

Location 130 Hendon Lane London N3 3SJ

Reference: 21/6308/FUL Received: 2nd December 2021
Accepted: 2nd December 2021

Ward: Finchley Church End Expiry 27th January 2022

Case Officer: Tania Sa Cordeiro

Applicant: JMC Trust Fund

Proposal: Two storey side extension and single storey rear extension

OFFICER'S RECOMMENDATION

Approve subject to conditions

AND the Committee grants delegated authority to the Service Director – Planning and Building Control 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 Chair (or in their absence the Vice-Chair) 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:

Drg.no. HL.130.LP (Location Plan)

Drg.no. HL.130.EX.01 (Existing Ground Floor Plan)

Drg.no HL.130.EX.03 (Existing Roof Plan)

Drg.no. HL.130.EX.04 (Existing Front and Rear Elevations)

Drg.no. HL.130.EX.05 (Existing East and West Side Elevations)

Drg.no. HL.130.EX.06 (Existing Section)

Drg.no. HL.130.PR.01 (Proposed Ground Floor Plan)

Drg.no. HL.130.PR.02 (Proposed First Floor Plans)

Drg.no. HL.130.PR.03 (Proposed Roof Plan)

Drg.no. HL.130.PR.04 (Proposed Front and Rear Elevations)

Drg.no. HL.130.PR.05 (Proposed East and West Side Elevations)
Drg.no. HL.130.PR.06 (Proposed Section)

Planning Statement

Copy of an letter to the appeal Inspector, dated 10 April 2014

Statutory Declaration of Mr Joel Salem

Statutory Declaration of Mr Alberto Cohen

Statutory Declaration of Mr Avner Davidi

Statutory Declaration of Mr Lior Nissim

Statutory Declaration of Mr Ronnie Canzee

Statutory Declaration of Mr Rahamim Kanzen

Statutory Declaration of Rabbi Eliyahu Shalom

Statutory Declaration of Mr Etan Shelemay

Statutory Declaration of Mr Jeremy Kanzen

The above were received on the 02/12/21.

Drg.no. EX02A (Existing First Floor and Loft Plans)

Drg.no. PR07 (Proposed Loft Plan)

The above were received on the 05/07/22.

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 No construction work resulting from the planning permission shall be carried out on the premises at any time on Sundays, Bank or Public Holidays, before 8.00 am or after 1.00 pm on Saturdays, or before 8.00 am or after 6.00pm pm on other days.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of adjoining residential properties in accordance with policy DM04 of the Development Management Policies DPD (adopted September 2012).

- 6 1.Total occupancy of the building as extended shall not exceed

i) 150 people on the following Jewish Holidays:

Rosh Hashana - 2 days

Yom Kippur - 1 day

Succot - 4 days

Purim - 1 day

Pesach - 4 days

Yom Ha'atzmaut - 1 day

Lag B'aomer - 1 day

Shavuot - 2 days

ii) 100 on any other Saturday or;

iii) 60 at any other time (Sunday-Friday).

iiii) 150 people on five separate occasions in a calendar year for the purpose of a Bar Mitzvah celebration.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and D14 of the London Plan 2021.

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. 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.

- 2 This application is determined to be lawful based on the information submitted. If any information provided is inaccurate then this may invalidate the certificate. This would include submission of drawings that do not clearly indicate all non-original extensions to the property; and, inaccurate representation or failure to show level changes across the site.

OFFICER'S ASSESSMENT

1. Site Description

The application site is a large two-storey detached property sited at the junction of Hendon Lane and Waverley Grove. The property is located within the Finchley Church End Ward.

The ground and first floor of the site is in use as a synagogue and the second floor/loft is being used as a one bedroom flat in conjunction with the synagogue. The site benefits from a fore court that provides onsite parking and a modest rear private garden.

There is no clear built form and pattern to the area with properties differing in design, form and massing. The wider area is predominantly residential in character.

The site not located within a conservation area and is not within an area covered by an Article 4 direction.

There are no known TPO's on site.

2. Site History

Reference: F/04345/14

Address: 130 Hendon Lane, London, N3 3SJ

Decision: Refused

Decision Date: 15 July 2015

Description: Retention of change of use of two rooms on first floor as a pre-school nursery from 8.30am- 2pm, Monday to Friday during term time for a maximum of 14 children.

Reference: F/01583/13

Address: 130 Hendon Lane, London, N3 3SJ

Decision: Approved subject to conditions

Decision Date: 1 August 2013

Description: Retention of change of use of two rooms on the first floor as a pre-school

nursery from 8.30am - 2.00pm, Monday-Friday during term time for a maximum of 14 children.

Reference: F/01770/13

Address: 130 Hendon Lane, London, N3 3SJ

Decision: Refused

Decision Date: 30 August 2013

Description: Change of use to synagogue. Part single, part two storey side extension and single storey rear extension.

