

Location **143 Edgwarebury Lane Edgware HA8 8ND**

Reference: **19/1504/RCU**

Received: 14th March 2019

Accepted: 14th March 2019

Ward: Edgware

Expiry 9th May 2019

Applicant: Mr & Mrs Schtraks

Proposal: Retention of single storey rear extension and construction of rear raised terrace and steps (AMENDED DESCRIPTION - NO CHANGE TO DRAWINGS)

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 extension by reason of its size and excessive rearward projection appears insubordinate and disproportionate to the scale and character of the existing dwelling house and the cumulative impact of all extensions built at the property results in an incongruous, inappropriate form of development, out of context with the prevailing character of the host building and wider pattern of development and introduces development detrimental to the established character of the wider locality contrary to policies CS1 and CS5 of Barnet's Adopted Core Strategy (2012), policy DM01 of the Adopted Development Management Policies DPD (2012) and the Adopted Residential Design Guidance SPD (2016).

Informative(s):

- 1 In accordance with paragraphs 38-57 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.

Description: Single storey rear extension with a proposed depth of 6 metres from original rear wall, eaves height of 3 metres and maximum height of 3 metres.

Reference: 19/0019/PNH

Address: 143 Edgwarebury Lane, Edgware, HA8 8ND

Decision: Prior Approval Required and Approved

Decision Date: 4 February 2019

Description: Single storey rear extension with a proposed depth of 7.45 metres from original rear wall, eaves height of 3 metres and maximum height of 3 metres.

Reference: 18/7491/192

Address: 143 Edgwarebury Lane, Edgware, HA8 8ND

Decision: Lawful

Decision Date: 16 January 2019

Description: Roof extension involving a side and rear dormer window and 2no front facing rooflights (amended description).

Reference: 18/6957/HSE

Address: 143 Edgwarebury Lane, Edgware, HA8 8ND

Decision: Approved subject to conditions

Decision Date: 18 December 2018

Description: Single storey rear extension.

Reference: 18/6850/PNH

Address: 143 Edgwarebury Lane, Edgware, HA8 8ND

Decision: Prior Approval Required and Refused

Decision Date: 17 December 2018

Description: Single storey rear extension with a proposed depth of 6 metres from original rear wall, eaves height of 3 metres and maximum height of 3.8 metres.

Reason for refusal:

1. Prior Approval is hereby required and refused for the proposal under section A.4(3) of the Town and Country Planning (General Permitted Development) Order 2015. This is because the development does not comply with the requirements of sections A.1(j) of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, as the enlarged part of the dwellinghouse would extend beyond a wall featuring a side elevation and have a width greater than half the width of the dwelling house.

Reference: W/00630

Address: 143 Edgwarebury Lane, Edgware, HA8 8ND

Decision: Approve with conditions

Decision Date: 6 April 1966

Description: Kitchen, lounge and garage extension and alteration to house.

3. Proposal

The existing single storey rear extension measures (D x W x max H x min H) (5.2m - 7.54m x 9.4m - 12.07m x 3.01m). Drawing number 143143-01REV.01 shows the existing extension is situated on the shared boundary line with No.141 and is located 0.89 metres from No.145. The roof of the extension on the proposed plans would benefit from a rooflight (L x B) (1.2m x 3.01m). Drawing number 143143-02REV01 shows the side extension element of the development is noted to have an eave height of 2.2 metres and maximum height of 5.18 metres and benefit from 2no. rooflights measuring (L x B) (0.97m x 0.78m).

It was noted that the dimensions of the existing boiler room extension obtained on site correspond with the dimensions shown on drawing number 143143-02REV01. The boiler room addition measures (D x W x max H x min H) (2.59m x 1.25m x 2.65m) and is built slightly off the shared boundary line of No.141 Edgwarebury Lane.

4. Public Consultation

Consultation letters were sent to 4 neighbouring properties,

2no. objections were received and 2no. of contributors.

Summary of comments include:

- The existing plans are entirely inaccurate and do not represent what exists on site.
- Single storey rear extension has already been constructed.
- The existing extensions extends to and beyond our boundary.
- Current arrangement negatively affects light and outlook of both neighbouring properties
- Windows have been installed incorrectly to the plans
- Plans are misleading and should be revised accordingly
- Extension that is being built at No.143 deviates from previously approved plans

It is noted that these objections were made when the application was for a proposed development and before amended plans were sought to ensure on the existing extension on site was accurate reflected in the attached plans.

Committee call-in

Councillor Brian Gordon called the item in to Committee. The stated planning reason for call-in was that in the view of the Councillor that there are marginal planning issues to take into account regarding the acceptability of this development. He continues to state that the applicant has been the unfortunate recipient of poor advice regarding the lawfulness of what is being done, and the consequence of Enforcement requiring the reversal of construction so far carried out in good faith would be colossal for the applicant. Therefore, the Committee should be enabled to consider the planning issue openly in its wider context, to make a judgment which fair in all the circumstances to those concerned.

