

**Location** **5 Marlborough Avenue Edgware HA8 8UH**

**Reference:** **22/2437/HSE** Received: 6th May 2022  
Accepted: 6th May 2022

Ward: Edgwarebury Expiry: 1st July 2022

**Case Officer:** **Anestis Skoupras**

Applicant: Mr Patcas

Proposal: Alterations and retention of rear extension

### **OFFICER'S RECOMMENDATION**

#### Refuse

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 rear extension, by virtue of its width, height, scale, design, and siting, would result in an unduly, bulky and disproportionate addition, detrimental to the character and appearance of the host property, incongruous to the established development pattern of the surrounding area, contrary to Policy D3 of the London Plan 2021, Policies CS1 of the Local Plan: Core Strategy DPD (2012), Policy DM01 of the Local Plan: Development Management Policies DPD (2012), and the Residential Design Guidance SPD (2016).
- 2 The rear extension, by virtue of its height, design and siting, constitutes an overbearing addition, resulting in an undue loss of outlook and increased sense of enclosure to the rear habitable rooms and garden of No.7 Marlborough Avenue, to the detriment of the residential amenity of neighbouring occupiers, contrary to Policy D3 of the London Plan 2021, Policies CS1 of the Local Plan: Core Strategy DPD (2012), Policy DM01 of the Local Plan: Development Management Policies DPD (2012), and the Residential Design Guidance SPD (2016).

- 3 The rear extension, by virtue of its height, design and siting, results in an enhanced perspective into the rear garden of No.3 Marlborough Avenue and consequent loss of privacy, to the detriment of the residential amenity of neighbouring occupiers, contrary to Policy D3 of the London Plan 2021, Policies CS1 and CS5 of the Local Plan: Core Strategy DPD (2012), Policy DM01 of the Local Plan: Development Management Policies DPD (2012), and the Residential Design Guidance SPD (2016).

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

- 1 In accordance with paragraphs 38-57 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. To assist applicants in submitting development proposals, the Local Planning Authority (LPA) has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered.

The applicant did not seek to engage with the LPA prior to the submission of this application through the established formal pre-application advice service. In accordance with paragraph 189 of the NPPF, the applicant is encouraged to utilise this service prior to the submission of any future formal planning applications, in order to engage pro-actively with the LPA to discuss possible solutions to the reasons for refusal.

- 2 The plans accompanying this application are:

Pre-existing Plans: EX-P001, EX-P002, EX-P003, EX-P004, EX-E001, X-E002, EX-S001, dated January 2021.

As built plans: PR01, PR02, PR03, PR04, PR05, PR06, dated January 2022

Proposed plans: 112A P01, 112A P02, 112A P03, 112A P04, 112A P05, 112A P06, dated 01.04.2022

### **OFFICER'S ASSESSMENT**

This application has been called before the Committee by Cllr Gurung for the following reason:

*I am happy to call in this planning application before the planning committee for them to consider the special circumstances of the needs of the applicant's son and understand this is a material planning consideration.*

## 1. Site Description

The application site is located at 5 Marlborough Avenue, consisting of a semi-detached dwellinghouse. The area surrounding the site is predominantly residential. The site is located within the Hale ward.

The site is not located within a conservation area and is not a listed building.

## 2. Site History

Reference: 22/0545/HSE

Address: 5 Marlborough Avenue, Edgware, HA8 8UH

Decision: Refuse

Decision Date: 26 April 2022

Description: Retention of rear extension (Amended Description)

Reference: 21/0618/HSE

Address: 5 Marlborough Avenue, Edgware, HA8 8UH

Decision: Approved subject to conditions

Decision Date: 15 July 2021

Description: Single storey rear extension

Reference: W12869/02

Address: 5 Marlborough Avenue, Edgware, HA8 8UH

Decision: Lawful

Decision Date: 24 June 2002

Description: Loft conversion including hip to gable and rear dormer window extensions.

