

	Officer Report
Application Number:	HGY/2023/2168
Application Type:	Householder planning permission
Address:	Flat 3, 50 Coolhurst Road, Hornsey, London, N8 8EU
Proposal:	Erection of external balustrade and creation of a balcony on existing flat roof (retrospective application) (resubmission following refusal of planning application ref: HGY/2023/0489).
Case Officer:	Mercy Oruwari
Valid Date:	09/08/2023
Applicant:	Ms J Gnezdilova
Agent:	Mr Hayden Todd

1. SUMMARY OF RECOMMENDATION

REFUSE PLANNING PERMISSION, for the following reason(s)

1) 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 Management DPD 2017 and Policies SP0 and SP11 of the Haringey Local Plan 2013 and, is , inconsistent with guidance in the National Planning Policy Framework.

2. PROPOSED DEVELOPMENT AND LOCATION DETAILS

Proposed Development

2.1 This is an application for the retrospective application for an external balustrade positioned at the edge of the flat roof to create a rear facing balcony. This application is in relation to the enforcement case ENF/2022/0784.

Site and Surroundings

2.2 The application site is the flat on the left side of the first floor of 50 Coolhurst Road. The building is a large 3 storey property, built circa 1920, located on the eastern side of the road and within Crouch End Conservation Area. The property is divided into 6 flats. The proposal relates to Flat 3 located on the first floor.

Relevant Planning and Enforcement History

2.3 The most relevant planning history in relation to the site is as follows:

- HGY/2023/0489 - Erection of external balustrade around existing rear balcony (Retrospective) - Refused
- ENF/2022/0784 – Unauthorised erection of balustrade on flat roof area. Ongoing (in relation to this application)
- Following the refusal of application OLD/1988/1044 (36101) an Enforcement Notice was served on the 15th March 1989.
- OLD/1988/1044 - 13/7/88 Use of first floor rear flat roof as terrace including erection of railings and screens - Refused
- OLD/1988/0273 - 14/10/87 Conversion of existing single four storey dwelling into six 2 bedroom self-contained apartments and the provision of three off-street parking spaces to the front of the property - Granted.

3. CONSULTATION RESPONSE

- 1) There were no consultees contacted as there was a recent application with the same proposal.

4. LOCAL REPRESENTATIONS

4.1 The following were consulted:

- Neighbouring properties
- Stroud Green Residents' Association
- Stroud Green CAAC

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

No of individual responses:

Objecting: 5

Supporting: 1

4.3 The following issues were raised in representations that are material to the determination of the application and are addressed in the next section of this report:

- A balustrade was installed temporarily for safety reasons for a vulnerable person who never or rarely used the platform. This was not a permanent agreed arrangement just a compassionate temporary gesture.
- The flat is now rented to tenants and not used by the owner therefore no control of the use of the balcony, which is now used frequently. No 52 has witnessed tenants directly looking over their garden whilst their daughter was using the space.
- No 52 states that their garden is not partially overlooked but is completely overlooked therefore safety and security issues are of a concern.
- The roof was never officially a balcony.
- No permission was sought from the previous landlord/freehold managers, or any permission given by the freeholders.
- Previous to the erection of the balustrade Flat 1 has never witnessed anyone sitting or using the platform within the last 21 years.
- Unlike a Juliet balcony style, that would cover any safety issues, the balustrade is located at the edge of the platform allowing occupants to 100% overlook both gardens below (Flat 1 and 2).
- This also compromises the safety of items accidentally being dropped at close proximity to the seated patio area. The slight pulling back of the balustrade by 0.7m does not alleviate this concern.
- Some of the examples cited have either never and/or has not as yet been built. However, for those existing examples the majority have buildings that sit in between the 1st floor balconies and the gardens below affording a level of privacy and safety.
- Approval of this balcony would give precedence for flat 4 to subsequently further impacting the loss of privacy and noise for the gardens below.
- A proposed balcony was rejected on the platform in April 1989.
- The correspondence between the applicant and the Planning Enforcement team indicate that the balustrade should have been removed, however this has not been actioned or resolved.
- The issue of the extreme overlooking for flat 1 would not be resolved with the balustrade being moved back by 0.7m as proposed in this application.
- This application implies that the applicant was not aware that they required planning permission before installing the balustrade.
- The applicant appears to sympathise with the overlooking issue, but is continuing to press ahead.

- Flat 2 already has a degree of overlooking from a neighbouring upper floor flat. Approval of this application would result in the garden completely and unacceptably being overlooked.
- The close proximity result in a loss of privacy, additional noise and the ability for occupants to talk down to them from immediately above.
- Flat 3 has full independent use of garden space at the rear of flat 1 garden. Their independent garden would not suffer from any overlooking.
- Government guidance states that the privacy should not be lost due to a balcony.

