

Location **39 Harman Drive London NW2 2ED**

Reference: **19/3473/HSE** Received: 20th June 2019
Accepted: 26th June 2019

Ward: Childs Hill Expiry 21st August 2019

Applicant: Mr Ayad Shakarchi

Proposal: Conversion of existing garage into habitable room, insertion of window to replace existing garage door. New roof tiles to front dormer window. New front bay windows

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:

S/1 Rev A - Site Location Plan
F/1 Rev A - Existing Ground Floor Plan
F/2 Rev A - Proposed Ground Floor Plan
F/3 Rev A - Existing Front Elevation
F/4 Rev C - Proposed Front Elevation

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 i) within one month of the date of this decision, details of the following shall have been submitted for the written approval of the local planning authority:
 - sample of the roof tile
 - render to the bay window
 - specifications, materials and colour of the windows
- ii) the development shall be carried out in full accordance with the approved details within 2 months of the approval of the details in (i) above.

Reason: To safeguard the character and visual amenities of the site and wider area and to ensure that the building is constructed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012) and 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

This application would normally be determined under the Council's Delegated powers but has been "called in" by Councillor Zinkin who wishes the matter to be considered by Planning Committee for the following reasons:

"...any application where there was one or particularly more than one enforcement action in place and/or where previous applications had been to committee that new and replacement applications would go to committee as a matter of course. Please take this as a request for the application to go to committee for those reasons as 39 Harman Drive meets all those criteria."

1. Site Description

The application site is located on the northern side of Harman Drive, close to the junction with Harman Close, within the Childs Hill ward.

The application property is a semi-detached residential dwelling house, which benefits from an L-shaped footprint to the rear affording it a staggered original rear building line.

The site is not located within a Conservation Area and holds no individual designation.

2. Site History

Reference: 18/3334/RCU

Address: 39 Harman Drive, London, NW2 2ED

Decision: Refused

Decision Date: 1 October 2018

Description: Levelling of back garden (Retrospective Application)

This application was refused for the following reason;

The levelling of the back garden, by reason of its size, siting, style, and design is considered to significantly harm the amenities of neighbouring occupiers, in particular 38 Harman Drive and 2 Harman Close due to unacceptable overlooking, contrary to policies 3.5 and 7.6 of the London Plan (2016), policy CS5 of the Barnet Core Strategy (2016), policy DM01 of the Barnet Development Management Policies Document (2016) and the Residential Design Guidance SPD (2016).

An appeal decision is awaited.

Reference: 18/3330/RCU

Address: 39 Harman Drive, London, NW2 2ED

Decision: Refused

Decision Date: 18 September 2018

Description: Single storey extension rear including extension of patio (Retrospective Application)

The application was refused by Members at the Finchley and Golders Green Area Planning Committee on 4th September 2018 for the following reason;

The rear patio and boundary wall, by reason of their size and siting, have an overbearing appearance and result in a loss of privacy, detrimental to the amenities enjoyed by the occupiers of no. 38 Harman Drive, contrary to Policies CS NPPF, CS1 and CS5 of

the Adopted Core Strategy (2012), Policy DM01 of the Adopted Development Management Policies DPD (2012) and the Adopted Residential Design Guidance SPD (2016).

This decision was appealed to The Planning Inspectorate who allowed the appeal and granted planning permission.

Reference: 16/2100/HSE

Address: 39 Harman Drive, London, NW2 2ED

Decision: Approved subject to conditions

Decision Date: 20 May 2016

Description: Conversion of garage into habitable room, replacement of garage door with bay window

Reference: C03721

Address: 39 Harman Drive, London, NW2 2ED

Decision: Approved subject to conditions

Decision Date: 14 June 1972

Description: Conversion into two self-contained flats

3. Proposal

This application seeks consent for the following works;

- Conversion of existing garage into habitable room,
- insertion of window to replace existing garage door.
- New roof tiles to front dormer window.
- New front bay windows

The works described above were undertaken without the benefit of planning consent and this application follows enforcement notice reference ENF/0319/18.

The requirements of the Notice were as follows;

1. Restore the land back to the state in which it was prior to the breach of planning control.
2. The work in step 1 to include the following:
 - Removal/demolition of the two storey front bay window (including all windows, frames and other structural elements) and its replacement with a two storey angled bay window to match the design specifications and materials of the bay shown in the photograph attached to the notice;
 - Removal/demolition of the grey metal picture window on the ground floor front of the property and of the surrounding brickwork and its replacement with the garage door to match the design, specification and materials of the door shown in the photograph attached to the notice. The replacement development shall not project more than 20 centimetres forward of the original elevation;
 - Removal/demolition of the front dormer window and its replacement with a dormer to match the size, design, specification and materials of the bay shown in the photograph attached to the notice.
3. Permanently remove all constituent materials resulting from the works in step 1 from the property.

