

**Location**                      **Flat 3 43 Sunny Gardens Road London NW4 1SL**

**Reference:**                    **17/5349/FUL**                      Received: 16th August 2017  
Accepted: 22nd August 2017

Ward:                              Hendon                                      Expiry 17th October 2017

Applicant:                      Sunny Trio Limited

Proposal:                      Retrospective application for the Erection of a two storey side extension (approved under appeal reference APP/N5090/A/13/2208810 dated 03/06/2014, conversion of loft space to form further ancillary habitable floorspace for Flat 3 and installation of rooflight.

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

Site location plan  
Existing elevations drwg no. 11-002  
Existing plans 43SG 10-001  
Proposed ground and first floor plan drwg no. 11-001/N/D REV 1  
Proposed loft and roof plan and section drwg no. 43SG 11-002/N/D REV 1  
Proposed elevations drwg no. 43SG 11-003/N/D REV 1

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 conversion of the loft space hereby permitted shall be used as a tv room/ study for purposes ancillary to and occupied in conjunction with flat 3, 43 Sunny Gardens Road and shall not at any time be occupied for purposes involving sleeping, eating and living functions.

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. A pre-application advice service is also offered and the Applicant engaged with this prior to the submissions of this application. 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

The application site is a two story semi-detached property, which forms 4no self-contained flats located on the south west side of Sunny Gardens Road within the ward of Hendon. The adjoining property has also been converted into flats. The northern side of the property is bounded by a pedestrian footpath which permits views of the property to the side and rear. The property has been previously extended by way of a part single/part two storey side and rear extension to facilitate the conversion of the property into 4no.self-contained flats. The property history is set out below, however, the extensions and alterations permitted by a previous appeal where not constructed in accordance with the approved plans and as a result, the side extension is higher than the approved structure in respect of the ridge height, and the eaves height. Subsequently, the roof area is of sufficient height to permit reasonable use of the loft space and in this regard, this area has been decorated and furnished accordingly and is ancillary floorspace to the flat directly below.

The property is not locally/ statutorily listed, it does not lie within a conservation area, and there are no specific restrictions on site.

### 2. Site History

Reference: H/00105/13

Address: 43 Sunny Gardens Road, London, NW4 1SL

Decision: Refused

Reason: The proposals use, by reason of the number of units proposed is likely to result in a harmful level of noise and disturbance as a result of its associated general activity, being detrimental to the residential amenities of no.41 Sunny Gardens Road. This would be contrary to policy DM 04 of the Adopted Barnet Development Management Policies 2012 and the Supplementary Planning Document: Residential Design Guidance.

Decision Date: 19th June 2013

Allowed on Appeal 3rd August 2014

Description: Conversion of existing semi-detached residential building into 4no. self-contained flats, including two storey side/ rear extension and hard and soft landscaping, following demolition of existing side extension.

### 3. Proposal

(Retrospective application for the) Erection of a two-storey side extension (allowed on appeal ref APP/N5090/A/13/2208810), and conversion of loft space to form further ancillary habitable floorspace for Flat no. 3 and installation of rooflight in the south flank roofslope to serve Flat no.3.

It should be noted that the application description has changed since the original planning application which was previously for a loft conversion with rooflight. The description has altered because the planning breaches associated with the implementation of the appeal permission have not been regularised. Namely, the increase in height of the two storey side extension including the additional eaves and ridge height. Compared to the previous approved scheme, the hipped roof form of the two-storey side element reflects an increase in height by approx. 1.0m and set down approx. 0.5m below the pitch to allow sufficient internal head room at loft level. The footprint of the scheme has not changed. The two-storey side addition is sited approx. 2.50m from the common boundary with an intervening alley and approx. 4.0m from the nearest corner of adjacent no . 45

#### 4. Public Consultation

Consultation letters were sent to 27 neighbouring properties.

7 responses have been received in objection to the development for the following reasons:

- Inaccurate plans insofar as the roof height and form to the detriment of the character and appearance of the property, local area and amenity of neighbours in terms of loss of light and outlook;
- Intended increase in occupancy level at roof level and subsequent impact on traffic and parking and congestion
- The property is higher than the existing neighbouring properties.
- The creation of a duplex flat which is what would be proposed by the creation of ancillary habitable space would further intensify the residential occupation.
- The building looks out of character and has become a giant double fronted property.
- Adding an extra floor changes the use of the residential units.
- Building a new floor while breaching conditions should not be rewarded by an approval
- The Council refused planning permission but the Inspector allowed the appeal subject to conditions, which were imposed to protect amenity, but these have been ignored.

#### 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 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 2050. 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.

##### The Mayor's London Plan 2017 (DRAFT)

'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 (adopted October 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 October 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

The application site relates to first floor flat 3 of 43 Sunny Gardens Road and forms 1 of 4 units. The conversion of the property was facilitated by a single/two storey side/rear extension to accommodate 4 self-contained flats and allowed at appeal ref APP/N5090/A/13/2208810 on the 3rd August 2014 following planning refusal H/00105/13 on the 19th June 2013. That application was refused by the Council on the grounds that the proposed development would likely result in a harmful level of noise and disturbance arising from the general activity generated by four flats harmful to 41 Sunny Gardens Road in particular.

