

**Location**                      **409A Long Lane London N2 8JN**

**Reference:**                      **17/3231/FUL**                      Received: 18th May 2017  
Accepted: 23rd May 2017

Ward:                              East Finchley                      Expiry 18th July 2017

Applicant:                      Mr Ricky Kotecha

Proposal:                      Single storey rear extension following demolition of existing rear extension  
and construction of replacement side boundary fence facing the junction with  
Elmfield Road

**Recommendation:** Approve subject to conditions

AND the Committee grants delegated authority to the Head of Development Management or Head of Strategic Planning to make any minor alterations, additions or deletions to the recommended conditions/obligations or reasons for refusal as set out in this report and addendum provided this authority shall be exercised after consultation with the Chairman (or in his absence the Vice- Chairman) of the Committee (who may request that such alterations, additions or deletions be first approved by the Committee)

- 1      1.      The development hereby permitted shall be carried out in accordance with the following approved plans:
  - PD17050 - EB: Existing Block and Site Location Plans
  - PD17050 - PB A: Proposed Block Plan
  - PD17050 - 01 C: Existing and Proposed Ground Floor Plan
  - PD17050 - 02: Existing Elevations
  - PD17050 - 03 D: Proposed Elevations
  - PD17050 - 04: Proposed Elevation without fence
  - Agents email dated 09/01/2018 confirming materials

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 extension shall match those used in the main existing building as confirmed in the agents email dated 09.01.2018 and not the existing materials used for the existing extension/outbuilding.

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 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).

- 5 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 elevation(s), of the extension(s) hereby approved, facing No. 407 Long Lane.

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).

- 6 Before the building hereby permitted is first occupied the proposed window(s) in the side elevation facing the junction with Elmfield 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 2016).

- 7 Before the extension hereby permitted is first occupied the proposed side boundary fence at the side elevation facing the junction with Elmfield Road shall be erected as the approved drawing no. PD17050 - 03 D and shall be permanently retained as such thereafter.

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 2016).

- 8 The use of the extension 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).

**Informative(s):**

- 1 In accordance with paragraphs 186-187, 188-195 and 196-198 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.

## **Officer's Assessment**

### **1. Site Description**

This application refers to a southwest facing a ground floor flat within a two-storey, end-of-terrace building sited on the corner of Long Lane and Elmfield Road, East Finchley. The host dwelling is adjoined by Flat A with a shared yard to the rear. The flat has an existing two-part, flat roofed, two-storey rear extension.

The half of the extension nearest the dwelling is constructed from brick, while the rear half is a prefabricated outbuilding used for storage.

The site falls within a predominantly residential area and is not listed nor falls within a conservation area.

It is noted that the Enforcement Case reference ENF/01510/13/F for the construction of the outbuilding was closed on 27.11.2013. The Enforcement officer at that time noted that at the time of the inspection, the rear outbuilding had been connected to the approved extension. However, the case was subsequently closed as they considered it not expedient to issue a notice as they considered that it would likely obtain planning permission. It is further considered that due to the passage of time, the existing structure is lawful.

### **2. Site History**

Ref No: F/03800/11

Description: Conversion of ground floor shop into 1 self-contained flat with associated internal alterations and external alterations to front and side elevations.

Decision: Approved Subject to Conditions 22 November 2011.

Ref No: C05718E/01

Description: Retention of rear dormer window forming additional loft space.

Decision: Permitted 24 Dec 2001

### **3. Proposal**

This application seeks full planning permission for the demolition of the existing single storey rear extension (storage area) and the erection of a replacement single storey rear extension of a smaller size.

The proposed extension would be 3.1m wide, projecting towards the rear boundary for 3.3m facing the side boundary with Flat A and 4.5m facing the junction Elmfield Road, squaring off to the rear.

The extension would measure 2.9m above the natural ground level. The replacement extension would be constructed of brick with a door and adjoining glazing panel in the side elevation facing Flat A and with 2no. windows in the rear elevation.

