellings, ground floor extensions with a depth of up to 3.5 metres and first floor extensions with a depth of 3 metres set away 2m from boundaries would normally be considered acceptable but it also advises that care should be taken in the design and location of extensions to minimize impacts upon neighbouring properties.

Middleton road is characterised by two storey, predominantly semi-detached dwellings of very similar form, spacing and architectural vernacular. Properties along the row were designed with original rear single storey outriggers. The application property, along with the adjoining property appear to have completed and benefit from a ground floor infill extension. At ground floor level these properties thus share the same rear building line.

Many of the properties in the local area have been altered in various forms, often as an outcome of the occupiers availing of their permitted development rights. As a consequence rear extensions (at both ground and first floors), hard surfaced front gardens and basements serviced by generous front lightwells have become characteristic features of the local area. As such, there is no objection in principle to further extension to the application property.

The proposed alterations to the front of the property would retain all of its main architectural features (principally the significance of the two storey front bay, front canopy/porch and the proportions of the front façade). The resulting dwelling would not appear incongruous within the streetscene or lead to an unbalancing effect on the pair of semi-detached dwellings. The proposed lightwell would not be dissimilar to those which are in existence on properties along the street and as such is not objectionable.

To the rear of the site, the proposed extensions would remain in accordance with the Council's Residential Design Guidance SPD. Although the width of the proposed first floor would be wider than those in existence to either side, the proposed extensions would retain the rhythm of projecting first floor rear extensions which prevails along the row. The ground floor rear extension has been designed to have a depth equal to the bay window on the adjoining property (no.9).

The proposed rear terrace would remain a subordinate feature to the main dwelling. The proposed lower ground patio would project further than the stipulated 3m guidance but would primarily be situated below the proposed rear terrace. The proposed lower patio would be open to the elements and at a level approximately 1.3m lower than the level of the rear garden. The lower patio would thus be perceived as a feature of the rear garden, similarly to the adjoining site (no.9).



It is not considered that the proposed extensions would be disproportionate to the original dwelling and that the resulting dwelling would remain in keeping with the local area. It is not considered that the scheme would represent an over development of the application site.

The front of the site is currently hard surfaced and used for parking. The replacement of the existing hard surfacing as well as the erection of the part 1.8m high boundary fences proposed (set back from the highway boundary) would be permitted under Class F, Part 1 and Class A, Part 2, Schedule 2 of the General Permitted Development Order 2015 and as such is also not objectionable. Two cars could adequately be parked on the front of the site and so it is not considered that the scheme would lead to an increased pressure upon on street parking or inhibit highways safety.

The re-landscaping to the side and rear of the site would represent an improvement to the existing site and as such there is no objection. The proposed boundary fencing towards the rear of the site would require express permission but would not appear out of keeping with the local area or visually obtrusive.

The proposed scheme is therefore not objectionable in terms of its impact upon the character and appearance of the application dwelling, streetscene or character of the local area.

#### 5.3.2. Potential impacts upon the amenities of neighbouring residents

The proposed ground floor extension would project 0.75m to be in line with the bay window at no.9. The proposed ground floor extension would project 0.75 metres beyond the rear building line at No.13. At first floor level, the proposed rear extension would project 2.8m beyond the rear elevation and would be set away from the shared boundary with the adjoining property by 2m. The proposed raised terrace would project a further 2.75-3m (beyond the rear building lines of both nos.9 and 13) and would be elevated due to the variation in levels. This terrace would however be set away 2m from the boundary with no.9 and a minimum of 4m from the boundary with no.13 and would include obscure glazed screening with a height of 1.8m along either side return. The proposed alterations to levels at the side of the property would lead to an increase in the height when viewed from no.13, however due to the lack of primary, clear glazed windows on the side elevation of this neighbouring dwelling (the side window to the rear habitable room would be considered to be a secondary window and the small ground floor side window and partially glazed door serve non-habitable rooms), the impacts of this element is not considered significant.

Due to the scale, siting, design, and orientation of these proposed elements it is not considered that the residential amenities of any neighbouring resident would be impacted upon to a level of detriment as a result of the proposed works. This would include impacts upon outlook, light, sense of enclosure, privacy and visual impact.

In order to ensure that the privacy of the neighbouring residents are protected conditions relating to the use of the flat roof; obscure glazing facing towards no.13; requirement to retain screening to the raised terrace and removal of PD rights relating to new first floor side windows to the proposed extension will be applied. In order to ensure that the intensity of use within the site is not increased to a detrimental effect on local residents, a condition will be added ensuring that the proposed basement remains ancillary to the main dwelling and that the overall dwelling is retained as a single family dwelling house.

To the front of the property, the proposed alterations would not cause any impacts upon the living conditions of any neighbouring resident.

### 5.3.3 Other comments:

With regards to the on-going works on the application site; it should be advised that the property benefits from permitted development rights and that a Proposed Lawful Development Certificate (15/06053/192) recently found that a proposed loft conversion / roof extensions as well as alterations to the basement was Lawful and thus did not require planning permission. The owners of the property are therefore entitled to implement these works without further notification. The on-going alterations to the roof of the dwelling do not form part of the hereby proposed scheme and thus does not form a material consideration for the determination of this application.

## **5.4 Response to Public Consultation**

Responses to comments which have not been previously addressed in the above appraisal:

- Planning applications must be assessed based on their own merits. Previous planning history on nearby properties or the potential for precedents in development may not form a material consideration for this scheme.
- The application property is not within the nearby Conservation Area. The special protection measures which apply for properties within Article 2(3) land may not be applied.
- Until the draft Neighbourhood Development Plan has been formally adopted its prescriptions may not form a material consideration.
- The Local Planning Authority does not have the jurisdiction to require indemnity payments. This would form a civil matter.
- Issues relating to structural stability, drainage and impact to local water tables are covered by separate legislation (principally The Building Regulations 2010). It is not considered that such issues could form a reason for refusal in this case.
- Issues relating to noise and disturbance during construction are similarly covered by separate legislation (principally the Environmental Health Act 1990, as amended) and may not form a material consideration in planning decisions.

## **6. Equality and Diversity Issues**

The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set in the Equality Scheme and supports the Council in meeting its statutory equality responsibilities.

## **7. Conclusion**

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposed development would have an acceptable impact on the character and appearance of the application site, the street scene and the locality. The development is not considered to have an adverse impact on the amenities of neighbouring occupiers. This application is therefore recommended for approval.

