David Dawkins, Flat 1 - My objection to HGY/2023/2168 planning application

I am currently the owner of the garden flat below this balcony application, affected like flat 2 by the major overlooking and safety implications that affect me from this Planning application.

I have read the HGY/2023/2168 planning application and wish to object most strongly to the implications that come out of it, in what is still a majorly intrusive balcony proposal.

Historical precedent for a balcony on flat 3's raised platform

In October of 2021 I responded to an urgent request from flat 3 to allow a balustrade to be put up. I had a few days to respond, and as my father had also been ill most recently, I wanted to help. This was never in my view a permanent fixture.

I also have attached email (1) , at the back of this objection, dated October 4, 2021, which said "it would not be used much more than it is", which was never, and boy how that has now changed

This "never" point I raise, can be substantiated by Flat 3's claim in original planning application HGY/2023/0489 that the raised platform was so dangerous to use without a balustrade, so how it could it be used to look down on our gardens below.

Flat 3 also has no pictures of the balcony being used with any person on it, despite living at the property for I think, 18 years, because flat 3 or flat 4 have never used it or sat out on their balconies in the 18 years prior to the illegal balcony. Not even 1 picture.

Flat 2's owner and I, have never witnessed anyone using the balcony until the illegal balustrade was built and flat 3's new tenants moved in. From that point I have had no privacy at all in my garden since 2021.

ENF/2022/0784 – A9048 – confirms there could be no legitimate use since 26th April, 1989

I read with interest that it is implied that flat 3's owner claim's naivety via point 3.4 – "it was the applicants understanding that this minor form of development would not require planning permission" not my words. It should be noted that Flat 3's owner also never asked the previous Landlord, Freehold Managers Ltd for permission to break her lease and some of the clauses in it, for example (not to "sever or cut" into the building without landlord permission). though it is clearly stated within her lease she had a requirement to do so. She had also not discussed this illegal balcony with the current landlords until 1/9/2023, and then only because she had been served an enforcement notice that left her with unfavourable outcomes. Flat 3 has also rented to her tenants without proper planning permissions in place.

Flat 3's lease

It was confirmed by Haringey Council that there is no provision in the lease for a balcony as flat 3 asserted within the original proposal HGY/2023/0489. They currently have a raised platform with no planning permission for a balcony.

Relevant planning and enforcement history

ENF/2022/0784 – Unauthorised erection of a balustrade on flat roof area. On going in relation to this application

Old/1988/1044 – 13/7/88 - use of first floor rear flat roof as terrace including erection of railings and screens – Refused.

Following the refusal of application OLD/1988/1044 (36101) an enforcement notice was served on the 15th March, 1989.

12/1/2023 – Enforcement notice sent to remove illegal balcony – yet to be enacted

HGY/2023/0489 – 12/7/2023 – erection of external balustrade around existing rear balcony – Planning permission – refused - On the 12th of July 2023 the retrospective planning proposal for the original illegal balcony was rejected by Haringey Planning Department. The reason given was " The proposed development by reason of an increased sense of overlooking and loss of privacy would be detrimental to the amenities of the private amenity space of the ground floor flats to the detriment of the living conditions of these neighbours. As such, this development is contrary to Policy DM1 of the Development Manager DPD 2017 and policies SPO and SP11 of the Haringey Local Plan 2013 and is inconsistent with guidance in the National Planning Policy" Flat 3 and their planning manager had 15 weeks of consultation to provide a solution to HGY/2023/0489 from the previous issues raised by balcony 1 and couldn't.

ENF/2022/0784 A9048 – 21/8/2023 - Enforcement notice sent for removal of balustrade – yet to be enacted

Overlooking

Point 3.4 – This application alludes to me being ok with the balcony because I haven't complained about the tenants who look down on me and invade my privacy. I used my garden for over 20 years with enjoyment and a sense of privacy, before the illegal balustrade was put up. The two tenants above me are nice people, although that could drastically change with new tenants. To be clear here, flat 3's owner lives in East Finchley and rents out this property permanently to other tenants. I don't complain directly to the tenants about their down looking, down talking and my complete loss of privacy because this situation is not their fault. Flat 3's owner built an illegal balcony and rented her flat out without proper planning permissions. I don't often also complain directly to the owner of flat 3 about her tenants and my loss of privacy, she has seen my objections to her various planning proposals. I have raised my concerns about loss of privacy and safety issues etc in the correct way.

This new submission has stated it will move the balcony 0.7 metres, that is less than an arms-length. Is flat 3 and their planning manager, honestly proposing this goes anyway to really improve this major issue of down looking, down talking and a loss of privacy to the owners of the garden below, ie me and Flat 2's owner. There is guidance in place for balconies, the previous rejection of Balcony HGY/2023/0489 and other balconies multiple times surely cannot be improved by this minute gesture of moving the balcony 0.7 metres. It is clear from previous planning refusals that any balcony on this roof space is majorly intrusive and causes multiple issues.

