

Location **13 Leicester Road London N2 9DY**

Reference: **18/3791/RCU**

Received: 19th June 2018

Accepted: 22nd June 2018

Ward: East Finchley

Expiry 17th August 2018

Applicant: Mr & Mrs Claire and Dan Carter

Proposal: Roof extension including L-shaped rear dormer window to main roofslope and existing rear projection and 4no. rooflights to front roofslope (RETROSPECTIVE APPLICATION)

Recommendation: Refuse

AND the Committee grants delegated authority to the Service Director – Planning and Building Control 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 The roof extension, by reason of its design, size, siting and scale fails to result in a subordinate and proportionate addition to the original building and is detrimental to the character and appearance of the host property, the semi-detached of which it forms part and the surrounding area contrary to Policy DM01 of the Barnet Development Management Policies DPD (2012), Policies CS1 and CS5 of the Barnet Core Strategy (2012), Policy 7.6 of the London Plan (2016) and the advice contained within the Barnet Residential Design Guidance Supplementary Planning Document (2016).

Informative(s):

- 1 The plans accompanying this application are:

SITE LOCATION PLAN

2017.04.1531-01

2017.04.1531-02

2017.04.1531-03 REV A
2017.04.1531-04 REV A
2017.04.1531-05 REV A
2017.04.1531-06 REV A
2017.04.1531-07 REV A

- 2 In accordance with paragraphs 186-187, 188-195 and 196-198 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. To assist applicants in submitting development proposals, the Local Planning Authority (LPA) has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered.

The applicant did not seek to engage with the LPA prior to the submission of this application through the established formal pre-application advice service. The LPA has discussed the proposal with the applicant/agent where necessary during the application process. Unfortunately the scheme is not considered to accord with the Development Plan. If the applicant wishes to submit a further application, the Council is willing to assist in identifying possible solutions through the pre-application advice service.

Officer's Assessment

Member Call in request

Cllr Farrier has requested that, as there are several other similar roof extensions in the road, the application should be determined by the committee.

1. Site Description

The application site contains a 2 storey semi-detached dwellinghouse located on the south side of Leicester Road, which is a predominantly residential area. The property is not located within a conservation area, and is not listed.

2. Site History

Reference: 17/3175/192

Address: 13 Leicester Road, London, N2 9DY

Decision: Unlawful

Decision Date: 12 July 2017

Description: Roof extension involving hip to gable, rear dormer window with juliette balcony, 4no. rooflights to front elevation to facilitate a loft conversion

Reason - The reason for this determination is: The proposal is for a building operation which, by virtue of Sections 55 and 57 of the Town and Country Planning Act 1990, is development requiring planning permission. Such development is NOT PERMITTED under Class B, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended. This is because the proposed enlargement extends beyond the outside face of an external wall of the original dwellinghouse. The proposal would therefore fail to comply with Condition B.2 (b) of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended.

3. Proposal

This application seeks the retention of a "L" shaped roof extension to the main roof and extending over part of the existing rear outrigger and 4no. rooflights to front roofslope. The roof extension to the main roof is shown as 5.2 metres in width, 2.4 metres in height and 3.9 metres deep. The outrigger roof extension is shown as 3.2 metres in depth, 2.5 metres in height and 4.1 metres projection beyond the main roof extension.

It is stated on the application form that the building works commenced on 7th August 2017 and the works were completed on the 13th December 2017.

4. Public Consultation

Consultation letters were sent to 10 neighbouring properties, no objections have been received.

The applicants have submitted a supporting statement in support of their application which can be summarised as follows (the full statement has been circulated separately to Members):-

The house has not been extended previously.

There are a number of similar extensions in the "County Roads" area of East Finchley and comment that in their estimation some 99 other loft conversions – albeit not all comparable – are present which equates to some 25% of properties in the adjoin four roads.

The extension is not visible from the front.

Disagree with the reason for the refusal of the Certificate of Lawfulness application.

Complain about the availability and advice given by the case officer as well as the time taken to process the application despite it being a "fast track" case.

In addition the following comments are made:-

"Moving out of London will improve the quality of life and ability to function for our 17 year old daughter who is largely bedbound and suffering with a debilitating disease, for which there is no cure or effective treatment. Since I had to give up full time work in April 2016 to become my daughter's full time carer, it is no longer financially viable for us to live here, which is another reason we need to sell our home. This is not something we could have ever planned for. Families of chronically ill children need support. It is not something you ever think will happen to your own family.

We have lived here for 15 years, paid council tax and contributed to the local community. Our children have grown up here. Councils are in charge of services for their local community, why are we being penalised? This has added an extra and unnecessary amount of time, money, worry and emotional distress. We just want it to be resolved so that we can move on with our lives. It is only a loft conversion very similar to a large number of existing ones and our house looks beautiful."

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 24 July 2018. 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.

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The revised National Planning Policy Framework (NPPF) was published on 24th July 2018. This is a key part of the Government's reforms to make the planning system less complex and more accessible, and to promote sustainable growth. It is a material consideration in planning decisions. Similar material considerations are the Government's planning policy for traveller sites, and its planning policy for waste as well as Written Ministerial Statements where relevant to planning decisions.

Existing policies in Barnet's Local Plan (2012) and the London Plan (2016) should not be considered out-of-date simply because they were adopted prior to the publication of the revised NPPF. Due weight should be given to them, according to their degree of consistency with the revised NPPF'.

The Mayor's London Plan 2016 (MALP)

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 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 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.

In respect of roof extensions the following advice is given:-

Design - should reflect style and proportion of windows on the existing house. Dormers may have flat, gabled, hipped or curved roofs and subject to the criteria on position, should normally align with the windows below.

