

**Location** Flat 29 Pembroke Hall Mulberry Close London NW4 1QW

**Reference:** 22/2788/RCU Received: 25th May 2022  
Accepted: 25th May 2022

Ward: Hendon Expiry: 20th July 2022

**Case Officer:** Asha Chhabhaiya

Applicant: Klein

Proposal: Retention of existing conservatory with amendments to materials (Amended Plans)

### **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:

- Existing 3D 1 EX - 3D 1
- Existing 3D 2 EX - 3D 2
- Existing 3D 3 EX - 3D 3
- Existing 3D EX - 3D
- Existing Front Elevation EX - E001
- Existing Rear Elevation EX - E002
- Existing Side Elevation 1 EX - E003
- Existing Fourth Floor EX - P005
- Pre - Existing 3D PRE - 3D
- Pre - Existing Fourth Floor PRE - P005 rev C
- Pre - Existing Front Elevation PRE - E001
- Pre - Existing Side Elevation 1 PRE - E003
- Pre- Existing Rear Elevation PRE - E002
- Pre - Existing Location Plan & OS Map PRE - L001
- Existing Location Plan & OS Map EX - L001

Proposed 3D PR - 3D rev C  
Proposed 3D 1 PR - 3D 1 rev C  
Proposed 3D 2 PR - 3D 2 rev C  
Proposed 3D 3 PR - 3D 3 rev C  
Proposed 3D 4 PR - 3D 4 rev C  
Proposed 3D PR-3D 5 rev C  
Proposed Front Elevation PR - E001 rev C  
Proposed Rear Elevation PR - E002 rev C  
Proposed Side Elevation 1 PR - E003 rev C  
Proposed Fourth Floor PR - P005 rev C  
Proposed Location Plan & OS Map PR - L001 rev C  
Design & Access Statement and Heritage Statement

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 Prior to the first occupation of the amended conservatory, copies of Pre-completion Sound Insulation Test Certificates shall be submitted to the Local Planning Authority, confirming compliance with Requirement E of the Building Regulations 2010 (or any subsequent amendment in force at the time of implementation of the permission).

Reason: To protect the amenities of future and neighbouring residential occupiers in accordance with Policies DM02 and DM04 of the Development Management Policies DPD (adopted September 2012) and the Sustainable Design and Construction SPD (adopted April 2013).

## **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.
- 2 The applicant is advised that the provisions of The Party Wall etc. Act 1996 may be applicable to this scheme. This relates to works to the building which affect other residents. Further information can be found at <https://www.gov.uk/party-wall-etc-act-1996-guidance>.
- 3 The Applicant is advised that in the event this grant of consent is not implemented, the existing structure remains liable for formal enforcement action.

## **OFFICER'S ASSESSMENT**

### **1. Site Description**

The application site is Flat 29 Pembroke Hall. Pembroke Hall is five storey block of apartments, with roof terrace; and is situated on Mulberry Close which is accessible from Parson Street. The site block is one of three apartment blocks located in Mulberry Close, which are of similar design and size.

Flat 29 is a top floor flat. The roof terrace to the east of the property is currently used as an amenity area, as a roof garden. An existing unauthorised conservatory is currently in situ.

### **2. Site History**

Planning

N/A

Enforcement

Reference: ENF/0260/22

Address: 29 Pembroke Hall, Mulberry Close, London, NW4 1QW

Decision: Pending Consideration

Decision Date: 23.02.2022

Description: Construction of an Extension without the consent of Planning Permission

## Relevant cases

Reference: H/02501/09

Address: Flat 32 Thurlby Croft Mulberry Close London NW4 1QP

Decision: Approved subject to conditions

Decision Date: 16.07.2009

Description: Single storey extension on the roof terrace.

Reference: W02930L/07

Address: Flat 32 Thurlby Croft Mulberry Close London NW4 1QP

Decision: Approved subject to conditions

Decision Date: 01.02.2007

Description: New conservatory to roof terrace.

Reference: W02930M/07

Address: Flat 32 Thurlby Croft Mulberry Close London NW4 1QP

Decision: Approved subject to conditions

Decision Date: 01.06.2007

Description: New conservatory to roof terrace.

### 3. Proposal

The existing conservatory measures 2.958m in width, 7.875m in length and 2m in height.

The proposed conservatory would measure 3.5m in width, 8m in length, 1.7m to the eaves and 2.5m to the maximum height. The proposed conservatory would be 1.5m off the boundary to the east.

As amended, the proposal will be finished in materials to match the existing flat block

### 4. Public Consultation

Consultation letters were sent to 104 neighbouring properties. 16 letters of objections were received.