Aitchinson Raffety proposes that this application is acceptable, but we in the ground floor flats below still lose out with a major loss of privacy that was afforded us before any illegal balcony was built or this revised proposal was put forward. The multiple rejections from Haringey Council instruct us that there are no provisions for a balcony above us, beyond a Juliette balcony. The guidance also provided by the government and Haringey Council from within a conservation area, illustrates we should not lose our privacy via a balcony as intrusive as this planning application proposes.

The 3 nearby developments

Flat 2, 60 Coolhurst Road(HGY/2021/0774) , 12 Coolhurst Road (HGY/2021/1640) and 20 Coolhurst Road (HGY/2091/1757) are also cited as precedent.

Flat 2, 60 Coolhurst Road, HGY/2021/0774. When looking at the elevation plan and google earth the balcony seems to sit back 4 times as much as this application, offering significantly more privacy than this proposal. It has a building between balcony and garden below offering much privacy to the ground floor flats.

12 Coolhurst Road, HGY/2021/1640 – actually relates to a PVC window at Flat 4, Stapleton Hall Road so not sure about that relevance. Also, conditional permission was granted but no explanations. If it is 12 Coolhurst Road, again when looking at Google Earth it sits back significantly offering good privacy below, probably 4 times as much as this proposal. Also, looks as though it isn't built yet so maybe lacks approval. It has a building between the balcony and garden below, offering much privacy to the ground floor flats.

20 Coolhurst Road, HGY/2091/1757 – It is mentioned that it is granted conditional permission but planning manager doesn't explain the conditions. Looking on Google Earth it sits significantly more back than this proposal, maybe 5 times as much. It has a building in between balcony and garden below offering much privacy.

So, 3 examples that fall well short of providing evidence that validates the extreme overlooking of this revised application – HGY/2023/2168 – At least 4 times more set back than this proposal.

Flat 4 wants a balcony.

The owner of Flat 4 asked me months ago if he could build a balcony on his raised platform above flat 2, I explained my objections.

He has also discussed his wish for a balcony with neighbours who live at the rear of our property, who informed me of his balcony desires.

So, approving Flat 3 validates a balcony for Flat 4 which is an horrific option on overlooking, ie multiple balconies then overlooking us. Also, this would mean multiple noise implications from multiple balconies less than 1 metre back from above. Flat 2 would then have 3 balconies invading her privacy. We could not sit in any part of our garden and have reasonable privacy.

Planning points raised by Aitchinson Raffety which I disagree with

6.12

Regarding design concerns – The council rejected the proposal with far more important issues than design – ie The major down looking issue, as well as other issues.

6.13

It is not a "minor structure" It still has safety issues for people below, It still means a major loss of privacy, with sound from above, down looking and down talking, as well as safety issues.

6.15

"The considerable setback distance" point that is raised, has zero credibility. This application proposes moving back the balcony 0.7 metres, that is less than an arms-length. It does not "mitigate any potential privacy issues" and has not "successfully addressed the previous reason for refusal" The safety concerns, down looking, down talking, noise from above and loss of privacy are not addressed by the ridiculously small 0.7 metre amount. This point has zero credibility, when compared to the 3 other examples of other local building proposals used as their own supporting

evidence, within this application. The 3 buildings cited as evidence, all sit back 4 or 5 times as much as the 0.7 metre change that is proposed.

6.16

Point raised “it is important to note that the proposed balustrade has not resulted in any additional overlooking” Flat 3 built an illegal platform that has been rejected in retrospective planning application HGY/2023/0489 and was also served an enforcement notice. The starting point for loss of privacy etc does not start with the illegal balcony but the empty raised platform that was there for for over 20 years before, and was subject to an enforcement notice, before the illegal balustrade was built. So, major, major loss of privacy is added, and its associating issues are are lost via HGY/2023/2168’s planning application. It results in much additional harm.

“the fall back position” still requires that Flat 3’s owner complies with acts of parliament and keeps her tenants safe.

Also, the point about authorised doors continuing to be used is also potentially mute. There was no rights for balcony use as per the enforcement notice. A rejection of HGY/2023/0489 already and potentially this application, HGY/2023/2168 because of privacy issues, will mean the balcony can’t be used. So, a Juliette Balcony would need to be installed as per all other balcony situations like this within our local area. This planning application is still horrifically invasive and can’t be supported by precedent, in fact it is way short of that.

Flat 3 and 4 have also raise safety concerns regarding an open raised platform, and flat 3 has no approval for any builds via their lease, landlord or planning department. So, a Juliette Balcony will be the sensible and obvious solution.