4.4 The following reasons for support were put forward:

- The balustrade provides safety.
- The space already exists and would formalise what was originally designed to be used as a balcony.
- There are other precedents of balconies in the area.
- Previous occupants of Flat 4 used the platform. Chairs were present during viewings and in the sales brochure.
- The space is small and therefore would only allow minimum use at a time. This therefore minimises disturbances.
- There's be no evidence of disturbances from the occupants of Flat 3.
- Positioning of chairs in the space would not afford any more overlooking than a window or Juliette balcony.

5. MATERIAL PLANNING CONSIDERATIONS

5.1 The main planning considerations raised by the proposed development are:

1. Background
2. Design and Impact on the character and appearance of the conservation area;
3. Impact on neighbouring amenity.

Background

5.2 The original property was a large four storey single family dwelling similar to the rest of the street. Like some of the neighbouring properties such as No 52 the house was granted permission to be converted into six self-contained flats in 1988, with only the ground floor flats having direct access to the split garden. It has been stated within the comments that at the rear of the personal garden of flat 1 that there is a section of garden solely allocated to flat 3 providing usable amenity space. Although this has been put forward this has not been confirmed by the applicant.

5.3 The application also included planning permission for a rear extension. On the roof of this extension 2x areas were carved out in front of the french doors on the first floor level of both flats. It is stated within the documents that the approved plans included a balcony immediately in front of the french doors, which intentionally was to prevent access into the area. It appears that the only terraces included were those at roof level for the top floor flats.

5.4 Planning Enforcement later investigated the site following a breach to the approved plans involving the developer erecting railings at the edge of the roof on for both first floor flats. Subsequently an application to turn the roof space into terraces was submitted in 1988. This application was refused as it was considered to be detrimental to the amenities of neighbours by reason of overlooking. An enforcement notice was served in 1989 for the removal of the railings and for the works to return to the original approved plans.

5.5 This confirms that there was no approval for this area to be accessed when the property was originally converted, and the rear extension was built.

Design and impact on the character and appearance of the conservation area

5.6 DPD Policy DM12 'Housing Design and Quality' states that extensions or alterations to residential buildings, including roof extensions will be required to be of a high, site specific, and sensitive design quality, and respect and/ or complement the form, setting, period, architectural characteristics, detailing of the original building, including external features such as chimneys, and porches. High quality matching or complementary materials should be used appropriately and sensitively in relation to the context. DPD Policy DM1 'Delivering High Quality Design' requires development proposals to relate positively to their locality, while Local Plan (2017) Policy SP11 requires the highest standard of design that respects local context and character and historic significance, which is equally supported by London Plan (2021) Policy D6.

5.7 London Plan Policy HC1 seeks to ensure that development proposals affecting heritage assets and their settings, should conserve their significance. This policy applies to designated and non-designated heritage assets. Local Plan Policy SP12 and DPD Policy DM9 set out the Council's approach to the management, conservation and enhancement of the Borough's historic environment.

5.8 DPD Policy DM9 states that proposals affecting a designated or non-designated heritage asset will be assessed against the significance of the asset and its setting, and the impact of the proposals on that significance; setting out a range of issues which will be taken into account. In relation to extensions or alterations to

residential buildings, including roof extensions, Policy DM9 requires proposals to be of a high, site specific, and sensitive design quality, which respect and/ or complement the form, setting, period, architectural characteristics, detailing of the original buildings, including external features such as chimneys, and porches. The policy also requires the use of high-quality matching or complementary materials, in order to be sensitive to context.

5.9 The balcony is confined to the rear of the property and is not subject to public views. It is acknowledged that there are various extensions and roof dormers at the rear of these properties. As such, apart from the main buildings, there is no particular uniformed style with the adjoining or surrounding properties. Given the variety and the appearance of these structures, and of other existing balconies/terraces in the area that lack any formal cohesion, it can be considered that the balustrade would not have an unacceptable effect on the character and appearance of the surrounding area and/or of the Crouch End Conservation Area. It is also acknowledged that the character of this area is largely formed from the appearance of the groups of main buildings, and the consistent appearance of the front elevations of these terraced dwellinghouses.

5.10 It is also considered that the balustrade appears as a lightweight addition that would be subservient to the proportions of the existing building and the wider terrace.

5.11 For the above reasons, it is concluded that the proposal would not cause harm to the character and appearance of the site, the surrounding area or the Crouch End Conservation Area.

Impact on neighbouring amenity

5.12 London Plan Policy D6 outlines that design must not be detrimental to the amenity of surrounding housing, in specific stating that proposals should provide sufficient daylight and sunlight to surrounding housing that is appropriate for its context, while also minimising overshadowing. London Plan Policy D14 requires development proposals to reduce, manage and mitigate noise impacts.