The applicants appealed the Notice to The Planning Inspectorate under references;
A: APP/N5090/C/18/3201121 and
B: APP/N5090/C/18/3201122
Both the appeals were dismissed. The Inspector noted the following;

"6. The appellant has recently extended the property and has sought to make it more energy efficient. As part of the building works he has re-built the two storey bay window feature within the forward projection of the front elevation and added new grey aluminium window frames. He has also inserted a window on an extended brick base to replace the garage door and a replacement dormer window at first floor level, both of which have grey aluminium frames. In addition, the replacement dormer window has a flat roof. The separation of the two storey bay window feature is now marked by a narrow grey aluminium panel whereas previously this was a wide band of vertical hanging tiles.

7. All of the windows are high quality with simple lines and represent a modern, stripped back version of what existed beforehand. However, notwithstanding that the overall dimensions of the new windows seek to mirror the dimensions of the windows at the adjoining property, the overall design of the fenestration is in stark contrast to its matching pair and the surrounding area. Moreover, the requirement for energy efficiency can be achieved in other ways with different designs.

11. The appellant submits that there are differences between the houses along Harman Drive. Some have rendered panels rather than vertical hanging tiles and some have departed from using white uPVC frames; there being other examples of aluminium frames. Whilst the panel materials differ on other houses, the width of the bands separating the ground and first floor bay windows remains the same, which is not the case at the appeal site where the proportions of the windows within the two storey bay have changed significantly. Also, the examples referred to where white uPVC has not been used are small in number and demonstrate the harm that can be caused to the character and appearance of the area when matching pairs become unbalanced or the design of replacement windows do not reflect the prevailing form.

15. The appellant submits a lesser step to comply with the notice should be to vary the steps to require that the windows are painted white. In his view this would be a simple more effective way of re-instating any coherence that may have existed rather than removal/demolition.

16. However, whilst this suggestion might be appropriate if the reason for issuing the notice was because of injury to amenity, that is not the case here where the purpose of the notice is to remedy the breach of planning control. The lesser requirement would not remedy the breach of planning control as the breach of planning control is the action of installing the windows in the first place. Painting the windows would not undo that initial action and would not address all of the harm caused by the development, as set out in the reasons for issuing the notice. The appeal on ground (f) therefore fails.

17. It is however necessary to vary the requirements of the notice in respect of the picture window that replaced the garage door in that it is not appropriate to require the re-instatement of the garage door. This is because it was lawfully removed to facilitate the conversion of the garage to a study.

19. For these reasons the notice should be varied to require that the picture window is removed and replaced with a window that matches the design shown on the approved plans attached to the 2016 planning permission.

20. It is also necessary to vary the requirements for the dormer window in that its replacement should match the previous dormer window not "the bay", as set out in the notice."

4. Public Consultation

5 consultation letters were sent to neighbouring properties.

4 responses have been received, comprising of 2 letters of objection and 2 letters of support

The views of objectors can be summarised as follows;

- Windows should be white
- Area between windows on bay should be red hanging tiles
- Dimensions and proportions of bay should match others in street
- Window detailing incorrect

The comments made in support of the application include;

- Proposal is a big improvement

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 updated in 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, 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 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 (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 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 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 (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

This application seeks consent to remedy unauthorised works carried out to the host application property, following the serving of an Enforcement Notice and subsequent unsuccessful appeal of the notice.

The Appeal decision requires that all the current windows, including the two-storey bay are replaced with more traditional white windows which better reflect the prevalent style found throughout Harman Drive, as shown on the amended plan; it is also required that the roof to the front dormer window is pitched to match those on the neighbouring property. Contrary to the requirements of the original Enforcement Notice, the appeal Inspector asserts that it is not necessary to reinsert the garage door as long as an appropriate window is put in place of the existing.

Following the submission of the amended plan which shows an improved elevation which better reflects the detailing found on other properties along Harman Drive, especially the attached neighbour, it is considered that the proposals are acceptable and will ensure the host dwelling house appears more appropriate in the street scene, thereby further enhancing the qualities of the local area.

To ensure the final details are correct, conditions have been attached to this permission requiring further information to be submitted to the Local Planning Authority for consent. This includes the roof tile, render and new replacement windows. Following submission of these details the resultant dwelling house should appear acceptable in the street scene and no longer stand out as an uncharacteristic addition.

5.4 Response to Public Consultation

The concerns raised by neighbours are noted. As detailed above, the scheme has been amended since the original submission to show an improved front elevation that better reflects the original design of the property, including the window detailing. It is considered that subject to the attached conditions the resultant appearance of the host property will be much improved and will contribute positively to the character and appearance of the area.

A condition requiring details of the new windows is applied to this permission and the applicant is reminded that the replacements should be white in colour.

Whilst it is understood that objections relate to having the area between windows on bay as red hanging tiles, however, having looked at other houses in the street, it is clear there is a mix of tile hanging and render and on balance it is considered acceptable to alter this detail. A condition requiring a sample of the proposed render is suggested to ensure that it is an appropriate match.

The amended plans show that the dimensions and proportions of the bay better match others in the street and is therefore considered to be acceptable in this respect.

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 support the Council in meeting its statutory equality responsibilities.

7. Conclusion

Having taken all material considerations into account, it is considered that the development has an acceptable impact on the character and appearance of the individual dwelling and wider area, the proposals are not considered to result in any detriment to the amenities of neighbouring occupiers. This application is therefore recommended for approval.