The side elevation would be set away from no. 407 Long Lane by 3m and the proposed rear elevation would be set away from the neighbouring side boundary with no. 2 Elmfield Road by at least 1.9m.

The proposed extension would accommodate a living room and storage room.

It is noted that the applicant has stated that they own both of the ground floor flats.

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

Consultation letters were sent to 13no neighbouring properties and 8 no. letters of objection has been received based on the following grounds:

Initial comments:

- Impact on outlook visual amenity and character
- Fails to respect the size, height or scale of the surrounding buildings or streets.
- Impact on the foundations of the neighbouring property.
- Issues in relation to access for the neighbouring property to render their gable elevation (contrary to Access to neighbouring land Act 2002).
- Previous enforcement breaches at the site.
- Previous works not completed to a satisfactory standard.
- Works to shed inadequate and internal floor level appears to have been raised to match the floor level of the flat resulting in raised roof line.
- Works may not comply with building regulations.
- Rear structure may be currently used as habitable space.
- Overdevelopment of the site.
- Parking issues.

Comments following neighbour re-consultation on amended drawings were received from some of the previously consulted objectors:

- Amended proposed extension still falls short of the high quality design required by Policy DM01.
- Disproportionate intensification that fails to respect the appearance, size, height and scale of surrounding buildings.
- Loss of outlook for adjoining occupiers
- Extension too high.
- No evidence that planning permission has been sought or granted for existing work.
- Amended drawings unclear and lacks detail
- No floor plan.
- Current windows project onto the immediately adjoining pavement and open at face/head height and as such are a serious hazard to passers-by.
- Issues with existing poor quality extension.
- Prior history of contravening planning policy (reference ENF/00226/13/F)
- Previous objection still stands
- Issues with internal floor level being raised hence the correspondingly raised roof line.
- Parking issues.
- Property is in multi-occupancy.
- Proposal endorsed to demolish the existing concrete wall and storage shed but extension shouldn't be higher than the top of this wall.
- Foundation issues
- Issues with legal right of access
- Issues with existing built works at proposal property.

#### **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 2016

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)

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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.

Policy CS NPPF seeks to ensure that planning decisions are carried out in line with the main focus of the NPPF, namely sustainable economic development and collaborative working.

Policy CS1 sets out Barnet Council's strategy to concentrate and consolidate housing and economic growth in well located areas that provide opportunities for development, creating a quality environment that will have positive economic impacts on the deprived neighbourhoods that surround them.

Policy CS5 seeks to ensure that development in Barnet respects local context and distinctive local character creating places and buildings of high quality design.

Policy DM01 seeks to protect character and amenity by ensuring that development is meets a high standard of design reflecting local distinctiveness. The policy further seeks to ensure that proposals are designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers.

#### Supplementary Planning Documents

##### Residential Design Guidance SPD (adopted 2016)

- 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 proposed 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 2016)

- 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 surrounding area;
- Whether harm would be caused to the living conditions of neighbouring residents.

## **5.3 Assessment of proposals.**

Whether harm would be caused to the character and appearance of the existing building, the street scene and the surrounding area

An Enforcement Case reference ENF/01510/13/F for the construction of the outbuilding was closed on 27.11.2013. The Enforcement officer noted that at the time of the inspection, the rear outbuilding had been connected to the approved extension. However, the case was subsequently closed as they considered it not expedient to issue an Enforcement notice given in their view it was likely to obtain planning permission. It is further considered that due to the passage of time, the existing structure is lawful.

The proposed extension would replace the existing extension. The proposed extension would be smaller and more subordinate in size including its depth. It is acknowledged that the proposed extension is marginally wider however the proposal would be lower in height and projection than the existing extension.

The materials of the proposed extension would match the main dwelling and would therefore be an improvement in the appearance of the rear extension compared with the existing. The existing as a lawful structure is a material consideration.