Reference: F/02996/12

Address: 130 Hendon Lane, London, N3 3SJ

Decision: Withdrawn

Decision Date: 17 April 2013

Description: Change of use of 2no. rooms at first floor level as a pre-school nursery for 25 children from 8.30am - 2.00pm Monday to Friday Term Times.

Reference: F/00279/08

Address: 130 Hendon Lane, London, N3 3SJ

Decision: Approved subject to conditions

Decision Date: 30 July 2008

Description: Proposed ground and first floor rear extension with associated pitch roof above part ground floor extension. Side and rear dormers to facilitate a loft conversion. Conversion of existing religious meeting rooms with associated first floor to a synagogue and loft to be a one bedroom flat

Reference: C15691/04

Address: 130 Hendon Lane, London, N3 3SJ

Decision: Approved subject to conditions

Decision Date: 12 July 2004

Description: Continued use of ground floor as a specialised religious meeting room with associated library and cloakroom. Two bedroom flat at first floor level.

Reference: C15691A/07

Address: 130 Hendon Lane, London, N3 3SJ

Decision: Withdrawn

Decision Date: 9 January 2008

Description: Two storey rear extension. Part ground floor side extension.

3. Proposal

The proposal seeks consent for a 'two storey side extension and single storey rear extension in association with the existing Synagogue use'.

The two-storey side extension will replace a single storey structure in situ. The extension will be set back by 1m from the front elevation and will have a width of 5m. It will project with a depth of 10.1m at ground floor and will join the rear extension. The first floor side will follow the footprint of the ground floor extension and will be set back from the rear elevation by 0.8m.

Due to the angle of the site, the extension will be set away from the boundary with neighbouring property at no.128 by approximately 4m to the front and 2m to the rear. It will feature a hipped roof that will be set down by 1.3m from the main ridge, with eaves to

match existing.

To the rear the single storey will project adjacent to the neighbouring property at no.2 Waverley Grove, with a depth of 4.5m and a width of 16.2m abutting the rear wall of the new side extension. It will be set back by 1.5m from the flank wall of the new side extension, adjacent to no.128. It will have a flat roof measuring 3.1m in height. 3no. rooflight are proposed on top of the flat roof.

4. Public Consultation

Consultation letters were sent to 18 neighbouring properties.

136 correspondences were received.

19 objections and 117 in support

Objections have been summarised below;

- Additional stress on parking
- Limit of 45 people in the property (which is already flouted on a weekly basis), and this would take it up to 140
- Result in the loss of a residential unit which would be detrimental to the character of the wider area
- The proposed extensions would result in a disproportionate addition to the existing building and would be overly dominant
- Road safety as visitor parking
- Will lead to increased visitor numbers and intensification of the site usage
- Grounds of security if 130 Hendon Lane becomes a fully functioning religious centre
- Increased the noise pollution
- Hinder privacy by overlooking
- Questioned whether a planning application for extensions is the correct procedure for establishing a breach of condition

Letters of Support have been summarised below;

- Never witnessed any noise or disturbance
- No issue whatsoever with parking or traffic congestion on the Sabbath and High Holydays as all make their way to the synagogue by foot
- Proposed plan is simply a natural extension that many other houses have been granted and will be totally in keeping with other buildings in the area
- Much needed support to this community facility
- Serves a unique demographic who for their own historic cultural reasons are not able to have their religious needs met by any other local synagogue or community centre

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 20th July 2021. This is a key part of the Government's reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

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 2021

The new London Plan which sets out the Mayor's overarching strategic planning framework for the next 20 to 25 years was adopted on the 2nd March 2021 and supersedes the previous Plan.

Barnet's Local Plan

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, CS4, CS5.

Relevant Development Management Policies: DM01, DM02.

Barnet's Local Plan (Reg 22) 2021

Barnet's Draft Local Plan -Reg 22 - Submission was approved by the Council on 19th October 2021 for submission to the Secretary of State. Following submission the Local Plan will now undergo an Examination in Public. The Reg 22 document sets out the Council's draft planning policy framework together with draft development proposals for 65 sites. It represents Barnet's draft 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 the policies and site proposals in the draft Local Plan and the stage that it has reached.

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 application site, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents;

5.3 Assessment of proposals

Character and appearance

Policy DM01 of the adopted Development Management Policies (2012) states, that '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'. Policy DM01 goes on to states that all development should represent high quality design.

Barnet's Residential Design Guidance (2016) states that side extensions to existing buildings can be unacceptably prominent features in the street scene. Paragraph 14.15 states that side extensions should not be more than half the width of the original house. In addition, the setting back of the front wall from the front building line can help to reduce the visual impact on the street scene. Paragraph 14.17 states that in order to reduce the visual impact of two storey or first floor side extensions, there should normally be a gap of 2m between the flank walls of properties at first floor level (i.e. a minimum gap of 1m between the boundary and the extension at first floor level for most two storey extensions). In addition, paragraph 14.15 of the Residential Design Guidance SPD seeks a minimum set back of 1m from the front main wall of the existing house and paragraph 14.16 of the Residential Design Guidance SPD seeks the roof to have a minimum set down of at least 0.5m from the main ridge.

