

# Officer Report

**Application Number:**

**HGY/2023/0775**

**Application Type:**

**Removal/variation of conditions**

**Address:**

6 Broughton Gardens, Hornsey, London, N6 5RS

**Proposal:**

Section 73 application to vary condition 2 (approved drawing numbers) of planning permission reference HGY/2021/3493 for the formation of a new basement level extending beyond the rear and side of the house with terrace above; formation of ground floor roof terrace; installation of external staircase from ground floor to basement level to side of extension; and associated re-profiling of rear garden levels. The application seeks a minor material amendment for the reduction in overall built area of the original basement proposal, removal of central staircase access down to garden level, change of external stone cladding to white render and removal of one row of walk on rooflights.

**Case Officer:**

Ben Coffie

**Valid Date:**

03/05/2023

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**Applicant:**

Kaowen Ho

**Agent:**

Kaowen Ho

## **RECOMMENDATION**

**Approve with Conditions**

## **PROPOSED DEVELOPMENT AND LOCATION DETAIL**

### Proposed Development

The application seeks planning permission for the variation of condition 2 of HGY/2021/3493.

### Site and Surroundings

The application site is a semi-detached dwelling house in a residential close. The house occupies a corner plot. No.7 adjoins to the north. No.5 lies adjacent to the west/south-west. The site has large rear and side gardens. The levels of the site and gardens slope considerably towards the south, south-east and east. The gardens bound those of neighbouring properties on Hurst Avenue, garages, and communal rear gardens of flats bound those of the property to the south, south-east, and east respectively.

### Relevant Planning and Enforcement History

HGY/2021/3493- Formation of a new basement level extending beyond the rear and side of the house with terrace above; formation of ground floor roof terrace; installation of external staircase from ground floor to basement level to side of extension; and associated re-profiling of rear garden levels.

HGY/2022/1450- Approval of details reserved by condition 3 (Construction Management Plan) attached to planning permission HGY/2021/3493.

HGY/2021/1098 - Approval of details reserved by condition 5 (construction management plan) attached to planning permission reference HGY/2020/1588 - 13/07/2021

HGY/2020/2631 - Variation of condition 2 (approved plans) attached to planning permission HGY/2020/1588 to omit external spiral staircase, first floor terrace, and new window (no.25) on south side elevation, retaining existing instead, and amend approved roof lights – Approved 04/12/2020

HGY/2020/2432 - Approval of details reserved by Conditions 3 and 5 attached to planning permission reference HGY/2020/1588. – Approved 10/11/2020

HGY/2020/1588 - Formation of new basement level extending beyond the rear and side (replacing existing side garage) of the house with terrace above; replacement (demolition and re-build) of existing ground floor rear and side extension with extension of similar footprint; Formation of first floor roof terrace; Installation of external spiral staircase from ground floor to basement level to side of extension; Installation of replacement roof lights; Alterations to and replacement of existing uPVC windows with steel framed windows; removal of existing rear garden outbuilding and associated reprofiling of rear garden levels. – Approved 01/09/2020

HGY/2012/2458 - Replacement of existing glass and timber second floor extension with new masonry extension. The replacement of first floor front terrace railings with painted masonry wall has been deleted from the proposal following discussions with architects. – Approved 14/03/2013

## **REPRESENTATIONS**

The application has been publicised by way letters. The number of representations received from neighbours, local groups, etc. in response to notification and publicity of the application were as follows:

No of individual responses: 0

Objecting: 0

Supporting: 0

## **MATERIAL PLANNING CONSIDERATIONS**

The main planning considerations raised by the proposed development are:

- Background
- Scope of a section 73 application Planning Officer Delegated Report
- Proposed change

### Background

As noted above, the original permission (HGY/2021/3493) was granted for the works outlined above.

### Scope of Section 73 Application

An application can be made under S.73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a S.73 application is to seek a minor material amendment, where there is a relevant condition that can be varied. A S.73 application results in a new permission being issued.

Guidance for determining S.73 applications is set out in the NPPG which states that a minor material amendment is one “whose scale and nature results in a development which is not substantially different from the one which has been approved”. This is not a statutory definition by the Department for Communities and Local Government agree with this statement. It is further stated that the development which the application under S.73 seeks to amend will by definition have to be acceptable in principle at an earlier date.

Consequently, the extent of the material planning considerations is somewhat restricted and only the amendments being applied for should be considered at this stage. Having said that, when determining the application, the local planning authority (LPA) will have to consider the application in the light of current policy. The LPA therefore has to make a decision focusing on national or local policies which may have changed significantly since the original grant of planning permission as well as the merits of the changes sought.

In this case since the granting of planning permission, the same policy documents used in the assessment of the proposal are currently adopted. There are therefore no further policy documents that have been formally adopted that materially alter the assessment of the current proposal. The overall policy approach relating to the development in terms of the need to protect residential amenity and design and heritage considerations remain consistent.