It is acknowledged that objections have been received on the basis that the size, height and scale of the proposed rear extension would not be in keeping with the surrounding area. Given the modest difference in size between the proposed and the existing rear extension, it is not deemed to be reasonable grounds for refusal. Furthermore, it is

considered that the extension would be a marked improvement on the existing rear element and would therefore have a more acceptable impact on the immediate locale. A condition would be added into the approval for the proposed materials to match the main dwelling allowing for continuity and an acceptable impact on the character of the immediate locale.

Having regard to the above, the proposal is deemed to comply with policies CS NPPF and CS5 of the Local Plan Core Strategy (2012), Policy DM01 of the Local Plan Development Management Policies (2012) and The Residential Design Guidance SPD (2016).

#### Whether there would be an acceptable level of amenity for the future occupiers

The Sustainable Construction SPD reflects The Mayor's London Plan and sets out the minimum required amount of floor space, living room size and the amount of amenity space required providing an acceptable level of amenity for proposed dwellings.

The proposed living room would be served by sufficient daylight for a habitable room due to the window in the southwest elevation and the bedroom meets sufficient floor space for the existing one person bedroom flat.

Whilst it is considered that the rear amenity space is not extensive, the current proposal would allow for a larger rear shared amenity space which would increase from 15m<sup>2</sup> to 22m<sup>2</sup>. Therefore this element of the proposal is more acceptable for current and future occupiers.

#### Whether harm would be caused to the living conditions of neighbouring residents

It is noted that objections have been received on the grounds of the impact the proposal would have on the outlook of the neighbouring dwellings. The proposed extension would have a lesser rearward projection from the rear building line than the existing rear element, and would be erected lower in height than the existing extension. The existing structure is built up to the side boundary with no. 2 Elmfield Road. However, the proposed extension would be set away from this boundary by 1.9m. As such the proposal would not have a further impact on no. 2 Elmfield Road to the north.

Furthermore, the decrease in size of the proposed extension would allow for a more acceptable impact on the glazed doors in the rear elevation of the flat at no. 409. Therefore, no further adverse impact on the light and outlook of the neighbouring properties is envisaged and therefore this element of the extension would not warrant refusal of the application. This element would also in turn have an acceptable impact on no. 407 Long Lane due to the size, siting, design and distance away from this side boundary by in excess of 3m.

There are no windows in the flank (northwest) elevation and as such the proposal would not impact on the privacy of the neighbouring properties on Elmfield Road.

Having regard to the above, the proposal is deemed to comply with policy DM01 of the Barnet Local Plan Development Management Policies (2012) and is recommended for Approval, subject to conditions.

## **5.4 Response to Public Consultation**



Eight objectors have submitted objections. Issues regarding outlook and character and appearance have been addressed earlier within this report.

An objection has been raised on the right of access and the Access to Neighbouring Land Act 1992. This act is civil law and not relevant to the planning application, as such it would be unreasonable ground to refuse the application on this basis.

An objection was raised in relation to the use of the shed as habitable rooms. It was evident from the site visit that the shed was used for storage purposes.

In relation to objection of Enforcement Issues, including Construction of an Outbuilding under enforcement case reference ENF/00226/13/F, planning enforcement records show that all cases have been closed.

A further objection has been raised stating the proposed extension may affect the foundations of a neighbouring property and also the compliance of the extension with Building Regulations. The impacts on foundations and issues in relation to Building Regulations are not the responsibility of the planning department and are therefore not reasonable grounds for refusal. Once again some of the issues are private and civil matters to be resolved between the applicant and the neighbours but all fall outside the remit of the Planning Department.

Windows within the side elevation facing Elmfield Road do not form part of the proposal. No windows are proposed within the replacement extension.

Lastly, objections have been raised in relation to works which have been carried out historically at the property, which do not form a part of the current proposal.

## **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 the compliance of the attached conditions the proposed extension rear extension would have an acceptable impact on the character and appearance of the area and the amenities of neighbouring occupiers. This application is therefore recommended for APPROVAL.

