

**Location**                               **38 St Marys Avenue London N3 1SN**

**Reference:**                           **19/6494/HSE**                               Received: 6th December 2019  
Accepted: 11th December 2019

Ward:                                       Finchley Church End                               Expiry 5th February 2020

Applicant:                               Mr O Chen

Proposal:                               Demolition of existing side and rear extensions and existing garage. Part single, part two storey side and rear extension with juliette balcony. Extension to roof including 1no rooflight to front roofslope, 2no rooflight to side roofslope and 2no rooflights to rear roofslope.

**Recommendation:** Approve subject to conditions

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 development hereby permitted shall be carried out in accordance with the following approved plans: 0201, 0202, 0203 REV 01, 0101, 0100, 0102,

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).

- 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 Before the building hereby permitted is first occupied the proposed window(s) in the west elevation facing no. 6, 8, 10, 12 Cyprus Gardens 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 October 2016).

- 6 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 west elevation(s), of the extension(s) hereby approved, facing no. 6, 8, 10 and 12 Cyprus Gardens.

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).

#### **Informative(s):**

- 1 In accordance with paragraphs 38-57 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**

The application site is a semi-detached property located on the southern side of St Mary's Avenue close to its junction with Cyprus Gardens to the west, the rear gardens of no's 2 - 12 (evens) abut the western boundary of the site. Levels in the area are such that the application site is set higher than its neighbours in Cyprus Gardens.

The application site is not within a Conservation Area and the application property is not a Listed building.

### **2. Site History**

19/2377/HSE - Part single, part two storey side and rear extension. Demolition of existing side and rear extensions and existing garage. Extension to roof including 1no rooflight to front roofslope, 3no rooflight to side roofslope, 2no rooflights to rear roofslope and 1no rear dormer with juliette balcony. - Refused - 12.07.2019 for the following reasons:-

"The proposed part single, part two storey side and rear extension and roof extension by virtue of size, siting, design, mass and bulk would result in overly dominant additions and an overdevelopment of the site which would fail to respect the established character and appearance of the area and of the host property contrary to policy DM01 of the Local Plan Development Management Policies (2012), policies CSNPPF and CS5 of the Local Plan Core Strategy (2012) and Residential Design Guidance SPD (April 2016)."

"The proposed part single, part two storey side and rear extension including roof extension by reason of its excessive depth, siting and design would appear as an overbearing and visually obtrusive development resulting in a loss of outlook to the detriment of the residential amenities of the occupants at no. 12, 10, 8, 6 Cyprus Gardens, contrary to policy DM01 of the Development Management Policies Development Plan Document (2012), policy CS5 of the Local Plan Core Strategy (2012), and the Residential Design Guidance 2016"

A subsequent appeal was dismissed - 24.10.2019 (A copy of the decision letter is attached as an appendix)

### **3. Proposal**

The application seeks planning permission for demolition of existing side and rear extensions and existing garage. Part single, part two storey side and rear extension with juliette balcony. Extension to roof including 1no rooflight to front roofslope, 2no rooflight to side roofslope and 2no rooflights to rear roofslope.

The existing single storey garage and outbuilding, located on the site's boundary with properties in Cyprus Gardens would be demolished as would the existing single storey rear extension.

The proposed two storey side extension would, at ground floor level measure 2m wide and, due to the angled nature of the boundary with Cyprus Gardens, be set back between 1.75m and 1m from that boundary. It would be set back 1m from the front wall of the house behind an existing small single storey side addition. At first floor level it would have a width of 2.65m with a hipped roof over at the same eaves level as existing but with the ridge set down 0.5m from the main ridge. The extension would line up with the rear wall of the original house.

The rear element of the extension would measure 9.6m wide overall at ground floor level and be set back 0.75m from the boundary with no, 36 St. Mary's Avenue and have a depth of 3m, it would then step back a further 1.4m from that boundary to an overall depth of 3m

for the rest of its width. It would be set away 2m from the boundary of the rear garden of no 8 Cyprus Gardens. The single storey element of this extension would be 3m high to a flat roof. At first floor level the extension would be 3m deep, 8.75m wide, it would have a half hipped roof with eaves to match existing and a ridge set 0.75m below the main ridge of the house. It would be set 3m away from the boundary with no 34 St Mary's Avenue and 1m set back from the side wall of the proposed side extension and 3.45m from the flank boundary with Cyprus Gardens.

Accommodation will be provided within the roof and would be serviced by two rooflights in the side facing Cyprus Garden, one at the front two on the rear roof slope and one in the roofslope of the proposed rear extension facing no. 34. The first floor side elevation facing Cyprus Gardens would have two obscure glazed windows.