4.1 Internal Consultation

Having consulted Barnet's tree specialist, they have provided the following comments:

The applicant plans do not show the relationship between the as built extension and the silver birch tree in the rear garden. The site is not located within a conservation area nor is the tree protected by a Tree Preservation Order. The birch tree can be viewed from between the properties and therefore has some level of visual tree amenity however, the quality of the structure does not reduce its overall life expectancy. For these reasons a TPO would not be considered.

There is a significant level change of about 1m between the tree and the extension. Tree roots are unlikely to be present under this area in significant numbers. Therefore, it is concluded that the overall impact of the design would have been broadly acceptable to the health of the nearby birch tree.

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 Revised 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.

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

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.

Whilst capable of being a material consideration, at this early stage very limited weight should be attached to the Draft London Plan. Although this weight will increase as the Draft London Plan progresses to examination stage and beyond, applications should continue to be determined in accordance with the 2016 London Plan.

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 (2016)

- Sets out information for applicants to help them design developments which would receive favourable consideration by the Local Planning Authority. 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 developments 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 it states that developments 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.

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.

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

Officers consider that the main planning considerations are as follows:

- Principle of development
- 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

Principle of development

For areas such as the application site policies CS1 and CS3 of the Barnet Core Strategy expect new developments to protect and enhance the character and quality of the area and to optimise housing density to reflect local context, public transport accessibility and the provision of social infrastructure.

The application site has not been identified for any specific use in development plan planning policies, is previously developed land and is situated in an area characterised by residential housing.

The land is located within walking distance of a number of bus stops, is close to local amenities and services, and utilises existing access.

In such circumstances, Planning Officers find that there is nothing to specifically preclude the redevelopment of the site in the broadest sense, subject to the insitu development being compliant with the relevant development plan policies.

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

Policy CS5 of Barnet's Core Strategy (2012) seeks to ensure that development in Barnet respects local context and distinctive local character creating places and buildings of high quality design.

Policy DM01 of Barnet's Development Management Policies Document DPD (2012) states development proposals should be based on an understanding of local characteristics. Proposals should preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets.

In considering the status of the property, it is essential to summarise the planning history and the contribution that various permissions have made to the appearance of the property. In 1966, permission was granted for various extensions to the side and rear of the property. Following the introduction of the prior approval process for larger householder extensions, a number of such applications were submitted. In December 2018 (18/6850/PNH), an application for a 6m deep rear extension through prior approval was refused on the basis that as it would project from an original side wall and would have a width greater than half that of the dwelling house, it could not be permitted development. The assessment also concluded that there would not be any amenity impact to 141 or 145 Edgwarebury Lane due to the presence of extensions at those properties.

On the same day, a (householder) planning application - 18/6957/HSE - was approved granting a cumulative extension depth from the original rear elevation of 5.2m. This would result in an extension that would be of similar depth to the adjoining neighbours. It was noted in the report that, 'the resultant built form is not considered to be demonstrably disproportionate in its physical manifestation to such an extent that harm would occur to the residential amenities of the neighbouring occupiers'.....'What remains is a single storey rear extension that respects the character and extent of development at the neighbouring properties'.

In February 2019, two further applications for prior approval for a larger householder extension were permitted. The first application (19/0016/PNH) proposed a 6m deep extension along the boundary with 145 Edgwarebury Lane. With a width of 2.61m, it would not contravene the requirement to have a width of less than half the width of the dwelling house and with no amenity impact established by previous submissions, the application was approved. On the same day an additional prior approval application (19/0019/PNH) for a depth of 7.45m was also approved on the basis that it would not exceed half the width of the dwelling house.

The two approvals can both be built out and their construction would not invalidate the permitted development status of the other due the retention of a material gap between extensions.

Due to the time pressure of the 30 May completion deadline, both extensions were commenced. However, the extensions were combined as one structure. In doing so, the development can no longer benefit from permitted development and must be considered under the jurisdiction of the planning acts which requires development to be compliant with the Development Plan (and the NPPF) unless material considerations indicate otherwise. The failure to construct a development compliant with the prior approval permissions and contrary to the Town and Country Planning (General Permitted Development) Order (2015) (As amended) means that there is no permitted development fall back position to support the scheme as a material consideration.