Reference: ENF/1342/21

Address: 5 Marlborough Avenue, Edgware, HA8 8UH

Decision: Notice Served

Date Issued: 25 May 2022

Description: Without planning permission, the erection of a rear extension

## 3. Proposal

The application seeks permission for a single storey rear extension (Part retrospective application).

A single storey ground floor garage was situated on the application site. The garage would be 6m in depth, 2.8m in width and with an overall height of 3.25m. A shed with an additional depth of 2m was situated beyond this garage.

A planning permission ref. 21/0618/HSE was granted on 15th of July 2021 for the demolition of the garage and shed and its replacement with a single storey ground floor extension which would adjoin the existing rear elevation line, extending 7.495m deep into the rear garden at a width of 2.746m with a height of 3m. The extension would be finished with a flat roof and matching materials.

A planning application ref. 22/0545/HSE was refused on 26th of April 2022. The proposal was for the retention of the rear extension as built, which would extend 9.6m into the rear garden at a width of 4.52m. In the agent's planning statement, it was noted that the extension exceeded the development consented under permission ref.21/0618/HSE by 1.5m in depth and 1m in width. In the officer's delegated report, it has been noted that the proposed plans for the application were 2m deeper and 1.8m wider with an increase of 1.4m compared to the approved decision ref.21/0618/HSE. As a result of excavation/discrepancy, this would amount to a roof height c.0.3m higher relative to the boundary than that previously approved.

There is a drop in ground levels at the rear of structure and low-level storage room underneath the end section of the structure.

It is noted that during the course of all the above-mentioned planning applications, the reference point for the ground level height is height of the ground adjacent to the building. In this instance, it sits 50cm lower than the internal ground floor height.

The current proposal seeks permission for a single storey ground floor extension which has a depth of 6.73m into the rear garden at a width of 4.52m. The height of the extension is the same with the previously refused application. The planning statement accompanying this application states that the current application would introduce a depth as originally approved with the only difference that this proposal would be wider. It is noted that the measurements on the proposed plans show a proposed depth which is c.0.8m than the approved one under application ref. 21/0618/HSE.

It is noted that the submitted plans show discrepancies between the existing site location plan and the proposed plans, in terms of the location of existing site boundary line. This will not, however, materially change the current application. The site ownership goes across half the shared side access. It has been designed as closer to the application site and this would not impact the current proposal.

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

Consultation letters were sent to 6 neighbouring properties.

1 objection has been received, summarised as follows:

- The new wall coming off the garage has been build over party [wall] by 4 inches.
- No party wall agreement made

#### **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 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 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 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.

### 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 site's context and comply with development plan policies in these respects. This will include suitably addressing the requirements of development plan policies such as DM01 which states that all proposals should preserve and enhance the local character of the area, as well as policies CS05 (both of the Barnet Local Plan), D1, D3 and D6 (of the London Plan).

The extension is replacing a pre-existing garage situated beyond the rear of the dwelling along the common boundary shared with No.7. The garage measured 6.00 metres in depth, 2.80 metres in width and an overall maximum height of 3.25 metres. Beyond the

garage, there is a shed occupying an additional 2.00 metres, but at a lower level. The proposed single storey rear extension would adjoin to the existing rear extension and has a depth of 6.73m metres from the original rear wall of the dwellinghouse, 4.52m metres in width and 4.4 metres in maximum height, and eaves height with a flat roof of 4.00 metres.

The depth of the proposed extension, when considered in isolation, would not comply with the abovementioned policy guidance. However, the previously approved application ref. 21/0618/HSE did not raise objections to, or refuse planning permission, on the basis of the depth (7.495m) of the ground floor extension. It is therefore, unnecessary to re-evaluate this aspect of the proposal as the current application has been designed with a lesser depth (6.73m).

As per the refused scheme however, the increase in the maximum height of c0.3m together with the proposed width, results in the rear extension appearing disproportionate, bulky and markedly incongruous for the character of the area.