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

Consultation letters were sent to 31 neighbouring properties with an expiry date of 9th January 2020.

6 comments were received in objection to the application. These are summarised below:

- Reduction of onsite parking leading to additional pressure for on-street parking
- The proposed development is inappropriate due to its scale and massing and the unacceptable impact upon adjoining properties from overlooking and loss of privacy and increased demand for on street parking, the proposed development is contrary to planning policy; and the applicant has failed to submit sufficient information to allow the council to properly determine the application.
- Minor changes to the previous refusal, proposed side and rear extension is too large, particularly at roof/ loft level. Proposals are not subordinate. The impact on vegetation of amenity value not considered.
- Proposed development is overbearing especially in relation to the properties in Cyprus Gardens. It would result in loss of amenity and the proposed first and second floors will add to the feeling of enclosure. Loss of privacy and overlooking due to the additional 4 windows above ground level. Overshadow gardens of Cyprus Gardens. Have a substantial adverse impact on the character and appearance of the street scene and locality. No objection to the build or rebuilding of ground floor extension.
- Proposals represents an over-development of the property and is largely unchanged from the refused application.
- The proposed development is significantly overdeveloped, extension on ground, first, side and roof is considerably inappropriate for the surrounding area and loss of privacy to all neighbouring properties.
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A further round of consultation was carried out following the submission of amended plans. 6 objections were received. 1 request to speak at committee. Comments summarised below:

- Oppose the development and wish to object for any decision to be made during lockdown as it needs face to face discussions.
- Submitted drawings offer very few changes to previous submission; the side and rear extensions are of the same bulk as previously proposed; therefore objection comments made previously remain as stated - as the proposed development continues to have an unacceptable impact on the character and appearance of the area and unacceptable impact on the outlook/ living conditions of neighbouring properties to the west.
- Amendments to the application are minimal only and do not address any of the concerns raised in the previous objection letter. The proposed development remains inappropriate due to its scale and massing and will have an unacceptable impact upon adjoining properties from overlooking and loss of privacy.

- Plans have had minimal alterations from the previous submission which was rejected and cannot see how anything has changed to reflect the issues and concerns raised which resulted in the being denied then. Key concerns continue to be - proposed development is a significant over development of the property with a huge overbearing impact on neighbouring properties on both Cyprus Gardens and St Marys Avenue. The extent of the ground, first, side and roof is not in keeping with the character of the surrounding area. A 6m extension to the rear and extension to the side right up to the boundary wall of 4 Cyprus Gardens will have a huge impact. There will be loss of privacy and light to all the neighbouring properties.
- Previously objected and shocked to see further proposals with very minimal alteration or response to the reasons why this was rejected before. The proposed rear and side extensions will have a major impact on the adjoining properties and surrounding properties, this proposal is significantly out of keeping with the local areas. It will infringe on the privacy of surrounding properties. The lack of onsite parking provisions has not been resolved.
- Only substantive change is removal of loft former window - as this is still a 3m rear extension on all 3 levels and 6m on ground floor; so all previous objections apply and would hope that this application is refused because it is not materially different from the refused application. The extent of the ground floor rear extension has been obscured behind a fence that is much higher than exists presently.

## **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 19th February 2019. 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, creates better places in which to live and work and helps make development acceptable to communities.... being clear about design expectations, and how these will be tested, is essential for achieving this'. 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 London Plan is currently under review. 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 adopted London Plan

#### Barnet's Local Plan (Reg 18) 2020

Barnet's Local Plan -Reg 18 Preferred Approach was approved for consultation on 6th January 2020. The Reg 18 document sets out the Council's preferred policy approach together with draft development proposals for 67 sites. It is Barnet's emerging Local Plan. The Local Plan 2012 remains the statutory development plan for Barnet until such stage as the replacement plan is adopted and as such applications should continue to be determined in accordance with the 2012 Local Plan, while noting that account needs to be taken of emerging policies and draft site proposals.

#### 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 development as set out in Policy DM01 is to minimise the 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.

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#### 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 recent appeal decision is a material consideration of significant weight and a prime consideration is whether or not the current proposal has successfully addressed the concerns raised by the Inspector in respect of the impact of the proposal on the character and appearance of the existing building, the street scene and the wider locality as well the impact on the living conditions of neighbouring residents.

## **5.3 Assessment of proposals**

In assessing the appeal the Inspector considered that the main issues were its effect on the character and appearance of the area and its effect on the living conditions of the occupants of no's 6, 8, 10 and 12 Cyprus Gardens with particular reference to outlook.