The Council's Residential Design Guidance SPD 2016 advises that rear extensions should be subordinate additions constructed with materials which are in keeping with the rest of the house. For a detached dwelling a depth of up to 4 metres 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. Having assessed the application through the existing plans and by conducting a site visit it was shown that the existing extension protrudes to a maximum depth of 7.54 metres and is not built with materials that correspond with the existing property. Therefore, the existing extension at No.143 Edgwarebury Lane substantially exceeds the advised depth of single storey rear extensions, as noted in Barnet's Residential Design Guidance.

The Residential Design Guidance states that single storey rear extensions need to ensure that they do not appear bulky and prominent compared to the size of the main building and garden in which they relate. It goes on to outline that a depth of 4.0 metres is normally considered acceptable for a single storey rear extension on a detached dwelling. Viewing the existing house, which is 10.72 metres deep and two storeys high, the total depth of the existing single storey rear extension would measure 7.54 metres in depth and a maximum height of 3 metres. The rear extension would constitute a 75% increase to the footprint of the original dwellinghouse. Therefore, it is considered that the development is not sympathetic nor subordinate to the original dwellinghouse due to its scale when compared to the dimensions of the original dwellinghouse. While there are some large extensions within the locality, the extension is substantially larger than existing built forms and far in excess of what would normally be expected in the context of the guidance and policy.

These provide a framework for the consideration of planning applications. The implementation of a 4.0m tolerance for rear extensions seeks to protect amenity but also ensure that extensions are commensurate to the dwelling. While the SPD does recognise situations where larger or shorter extensions would be permissible, in the case of this proposal, no circumstances apply to justify the retention of this extension.

Having viewed the wider area, officer's note both No.141 and No.145 Edgwarebury Lane benefit from substantial existing single storey rear extensions protruding 5.1 metres and 6 metres respectively from the corresponding rear original wall. These extensions were approved under applications W12781/02 and 15/00113/PNH respectively. However, having viewed the wider area, officer's note that there are no similar extensions insitu in the wider locality and the insitu extension at No.143 exceeds the depth of both neighbouring extensions by more than 1.5 metres. Therefore, it is considered that the insitu extension not sympathetic in the wider locality and unacceptable according to DM01.

Officers recognise the presence of these extensions, but these only ameliorate the amenity impact (overbearing, sense of enclosure, loss of light and so on), they do not justify the depth associated with this application.

As such, for the reasons stated above it is considered that the insitu extension applied under this application is detrimental in character to the existing dwellinghouse and wider locality under DM01.

The enlarged rear raised terrace is not considered to harm the character and appearance of the building, the site or the wider area.

Potential impacts upon the amenities of neighbouring residents

It will be important that any scheme addresses the relevant development plan policies (DM01 of the Barnet Local Plan and policy 7.6 of the London Plan) in respect of the protection of the amenities of neighbouring occupiers. This will include taking a full account of all neighbouring sites. Any application should include plans demonstrating how this has been achieved. Specific areas which will need to be addressed in this regard include the proposals impacts on daylight and sunlight.

It is considered that the extension does not have a negative impact on the amenities of the neighbouring occupants at No.141 Edgwarebury Lane. The extension does not have a significant impact on the amenities of that property given the minimal projection beyond the rear elevation.

It was noted on site that the extension at No.145 extends to a depth of 6 metres, which given the orientation of No.145, when viewed from satellite imagery, would appear to extend to a similar depth of the existing extension at No.143, albeit separated by a distance of 2.89 metres. Having been on site it is considered the extension at No.143 would not demonstrably harm the amenities of the residents at No.145 by reason of loss of light, outlook, privacy and sense of enclosure to an extent that would be unacceptable to Barnet's SPD. Furthermore, the extension at No.145 does not benefit from side windows and thus the residents would not have affected by a sense of enclosure as a result on the extension at No.143. Therefore, despite the significant depth of the existing extension at No.143 it is not considered, by reason of the extension at No.145, to result in detrimental harm to the amenities of the occupants at No.145 Edgwarebury Lane.

The existing raised terrace has been extended outwards as a result of the extension however, it is not considered that this would affect the amenity currently enjoyed by the neighbours on either side.

Therefore, it is considered that the amended proposal would not harm the amenity of the neighbouring occupiers to a detrimental level.

5.4 Response to Public Consultation

Key planning considerations have been addressed in the above section. Other points made are not material planning considerations.

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, the proposed development would have an unacceptable impact on the character and appearance of the application site and the wider locality. The development is considered to have an adverse impact on the amenities of neighbouring occupiers at No.141 Edgwarebury Lane and therefore this application is recommended for REFUSAL.

8. Conditions should the application be allowed at appeal

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

143143-01 - Pre-Existing Ground Floor Plans

143143-02 - Pre-Existing Elevations

132132-01REV.01 - Existing Plans

132132-02REV.01 - Existing Elevations

Site Location Plan

Block/Site Plan

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(s) shall match those used in the existing building(s).

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).