The existing context of the built form and relationship with adjoining neighbours are material considerations in this instance, as they were in the previous applications.

It is considered that by way of the position and footprint of the existing garage, although with a lesser depth than that approved, the large increase in the footprint and volume of the extension and situation along the boundary with the neighbour at No. 7 would cause undue impact, appearing disproportionate with regard to the host property and markedly incongruous with the surrounding area.

The proposed reduction in depth is not therefore considered to overcome the reason for refusal on character grounds set out under 22/0545/HSE.

- 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 policy DM01 of the Barnet Local Plan and policies D3 and D6 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.

Barnet's Residential Design SPD provides clear guidance with regard to what is expected from new developments to ensure that the amenity of neighbouring occupants is not harmfully impacted. With regard to this application, the key concern is whether the proposed openings would result in any degree of overlooking to neighbouring sites and if overshadowing, loss of outlook and loss of light would occur as a result of the development.

As with the existing garage, the proposed extension would be situated along the common boundary shared with No.7. The proposed extension would cause an increase in height by c.0.3m from that previously accepted. Although the depth of the extension is by 0.8m less than that approved previously, this increase in height, and the proximity of the extension to neighbouring property at no.7, would continue to result in an unacceptably negative impact on amenity - in the form of an undue sense of enclosure and loss of outlook. It is noted that the ridge height of the original garage exceeded the maximum height of the new structure however, the reduced depth, lesser height adjacent to the boundary and separation from the main dwelling are considered to have been mitigating factors and render the current development incomparable.

The rear extension is located 3.13 metres from the shared boundary with No. 3. However, the proposed windows which will be looking onto No. 3 will result in overlooking of the property due to the height of the internal ground level being raised from that of the approved scheme, together with an increase in the size of windows and doors relative to the previous approval. The greater proximity to the boundary fence consequently enables a more pervasive line of sight than as approved.

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

Neighbouring property occupiers express concern related to the party wall works, which would result in the proposed extension to be built over this neighbouring site by 4 inches.

Case officer response: Although the proposed plans do not show that any part of the extension would extend beyond the party wall, this is not a planning material consideration but a matter which must be dealt with within the provisions of the Party Wall Act 1967. An informative will be attached at the decision notice in case of an approval.

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

The Equality Act 2010 (the Act) came into force in April 2011. The general duty on public bodies is set out in Section 149 of the Act. The duty requires the Council to pay regard to the need to eliminate discrimination and promote equality with regard to those with protected characteristics such as race, disability, and gender including gender reassignment, religion or belief, sex, pregnancy or maternity and foster good relations between different groups when discharging its functions.

Equality duties require Authorities to demonstrate that any decision it makes is reached in a fair, transparent and accountable way, considering the needs and the rights of different members of the community. This is achieved through assessing the impact that changes to policies, procedures and practices could have on different equality groups. It is an opportunity to ensure better decisions are made based on robust evidence.

Section 149 of the Act states that:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to-
  - (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
  
- (2) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to-



- (a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different to the needs of persons who do not share it;
- (c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(3) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular steps to take account of disabled persons' disabilities.

(4) Having due regard to the need to foster good relations between persons who share relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to-

- (a) Tackle prejudice, and
- (b) Promote understanding

(5) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(6) The relevant protected characteristics are-

- Age;
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

It is submitted that the proposal relates to the needs of a family member who would fall within a protected group (disability) and it is acknowledged that the proposals would benefit them by providing additional space to facilitate their emotional self-regulation. Testimonial evidence as to the clinical circumstances has been provided.

This need has been taken into account however, it is not considered that the proposal as submitted represents the only, or most appropriate way to realise or apportion the space required to meet this preference. On that basis, it is not considered that sufficient weight can be prescribed to the personal circumstances such as to outweigh the harm to character and amenity - as identified in the preceding appraisal.

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

## 7. Conclusion

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