Position - Dormer roof extensions should not overlap or wrap around the hips or rise above the ridge. Adequate roof slope above and below the dormer is required on semi-detached and terraced properties, the dormer extension should be set in at least 1 metre from the party wall, flank wall or chimney stack. In smaller terraced houses where due to internal physical constraints dormers that are set in less than 1 metre will be taken into account providing such constraints and any minimum Building Regulation or fire regulation requirements are clearly and robustly demonstrated.

- Scale - Dormer roof extensions should normally be subordinate features on the roof and should not occupy more than half the width or half the depth of the roof slope. Dormers which wrap around the hips will not normally be considered acceptable

- Proportion - To retain the balance of the house, the dormer roof extension should not normally be wider than the window below it and the dormer cheeks kept as narrow as possible (see Figure 10). For smaller enclosed houses, such as terraces consideration and allowance will be given to internal workable space and Building Regulation requirements for wider roof extensions. On side dormer extensions, where there is a requirement to provide adequate headroom for stairs, the extension should still be set away from the ridge and clear of the hips .

- Overlooking - Care should be taken in the design and location of new dormers, including side dormers to minimize overlooking

- Materials - The window materials and design should be in keeping with those on the rest of the house. The dormer cheeks should be finished with lead, tiles, slates or other traditional materials, and the top of flat roofed dormers should be finished with lead or zinc. The use of roofing felt for the roof, cheeks or face of the dormer should be avoided

- Roofs - Dormer roofs should be sympathetic to the main roof of the house. For example, pitched roofs to dormers should be hipped at the same angle as the main roof

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 wider locality;

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

5.3 Assessment of proposals

Impact on Street scene, Existing Building and Character of the Area

The roof extensions as built dominate the original roof of the house to an unacceptable degree, in respect of the main roof it extends the full width of the property and, with the exception of a 20cm set back from the eaves, extends the full height of the roof leaving little of the original rear slope intact. The original roof to the rear outrigger had a pitched roof with the eaves being set some 0.8 m below those of the main house; the ridge of the outrigger roof being some 0.8 m high above the eaves level. The outrigger roof was subservient to the main roof with its ridge being set some 1.5 m below the ridge of the main roof. Whilst the extension does not extend the full depth of the outrigger, being 4m deep compared to 7m of the outrigger its height of 2.5m to a flat roof combined with its flat roof design is at odds with the scale, design and appearance of the roof to an unacceptable degree. It is out of character with the existing house and the adjoining half of the semi and the surrounding area contrary to policy and design guidance referred to earlier in this report.

It is accepted that there are examples of similar style and size of roof extensions elsewhere in the locality as referred to in the applicant's supporting statement. There are a number of existing similar developments on this side of the street, particularly at 17, 19, 35 and 45 but it would appear however that none of these have applied for a Lawful Development Certificate or Planning Permission. They perhaps have become lawful over time. The Local Planning Authority does not have the ability to monitor all developments and so it is difficult to know when these extensions were constructed. The determining criteria for permitted development changes over time. Changes in respect of qualifying criterion for roof extensions changed in 2015 and as can be seen from the planning history section of this report, an application for a Certificate of Lawfulness in respect of the extensions the subject of this application was refused on 12 July 2017. No appeal was submitted against this decision.

The current planning application falls to be determined against the relevant national and local planning policies and design guidance. The character of the area is a material consideration as is the presence of existing roof extensions in the locality. Whilst a number of roof extensions exist, as there is no record of planning permission having been obtained these are of limited weight and it is not considered that this frequency of existence outweighs the fact that the proposed development would be contrary to the adopted policy and guidance.

The proposed retention of the rooflights at the front of the house is not considered to harm the street scene in Leicester Road and no objection is raised to this element of the proposal.

Impact on neighbouring amenity

The relationship with the immediately adjoining properties is such that it is not considered that the proposal results in significant levels of overlooking / loss of privacy or loss of sunlight such as to warrant refusal nor would neighbours outlook be significantly affected.

5.4 Response to Public Consultation

Many of the comments made in support of the application have been addressed in the body of the report and the personal circumstances raised are addressed in the following section of the report.

With regards to the refusal of the Certificate of Lawfulness, the comments are noted but no appeal against the decision was lodged. The works on the roof extension commenced after the refusal of the certificate and any such works undertaken without the benefit of planning permission are done so entirely at the applicant's own risk.

With regard to officer advice, this is given in good faith and is not binding on the Council as Local Planning Authority or the applicant.

It is regrettable that it has not been possible to process the application as quickly as initially envisaged but "fast track" applications are still subject to the normal processing criteria such as the consultation process and Member call in, such that the fast track timescales cannot be guaranteed.

6. Equality and Diversity Issues

Under section 149 of the equalities act 2010, the Council has a duty to ensure that it behaves as follows:

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.

(b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

(c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic:

(b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.

(c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

(a) Tackle prejudice

(b) Promote understanding

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(7) The relevant protected characteristics are:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

In considering this application, the Council has taken the provisions of the Equalities Act into consideration.

7. Conclusion

It is accepted that, as advised in the applicant's supporting statement, there are similar roof extensions present in Leicester Road and the surrounding area but it is not considered that they are such a prevalent feature in the locality such as justify the retention of such a large, bulky roof extension which detracts from the character and appearance of the house and surrounding area to an unacceptable degree. The roof extension is contrary to the Council's design guidance in respect of such development, the presence of other extensions, whilst a material consideration, is not in this case, considered sufficient to override that advice particularly as it appears that none in the immediate vicinity have had the benefit of planning permission.

The family's personal circumstances have been taken into account as required by the Equalities Act but it not considered that the advantages that would accrue to the family outweigh the harm caused by the retention of the roof extension. Personal circumstances should only be taken into account where the planning issues are finely balanced. Unfortunately, as explained above, this is not he case here.

Accordingly refusal is recommended.