- The works break several clauses of the lease that controls all the flats and buildings within Mulberry Close.
- not in keeping with the general architectural style of the buildings/1930 estate
- Part E of the Soundproofing Regulations for Home Building and Renovations was not meet
- Casual workers used not professionals.
- No involvement of an Architect or a Structural Engineer
- Safety of life issue due to works
- No implemented building controls and inspection
- Not a "lean too"
- Impact on the flats below (24 and 25)
- Annual premium will rise by £10,000, negative economic impact
- No details of building material
- Plans indicate conservatory is not visible. This is not the case and the conservatory is visible.
- Conservatory dimensions are to be questioned as they appear too small/ grossly Misleading.
- Modified dwelling space carried out when the conservatory was being built

- No Certificate of Ownership was presented to the other residents
- Conservatory was erected in breach of the lease
- No planning permission sort
- Unsightly
- Barnet has Health and Safety responsibilities to make sure any construction does not provide any threat
- Injury to anyone in the vicinity if an incident occurs
- Disabled occupant now finds difficulty entering or leaving the apartment
- The letter that the applicant says was sent on the 24/05/2022 to residents was not received.
- Not satisfy the NPPF 2021
- Alien element
- The position of the Board of MCPL is that the decision taken by a previous Board to allow the 2007 extension was a mistake, because the conservatory design was inappropriate
- Thurlby Court application in 2007 was considered was the Adopted Barnet Unitary Development Plan 2006 (UDP) was replaced by the Barnet Local Plan
- Risk of damage to the surface of the terrace on which the structure has been placed, which is the roof to the flats below;
- Damage to the external finishes of the building due to the fixing and weather-sealing of the structure
- Risk that the structure represents a public danger in this location as there has been no scrutiny of whether it is fit for purpose, including Building Regulations
- Night time bright light pollution/ Bright white light dominates the whole area
- 32 Thurlby Croft which is facing Parson Street and cannot be seen from anywhere
- High winds that could cause the structure to collapse
- Development has adversely affected the beauty of the building and the estate

## **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 amended on 20 July 2021. 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 2021

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. 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 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 (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.

## 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 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**

- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;

Any scheme for the site will need to respect the character and appearance of the local area, relate appropriately to the sites context and comply with development plan policies in these respects. This will include suitably addressing the requirements of development plan policies such as DM01, CS05 (both of the Barnet Local Plan), D3 and D4 (both of the London Plan 2021).

Single storey rear extensions to the original dwellings, need to ensure that:

- o the depth and/or height of the extension does not cause a significant sense of enclosure, or loss of outlook from, or light to, principal windows of habitable rooms of neighbouring properties

- o they do not look too bulky and prominent compared to the size of the main building and garden to which they relate

- o if the garden space is in breach of amenity standards then application will normally be refused

o in addition, if the adjoining house is at a lower level or has a rear building line set back from your rear building line, the depth of the proposed extension may need to be reduced in order to protect amenity of your neighbour.

The proposed development of a conservatory to the roof terrace of the apartment block. The roof terrace is located at fourth floor level, outside the top floor flat.

The existing material used is wood and plastic. The current estate comprises Art deco, 1930's style buildings. The existing conservatory design and materials does not relate to its setting and local character nor responds positively to reinforcing or improving local character. However, the proposal has been amended during the lifetime of the application and the proposed use of materials to match the existing building is considered to be acceptable.

It should be noted that a single storey conservatory has been built upon the roof terrace at neighbouring Thurlby Court. As such, the principle of a single storey conservatory would not be considered detrimental to the character of the surrounding area.

The LPA aims to avoid overly dominant extensions to consider the character and established form of development along the street/estate. Therefore, guidelines are in place, to avoid the development of extensions which are not subordinate and would be harmful to the appearance of the host dwelling, and to avoid damage to the existing design of housing within Barnet.

The proposed conservatory is visible in longer views and from elevated positions - such as other properties with Mulberry Close. However, as amended it is considered that the proposed conservatory would be commensurate in design and appearance and a suitably subordinate addition.

Outdoor amenity space provides opportunities for recreation, leisure, tranquillity and overall quality of life as well as interaction with the natural environment. Back gardens and other outdoor amenity spaces contribute positively to Barnet's green character and spacious layout as well as helping to mitigate climate change. Provision of outdoor amenity space is vital in Barnet and a key consideration for new residential developments. Further details on technical requirements are provided in the Sustainable Design and Construction SPD (section 2.3.5)

Private amenity space for the exclusive use of building occupants is a highly valued asset. Sufficient, functional amenity space should therefore be provided for all houses and flats wherever possible. Every home should have access to suitable private and/or communal amenity space through one or more of the following: private gardens, communal gardens, courtyards, patios, balconies and roof terraces.