On the point “no condition was imposed preventing the use of this raised platform for outdoor amenity” There are now multiple rejections and refusals in regards to the use of a raised platform’s via Haringey Council. The balconies have never been used at any point in the last 20 years I have been at the property. The desperate, inanimate objects pictures shown in this document do not constitute use. The argument of any historical use precedent been completely rejected via stronger supporting evidence in multiple ways via HGY/2023/0489 and within this objection.

Point “This constitutes the fall-back point” It seems because this point is raised that flat 3 already realises how lacking in supporting evidence HGY/2023/2168 has to support this revised HGY/2023/2168 balcony. Also, Flat 3 and 4 have also asserted that there is serious danger via an open raised platform, and they also can’t get any planning permission to build on one, via their lease, landlord approval or planning approval. So, the two points are contradictory, and something will have to give, with a Juliette Balcony. Flat 3 and 4 have responsibilities within their lease for keeping people safe from, for example, falling objects on people living below and an open balcony that is open for flat 3’s tenant’s use. I say again, a Juliette Balcony covers this off and does not compromise on safety, it also avoids the horrific overlooking issues this revised balcony presents.

Safety Issues

Flat 3 as well as Flat 4 have cited safety issues within emails and within planning applications, their real desire is that they want a balcony at the privacy expense of the 2 people living below, Flat 1 and Flat 2. They have been told in emails and via our planning objections that a Juliette Balcony equally keeps people safe and that is obviously true.

For clarity purposes a balcony moved back 0.7 metres still leaves us who live below living with dangerous safety implications as well as the perception of danger, from dropped objects. This balcony would still be less than an arms-length from accidentally dropping objects on us. A similar balcony at a pub, with the same proximity to people below, would have to use plastic glasses in that area, we don't have that option.

In conclusion

There is no historical precedent for a revised balcony at the current site as per this application, no Landlord approvals, no provisions in Flat 3's lease and multiple rejections over the years for a balcony in flat 3's raised platform location.

There is no local building precedent that can be cited. The 3 examples that Aitchison Raffety puts forward are not "like for like" and do not get near to the horrific down looking that this balcony, within this application, presents. All examples put forward, sit 4 or 5 times further back than HGY/2023/2168's planning application, some are not built yet, and may never be. Also, some planning conditions are mentioned but are not shared and the wrong planning codes are also shown, so we can't check up on precedent. All 3 examples put forward have buildings built between the balcony and the gardens below, offering much privacy. So, no local precedent at all from this planning application. In fact, the 3 examples very much support our own objection to this application.

There are multiple Haringey Council planning refusals and enforcement notices for balconies in the in relation to this balcony space. Obviously, a balcony in any form cannot be substantiated on this site.

I also want to bring to everyone's attention email's (2 and 3) that all the landlords of 50 Coolhurst Road received on 1/9/2023 and 2/9/23, from the owner of Flat 3, as marked (2 and 3) on the final pages of my objection. It raises important points, please read -and see my responses immediately below -

1) Flat 3 "appreciates the concerns that overlooking brings" yet a balcony is still in place and Flat 3 continues with an appeal to the planning inspectorate on her rejected application – HGY/2023/0489 – My garden and flat 2's garden is still 100% overlooked by her balcony, yet she appeals.
2) She "appreciates the concerns that overlooking brings" – Yet thinks that moving the balcony back only 0.7 metres within planning application HGY/2023/2168 satisfies the concerns from the flats below.
3) She has worries about "Someone falling and injuring themselves from the removed railings yet passes the problem onto the Building Landlord and blames Haringey Council for the illegal balcony she built and its subsequent removal, and does not accept the reasonable proposal that the legal enforcement notice served on 21/8/23 is a separate issue to her own responsibilities regarding health and safety, they are not linked. Also, flat 3 has zero concerns for my safety below with this current balcony and the revised 0.7 back balcony, as that issue is not even mentioned in her emails regarding safety.
4) Wants to delay the enforcement notice, yet also admits the current illegal balcony has overlooking issues.
5) Mentions the railings were "installed as a safety feature" yet does not mention my response to this illegally built balcony was an urgent response to an immediate and temporary safety requirement to support her seriously ill mother, I had 2 days to respond to this urgent

request. Also, there is no mention the balustrade was built without Landlord or planning approval and only 1 leaseholder was consulted.