#### Proposed Changes:

1. The proposed development would be reduced in size by 13m<sup>2</sup> from 161m<sup>2</sup> GIA to 148m<sup>2</sup> GIA. As a result, moving the glazing line and terrace edge back from the boundary line. The central courtyard staircase to be removed and access from the main house to the pool house is now down from the north side of the garden.
2. An additional skylight, and their rearrangement from 4 above the pool and 3 above the gym and shower to 7 above the pool and 1 above the shower.
3. We have changed the facade material from limestone to render.

The reduction of the floor area of the development and removal of the courtyard stairs comprise ‘less’ development than the extant scheme, therefore no concerns are raised against this change when considering the scale and massing of the development.

With regards to the rearrangement of the skylights and proposed render, it has been established that the front façade of the property will remain unaffected given the development would be solely contained to the rear of the site, which will not be visible from the public vantage points. Therefore, the proposed changes in this application would equally cause no harm to the character and appearance of the conservation area, leaving it preserved.

The proposed render and proposed skylight arrangement are not significant changes, moreover they would not detract from the language and design of the of the property.

Overall, the proposed changes do not cause significant changes to the character and appearance of the building or wider conservation area, or to the residential amenity of neighbouring occupiers, compared to the extant scheme. Officers consider that they represent minor changes that would not be sufficient to cause material harm, or a different outcome/ recommendation to the original decision to grant planning permission. They are therefore acceptable.

#### Conclusion

The alterations can be considered to be minor material amendments to the approved scheme. All other relevant policies and considerations, including equalities, have been taken into account. Planning

permission should not be granted for the reasons set out above. The details of the decision are set out in the RECOMMENDATION.

The conditions attached to the original planning permission HGY/2017/2060 will be reattached to this recommendation unless no longer relevant, or modified to reflect subsequently approvals of details pursuant to those conditions.

**Conditions:**

- 1 The development hereby permitted shall be begun not later than the expiration of 28/01/2025.

Reason: This condition is imposed by virtue of Section 91 of the Town and Country Planning Act 1990 and to prevent the accumulation of unimplemented planning permissions.

- 2 The development hereby permitted shall be carried out in complete accordance with the approved plans and drawings listed in this decision notice, other than where those details are altered pursuant to the conditions of this planning permission.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The development shall be implemented in accordance with the approved Construction Management Plan under application ref: HGY/2022/1450 prepared by Unknown works.

Reason: To protect of the amenity of neighbouring properties and to maintain highway safety.

- 4 The trees to the immediate south and south-east of the site (Tree Survey Plan and Tree Survey and Method Statement) must be protected by barriers and/or ground protection in accordance with BS 5837 (2012) 'Trees in Relation to Construction - Recommendations'. No equipment, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection having been installed. app. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority

Reason: In order to ensure the safety and well-being of the trees next to the site during constructional works that are to remain after works are completed consistent with Policy G3 of the London Plan 2021, Policy SP11 of the Haringey Local Plan 2017 and Policy DM1 of The Development Management DPD 2017.

- 5 The appointed qualified chartered engineers (Morph Structures) shall inspect, approve and monitor the critical elements of both permanent and temporary basement construction works throughout their duration to ensure compliance with the design which

has been checked and approved by a building control body. Any subsequent change or reappointment shall be confirmed forthwith and retained for the duration of the construction works.

Reason: To ensure the development can be implemented and occupied with adequate regard for environmental and public safety in accordance with Policy DM18 of The Development Management DPD 2017.

**Informatives:**

**INFORMATIVE: Party Wall Act**

The applicant's attention is drawn to the Party Wall Act 1996 which sets out requirements for notice to be given to relevant adjoining owners of intended works on a shared wall, on a boundary or if excavations are to be carried out near a neighbouring building.

**INFORMATIVE: Land Ownership**

The applicant is advised that this planning permission does not convey the right to enter onto or build on land not within his ownership.

**INFORMATIVE: Hours of Construction Work**

The applicant is advised that under the Control of Pollution Act 1974, construction work which will be audible at the site boundary will be restricted to the following hours:-

8.00am - 6.00pm Monday to Friday

8.00am - 1.00pm Saturday

and not at all on Sundays and Bank Holidays.

**INFORMATIVE: Community Infrastructure Levy**

In this particular case the application is accompanied by a 'Self Build Exemption Claim Form (Form 7 - Part 1)' to qualify for self build exemption. Within 6 months of completion of the development hereby permitted the applicant must submit a 'Self Build Exemption Claim Form: Part 2' together with the following appropriate supporting evidence: " Proof of completion (Building control compliance/completion certificate) " Proof of ownership (title and deeds) " Proof of occupation of the dwelling (Council tax certificate, and two further proofs of evidence e.g. utility bill, electoral roll, bank statement)