The proposed size of the conservatory is 26.4% of the amenity space (on the plans provided) which would maintain the necessary minimum amount of amenity space for the flat.

The texture, colour, pattern and durability of materials chosen for new development contribute to the quality of its appearance individually, along with the character of its wider setting. Use of durable and high quality materials is fundamental to creating robust and sustainable residential development.



Materials should be chosen which are able to withstand their environment, weather well over time and are likely to require minimal maintenance.

Poor quality materials that are hard to maintain will normally wear badly. Whilst high quality contemporary materials can create an attractive and distinctive character, all materials should respond to the site context and design objectives. Consideration should be given to the sourcing, energy efficiency and life cycle of the materials chosen.

As amended, the proposed materials would be matching the existing building and therefore suitable for this development.

- Whether harm would be caused to the living conditions of neighbouring residents.

It is important that any scheme addresses the relevant development plan policies (for example policies DM01, DM02 and DM04 of the Barnet Local Plan and D3, D6 and D14 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.

Officers consider that due to the separation distance from Thurlby Croft, the proposal would have an acceptable impact with regards to potential overlooking (relative to the aspect from the existing windows), loss of privacy or outlook to the neighbouring occupiers.

Notwithstanding the comments received during the consultation phase, it is not considered that the degree of light pollution produced by this development would result in unacceptable detriment - and was similarly not raised as grounds for objection in determining the previous applications at W02930L/07 and W02930M/07.

## **5.4 Response to Public Consultation**

The works break several clauses of the lease that controls all the flats and buildings within Mulberry Close, Casual workers used not professionals, Annual premium will rise by £10,000, negative economic impact, Conservatory was erected in breach of the lease, Disabled occupant now finds difficulty entering or leaving the apartment

These are civil issues not relevant to the determination of this application.

Not in keeping with the general architectural style of the buildings/1930 estate, Unsightly, Not a "lean too", alien element, Development has adversely affected the beauty of the building and the estate

This is discussed in the main body of the Report.

Part E of the Soundproofing Regulations for Home Building and Renovations was not met

This is a Building Regulations matter, though a condition requiring the Sound Test Certificate to be provided to the LPA can be considered.

No involvement of an Architect or a Structural Engineer, Safety of life issue due to works, No implemented building controls and inspection, Impact on the flats below (24 and 25), Modified dwelling space carried out when the conservatory was being built, Barnet has Health and Safety responsibilities to make sure any construction does not provide any threat, Risk of damage to the surface of the terrace on which the structure has been placed, which is the roof to the flats below, Risk that the structure represents a public danger in this location as there has been no scrutiny of whether it is fit for purpose, including Building Regulations, Injury to anyone in the vicinity if an incident occurs

These are building control matter and not relevant to the determination of this application.

No details of building material, Damage to the external finishes of the building due to the fixing and weather-sealing of the structure, High winds that could cause the structure to collapse

The proposal as amended will use materials to match the existing. Structural feasibility is not a matter relevant to the planning application.

Plans indicate conservatory is not visible. This is not the case and the conservatory is visible, Conservatory dimensions are to be questioned as they appear too small/ grossly misleading

The plans have been amended during the lifetime of the application. It is accepted that the structure would be visible to some degree from longer or elevated perspectives however, it is not considered to be of undue detriment to character or amenity (for the reasons set out in the main body of the Report).

No Certificate of Ownership was presented to the other residents, The letter that the applicant says was sent on the 24/05/2022 to residents was not received.

This would constitute a civil issue. Nonetheless, it is evident from the responses received that no party was disabused of the opportunity to make representations

No planning permission sort, Not satisfy the NPPF 2021

This is an application for a retention with alterations. Provision exists under the 1990 Act for the making of retrospective applications to regularise development.

The position of the Board of MCPL is that the decision taken by a previous Board to allow the 2007 extension was a mistake, because the conservatory design was inappropriate, Thurlby Court application in 2007 was considered was the Adopted Barnet Unitary Development Plan 2006 (UDP) was replaced by the Barnet Local Plan, 32 Thurlby Croft which is facing Parson Street and cannot be seen from anywhere

The review of this application was against the current Development Plan and Guidance. The presence of the structure at Thurlby Court remains a material consideration however, it is not definitive. It remains open to the MCPL to exercise their civil authority in respect of enforcing the deeds.

## 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 as amended 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.