It would appear that the principal issue for consideration was the noise impact transfer from 43 Sunny Gardens Road to 41 Sunny Gardens Road. The Inspector was content that the imposition of sound insulation adherent to the Building Regulations would suffice. Furthermore, the retention of boundary treatment between 41 and 43 and the subdivision of the garden would be acceptable. Although this conversion to four flats is larger than similar conversions in the street is not reason to dismiss the appeal. The Inspector acknowledges that the application is for a substantial enlargement, it would not have an adverse impact on the character and appearance of the site or surroundings. Furthermore, the impact on the living conditions at 45 Sunny Gardens Road would be acceptable.

Subsequent to this permission, the development has been constructed to a larger height than that which was approved by the Planning Inspector principally by way of an increase in the eaves and ridge height. This has facilitated the ability of the developers to be able to use the loft space above flat 3 (only).

Flat 3 comprises a 1 bed 2 person self-contained unit. at first floor level and now seeks the addition of 1no. rooflight in the south flank roofslope to facilitate the conversion of the loft to serve a TV room at loft level.

The conversion of the loft would not result in any new extensions to the existing property and would solely function as a secondary, ancillary habitable floorspace for the enjoyment of future occupiers. The conversion of the loft space in itself would not compromise the character and appearance of the property or local area. Access to this space is gained only from Flat 3 and is not accessible from communal space and cannot function as a separate flat. This would require planning permission.

This application is now being considered as a retrospective planning application for the two storey side extension in order to regularise and retain the extension and its additional height. It should be noted also that the Inspector did not consider the size of the extension to be harmful nor the principle of the conversion of the flats. No conditions were imposed that implied that further enlargement was unacceptable or to restrict the manner of occupation of the flats as proposed. The Inspector does conclude in saying that it is necessary to restrict the potential intensity of residential occupation of the appeal property by limiting the occupation of each flat to single people or by people regarded as forming a single household. The condition imposed on this permission relates to the use to be C3(a) comprising use by a single person, a couple (married or otherwise) and any family member or any domestic employee or carer. This current application does not undermine this condition or intent to ensure that the occupation is not overly intensive.

The use set out on the plans shows a television room. This does not supersede principal lounge or dining space and a bedroom is shown on the lower level of the flat. A condition is imposed which prevents this from becoming principal living space such as a bedroom and in effect, the flat is a 1bed2person flat as previously described and given that the loft space is deemed to be surplus to the main living requirements of the flat, would be slightly below

the acceptable London Plan Standard but identical to that which was previously allowed at appeal in 2014.

The intended rooflight would not be visible from a public vantage point given its siting on the south west roofslope adjacent to the projecting party wall with adjoining no 41 Sunny Gardens Road and would be further obscured from view upon approach from the north and south of Sunny Gardens Road by way of the projecting two storey front gables at both the application site and adjoining no 41 Sunny Gardens Road. Given the above circumstances, the development would not compromise the visual amenities of the wider streetscene or the character and appearance of the property and local area.

Neighbour concerns in respect of an amended roof ridge level of the two-storey side extension has been noted and an officer site visit confirms this inconsistency in respect of approved scheme ref H/00105/13 (appeal ref APP/N5090/A/13/2208810). Retrospective planning permission is therefore sought to regularise this aspect of the scheme. Compared to the previous approved scheme, the hipped roof form of the two-storey side element reflects an increase in height by approx. 1.0m and set down approx. 0.5m below the pitch to allow sufficient internal head room at loft level. The footprint of the scheme has not changed. The two-storey side addition is sited approx. 2.50m from the common boundary with an intervening alley and approx. 4.0m from the nearest corner of adjacent no. 45. The extension is obscured from view of adjoining no. 41 and therefore impact is neutral. There is a first-floor single aspect habitable room window on the north-east flank wall of no. 45 which serves a bedroom. The increase in the hipped roof ridge of the two-storey side addition by approx. 1.0m would not support a material difference between the appeal scheme and current scheme given the sustained hipped roof form, separation distance and modest height increase. The distances involved in respect of adjacent neighbouring properties nos 41 and 45 Sunny Gardens Roads as noted in the inspectors' report, is considered sufficient enough to offset any adverse impact upon the residential amenities of these neighbouring occupiers in terms of loss of light, outlook and privacy. Given site circumstances, an increase in the hipped roof ridge height of the two-storey side extension by approx. 1.0m is not considered to compromise the residential amenity of adjacent properties on the grounds of loss of light, outlook and privacy, particularly that of no. 45 Sunny Gardens Road.

A condition has been attached to ensure that the function of the TV room is used for ancillary purposes and no other purposes involving sleep, eating or living functions. This would ensure that the occupancy level is consistent with approved plans ref H/00105/13. This would therefore ensure the safeguard of neighbouring amenity in terms of noise and disturbance of comings and goings and additional off-street parking/congestion. Completion of works in accordance with approved plans would be equally verified by the Planning Enforcement officer for the resolution of enforcement case ref ENF/01146/17.

#### 5.4 Response to Public Consultation

Material planning concerns raised have been adequately addressed in the main body of the report.

#### 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 the 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.





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