He considered that St Mary's Avenue is characterised by large properties which have been extended in a variety of ways, no objection was raised in respect of the extension when viewed from the front. When looked at from the side he commented as follows:-

"6. However, due to the change in topography and the rear gardens of properties in Cyprus Gardens, the side elevation is clearly visible from St Mary's Avenue and from private views from the rear of neighbouring properties. When viewed from the side, the length of the proposed side elevation projecting out beyond the original rear building line would create a large dominant built form. The massing and scale of which would, in my view, be harmful to the character and appearance of the host property and this part of the street."

In respect of character and appearance he concluded:-

" that the proposed development would result in a significant harmful effect on the character and appearance of the area."

When assessing the impact on the living conditions of neighbours, the Inspector stated:-

"10. The proposed development would be clearly visible from the rear gardens and rear of No's 6, 8, 10 and 12 Cyprus Gardens. These neighbouring properties are positioned on a lower ground level to the appeal site and views from the properties look towards the existing garage at the appeal site. I recognise that the proposed development would be positioned further from the boundary than the garage and at this distance there is unlikely to be any significant shadowing effects. Moreover, there are several plants and trees within the rear gardens of these neighbouring properties that would soften some of the proposed development. However, due to the length and scale of the proposed development to the

side and rear, combined with the changes in topography, it would appear as a large and overbearing feature from the rear gardens of No's 6, 8, 10 and 12 Cyprus Gardens.

11. The proposed development's oppressive visual impact from these gardens would, in my view, result in significant harm to the outlook from this part of the garden and thus have a harmful effect on the living conditions of the occupiers of No's 6, 8, 10 and 12 Cyprus Gardens. "

The Inspector did not raise any concerns in respect of the proposal's relationship with the adjoining property, no. 36 St Mary's Avenue.

The Inspector considered that because of the site's topography the scale, length and massing of the proposed extension at the side and rear harmfully impacted the character of the area when seen from the side as well as seriously detracting from the outlook of the neighbouring residents in Cyprus Gardens.

In the appeal scheme the proposed two storey side /rear extension presented a uniform two storey side elevation that was 10.75m deep (including a projection of 2.75m beyond the first floor rear wall of the original house) and between 1.75m to 0.95m from the boundary with Cyprus Gardens. They shared a common hipped roof, extending the full depth of the extension with a ridge line 3m long set 0.5m below the ridge of the original house. The rear roof slope of this extension also housed a rear facing dormer window.

The current proposal has been amended to produce a more articulated side and rear elevation in that the first floor element of the side extension has been reduced in width so that it is set back from the ground floor side wall and in turn is now between 2.7m and 2.1m from the Cyprus Gardens boundary. The depth of the first floor side extension has also been reduced by 1m so that it now lines up with the rear wall of the original house. The side wall of the first floor rear extension is now set in 1m from the side wall and the introduction of this break reduces the overall mass and scale of the side elevation. The changes also result in a roof which is subservient to and sympathetic to the character and appearance of the existing house and the surrounding area when seen from both the front and side. It is considered that overall these changes are such that the objections raised by the Inspector in respect of character and appearance have been addressed.

With regard to the impact of the proposal on the amenities of the neighbouring properties in Cyprus Gardens, whilst the extensions would still be clearly seen from these properties it is considered that the reductions in size, particularly the length of the first floor side extension and the subsequent reduction in size of the roof, combined with the further set back of the first floor elements from the boundary, are such that the proposed extension would no longer be overbearing or have an oppressive impact on the outlook enjoyed from the gardens of the neighbouring properties in Cyprus Gardens.

In order to protect the privacy of these neighbouring residents it is recommended that a condition be added requiring the windows in the side elevation be obscure glazed.

At the rear the single storey rear extension would be set back from the boundary with no 36 to a similar degree as the existing conservatory and be 3m deep, whilst the extension would then step out a further 3m at a distance of 2.4m from the boundary it is not considered that this would harm the amenities of the occupants of that property. The first floor element of the rear extension would be 3m from no. 36 and at 3m deep similarly would not be overbearing or visually obtrusive.

It is considered that the proposal would not have a harmful impact on the amenities of neighbouring residents.

#### **5.4 Response to Public Consultation**

Mainly dealt with in the report.

The concerns raised in respect of decision making during the current Covid 19 pandemic are noted but it is considered that the current decision making arrangements are appropriate and consistent with the recent legislative changes introduced to facilitate virtual committee arrangements.

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

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

#### **7. Conclusion**

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