It is noted that a two storey side and a single storey rear extension was proposed under

ref.no. F/01770/13. No concerns were raised within the report with regards to the principle of the side extension. However, concerns were raised with regards to the massing of the roof and its proximity with the boundary of the adjoining building at no.128, particularly at first floor level. Under the current scheme, the proposed two storey side extension will replace the existing single storey side extension in situ and will not occupy more than half the width of the main dwelling. Due to the angle of the site, the extension will be set away from the boundary with neighbouring property at no.128 by approximately 4m to the front and 2m to the rear. It has a reduced height, set down by 1.3m from the main ridge which is considered to be adequate and helps to reduce the perceived massing particularly at roof level.

To the rear the single storey will project adjacent to the neighbouring property at no.2 Waverley Grove, with a depth of 4.5m and a width of 16.2m abutting the new side extension. Barnet's Residential Design guidance states that a depth of up to 4m is acceptable for a detached property. However, it has been noted that a much larger depth of 6m was considered to be acceptable under ref. F/01770/13 and therefore officers are unable to object to this depth.

Neighbouring Amenity

Paragraph 2.7.1 of Policy DM01 states that:

Schemes which significantly harm the amenity of neighbouring occupiers will be refused planning permission. Protecting amenity helps to protect the well-being of the boroughs residents. It is important to ensure that developments do not significantly overshadow neighbouring buildings, block daylight, reduce sunlight, or result in a loss of privacy or outlook.

As mentioned in the section above, the principle of the two storey side and rear was considered to be acceptable under ref. F/01770/13. The currently scheme has proposed a reduced scheme and therefore the proposal is not considered to be acceptable in terms of its impact on the amenities of neighbouring properties.

Other matters

The site has the benefit of a number of planning consent as seen in the history section above. The most relevant in terms of use of the premises is ref. F/00279/08, which confirms the last lawful use of the premises to be used as a synagogue on the ground and first floor and a one bedroom flat within the loft, which was approved in July 2008. Under the current application, no change in use of the premises is proposed. The proposed extensions will allow for bigger rooms associated with the Synagogue use at ground and first floor level. The residential unit within the loft/second floor will remain as a residential unit, therefore, no loss of a residential use.

This consent (ref. F/00279/08) allowed the use as a synagogue subject to a number of conditions which restricted how the building could be used. Condition 13, was put in place to restrict the number of people visiting the premises stating "No more than a maximum of 45 persons shall be present on site at any one time. Reason: To protect the amenity of neighbouring residential occupiers."

However, Sworn Affidavits / signed Statutory declarations have been provided as evidence to support the claim that the premises was being used on separate occasions for up to 150

people for over 10 years. The Authority has reviewed the evidence provided and has on balance accepted that condition 13 has been breached on several occasions and is therefore now lawful through passage of time. It is not considered necessary to vary the parent application (ref. F/00279/08), instead an amended condition has been attached to the current application.

Essentially, if the physical extensions were not being proposed, the applicant could apply for a certificate of lawfulness to prove that the premises have been used by more than the 45 people that was conditioned on the previous consent. The LPA consider that the evidence submitted demonstrates that the lawful position is as is being conditioned with this application. The onus of proof is on the applicant to show, on the balance of probability, that what is proposed is accurate. The council has not found any evidence to contradict the evidence provided by the applicant and it is therefore of the opinion that on the balance of probability based on the information that has been provided, the LPA considers that the property has breached its condition on several occasions for more than 10 years and is considered to be Lawful.

The condition relating to the number of people on site at any given time is a reflection of what the applicant has demonstrated to be lawful. The LPA have not allowed anything more than what they consider to be lawful.

The number of objections relating to the additional stress on parking and noise have been noted. Environmental Health Officers and Highways Officers have confirmed that they had not received any complaints for over 10 years with regards to noise nuisance and parking related issues. However, in the interest of neighbouring amenities, a condition has been attached restricting the number of people attending the site at one given time in line with the evidence submitted. In terms of parking, as stated above, the breach has occurred and this application will regulate the breach in terms of number of people attending the site, therefore it is not envisaged that that will be any additional stress on parking than what currently exists.

5.4 Response to Public Consultation

Comments have been addressed in the body of the report.

Concerns were also raised with regards to the authenticity of the declarations as they were not in the public domain. These declarations have now been redacted and placed in the public domain.

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 wider area. The development is not considered to have an adverse impact on the amenities of neighbouring occupiers. This application is therefore recommended for APPROVAL.