5.13 DPD Policy DM1 'Delivering High Quality Design' states that development proposals must ensure a high standard of privacy and amenity for a development's users and neighbours. Specifically, proposals are required to provide appropriate sunlight, daylight and aspects to adjacent buildings and land, and to provide an appropriate amount of privacy to neighbouring properties to avoid overlooking and loss of privacy and detriment to amenity of neighbouring resident.

- 5.14 There is an element of overlooking to gardens and other neighbours generally in a terrace of houses, but this is generally restricted to openings flush to the elevation itself. Issues of privacy are heightened when properties have undergone extensive conversion, such as in this instance. It was noted that the platforms were part of the original design and therefore should be used for the intended purpose. The original arrangement was not for purpose built flats, but instead was designed as a single family dwelling therefore, privacy would not have been an issue when considering any rear facing openings. The French doors was included in the application for the conversion of the property along with the platform on the roof of the extension with 2x areas carved out in front of the doors on the first floor level. The original approved plans included a balcony immediately in front of the french doors, which intentionally was to prevent access onto the flat roof area. Permission was sought in the same year to have railings at the edge of the platforms to create fully accessible roof terraces for both flats. This application was refused followed by an enforcement notice to remove any form of enclosure.
- 5.15 The overlooking of the garden, as stated previously, would be no different to the views from most upper floor windows and Juliette balconies. However, similar to the 1988 application, the development works carried out, would result in an encroachment of privacy, as well as significant additional overlooking of the garden area of the ground floor flats below. Unlike many of the examples cited there is no extension or built structure to create a sense of division between the first floor platform and the ground floor level.
- 5.16 It was stated in a recent appeal (APP/Y5420/W/19/3235556 relating to application HGY/2019/0976) that 'At such close range, the proposed decking area would allow significant overlooking of the garden, and to a considerably greater degree than the window currently allows, to the detriment of the living conditions of the occupants of the ground floor flat. The proposal would therefore also result in an unacceptable increase in overlooking to the rear garden of the ground floor flat'. In this case the close proximity of the first floor platform would allow users the potential to look directly down into the most private area of the garden. It should be noted that it's not the intent of overlooking to be considered when assessing the amenity impact, but instead the perception. In this circumstance the impact would be unacceptable and indeed would be challenging to mitigate the effects of the potential overlooking and loss of privacy.
- 5.17 The proposal for this application involves a slight amendment to the refused HGY/2023/0489. The balustrade has been pulled back by approximately 0.7m as suggested by the Planning Department. It was felt that this would reduce the potential issues of overlooking and provide an amenity space for this flat. It was also suggested that the railings be replaced with obscure glazing to further reduce

the potential overlooking issues plus the safety issues. This has not been included in the proposal.

5.18 Although, this adjustment was considered to be a possible solution to mitigate the issues and to still provide an amenity space upon review it would not resolve the issues for the same reasons outlined above and in the previous report for HGY/2023/0489. In addition, the use of the railings further increases the impact of the balustrade. Lastly, potentially the occupants have access to private amenity space within the rear garden.

5.19 Due to the location of the balustrade, the railings, combined with the close proximity of the platform/balcony to the patio below, this would encroach unacceptably on the most private area of the garden for both the ground floor flats. As such the proposed development would have a detrimental impact on the amenity of these neighbours by virtue of an increased sense of overlooking and a loss of privacy.

Conclusion

5.20 The revised proposal is considered unacceptable. Although the revised adjustment to the retrospective proposed development would be acceptable in terms of character and appearance, this is outweighed by the unacceptable level of harm caused to the living conditions of the occupants of the ground floor flats below in regards to overlooking and a loss of privacy. In addition, the benefit to the living accommodation to the applicant is not as significant as suggested in the previous application, as it is acknowledged that there is access to personal amenity space in the form of a private garden at the rear.

5.21 All other relevant policies and considerations, including equalities, have been taken into account. Planning permission should be refused for the reasons set out above. The details of the decision are set out in the RECOMMENDATION.

6. CIL APPLICABLE

N/A

7. RECOMMENDATION

REFUSE PERMISSION for the following reason(s)

Refusal Reasons:

The proposed development by reason of an increased sense of overlooking and loss of privacy to the private amenity space of the ground floor flat, would be detrimental to the living conditions and residential amenity of the occupiers of the ground floor flat. As such, this development is contrary to Policy DM1 of The Development Management DPD (2017) and Policies SP0 and SP11 of the Haringey Local Plan (2017) and, is inconsistent with guidance in the National Planning Policy Framework (2023).