6) Flat 3 implies it is ok for the illegal railings to be in place for maybe another year, while she appeals, even though the illegal balcony has been in place since 2021 and I have asked for its removal since 2022. Flat 3's owner obviously won't take responsibility for the overlooking concerns her balcony has caused.
7) In email (3) of 2/9/2023 from flat 3's owner – Implies that with railings or without railings "That responsibility for anyone who enters the building resides primarily with the Landlord" – The owner of flat 3, is trying to pass all responsibility for the health and safety of her tenants and me below onto the building landlord and will not accept her own duties, as a Leaseholder and the rental Landlord. This is despite signing tenancy agreements that demands she complies with safety requirements and a lease that demands she complies with "all acts of parliament and bye laws,", very worrying for the health and safety of her tenants and me who lives below her property that flat 3's owner thinks she can pass safety responsibilities within her demise, to other parties. The Government "How to rent guide", tells us within a number of areas of the document, her duty of care responsibilities for keeping her tenants safe, within the rental area she is responsible for.

I have explained to Flat 3's owner the responsibilities she has for safety within her own area. Also, that a Juliette Balcony addresses safety concerns without the extreme invasion of privacy for the ground floor flats that the current balcony and revised balcony in this application, presents. Also, that both 1st floor flat's have their own single use gardens they can use that are not looked down on at all. Major Privacy for flat 3 in their garden but none for us on the ground floor, seems her position.

I would also appreciate this planning application being concluded in the 8-week time frame and avoiding the 15-week time frame that happened on balcony 1. I have been involved in these planning disputes in regard to the illegal balcony and revised balcony since January 2023. The latest balcony is still massively invasive, but could, I believe, have been covered off in the previous 15-week process. Please let us avoid further fatuous applications from flat 3 from now on.

I have hoped to be direct and clear in my response and I hope this is not regarded as rudeness.

Email 1

From: Julia Gnezdilova **Sent:** Monday, October 4, 2021 1:43:04 PM
To: Dave Dawkins

Subject: Re: Railings

Many thanks Dave. I am pretty sure that the balcony will not be used much more than it currently is, it is just a safety feature. But of course you are welcome to use an awning if you wish. I hope we will not cause you any trouble.

Julia

Email 2

From: Julia at Home **Sent:** Friday, September 1, 2023 4:56:15 PM
To; Dave Dawkins

Subject: Letter to directors

Dear All,

You have probably received a letter from xxxxxxx from Haringey Planning last week. I am writing to you to provide some background on this.

The letter appears to have been sent to you in your capacity as directors of 50 COOLHURST ROAD FREEHOLD LIMITED. It refers to the railings that "have been installed to the rear of the property at first floor level to the surround of a roof, to create a roof terrace". In other words, it refers to the railings around the small balcony of Flat 3. These railings were installed by me in 2021 and I have applied for a retrospective planning permission in 2023. You have all probably seen the application and commented on it already.

I would like to flag the following:

- I intend to comply with the request in xxxxxxx letter to notify him, "within 21 days, beginning with the date of this letter, what actions you have already taken or any of you will take to comply with the enforcement notice". In other words, if I have to remove the railings, I will arrange for it to be done.
- I have submitted an appeal to the refusal of my planning application, and also I have submitted an amended planning application for railings surrounding a smaller area of the balcony, to reduce any potential overlooking. Haringey is still reviewing both the appeal and amended application, and the outcome is not yet known. Normal practice for the council is to wait outcome of the appeal, before taking any enforcement action.
- However, you will probably notice that xxxxxxx refers to an Enforcement Notice issued in 1989, which refers to a structure in place at that time. This structure is no longer there and my railings were installed in 2021 as a safety feature. My personal view is that the Enforcement notice from 1989 should not be relevant at present, and I have raised this concern with Haringey.
- While I appreciate the concerns about overlooking, I also believe that some form of railings do need to exist around the balcony of my flat, as a safety feature, to prevent anyone from potentially falling down from the balcony.
- If the railings are removed, and an accident was to occur (e.g. someone falling and injuring themselves), each of us individually, as Directors of freehold company, could potentially be personally liable for failing to take necessary safety precautions.
- Because of these concerns, I am asking Haringey to follow their normal practice and not to take action until they have completed their review of my appeal and amended application, rather than to act on the enforcement notice from 1989. If the normal practice is followed,

existing railings could remain in place until the appeal process is completed, and some form of compromise solution is found to ensure both safety and privacy.

Kind regards
Julia

Email 3

From: Julia Gnezdilova **Sent:** Saturday, September 2, 2023 8:32:50 AM
To: Dave Dawkins

Subject: Re: Haringey letter

Dave

Thank you for your email.

I agree this afternoon is not the forum for this discussion.

There is one point that I wish to be clear on, as the rest sits with the council now. It is 50 COOLHURST ROAD LTD which owns the building. The responsibility for safety of anyone who enters the building primarily resides with the building owner and therefore directors of the company. Therefore it is not just me who bears this responsibility but each of you too.

Kind regards

Julia