



Officer Report

Application Number:	HGY/2023/0188
Application Type:	Removal/variation of conditions
Address:	67 Victoria Road, Hornsey, London, N4 3SN
Proposal:	Removal of condition 11 (green roof) attached to planning permission HGY/2022/0828 to provide a green roof in conjunction with the building of a new dwelling.
Case Officer:	Tania Skelli
Valid Date:	19/01/2023
Applicant:	Mr Cassion Castle
Agent:	Mr Cassion Castle

RECOMMENDATION

Refuse

1. PROPOSED DEVELOPMENT AND LOCATION DETAILS

Proposed development

This is an application for Variation of condition 11 (green roof) of planning permission ref. HGY/2022/0828 granted on 21/7/2022 for the demolition of an existing garage and erection of new dwelling.

Site and Surroundings

The application site is a backland site with an existing garage at the back of an existing garden. The site is set close to the corner of Victoria and Albert Road. The site is located in a predominantly residential area and within the Stroud Green Conservation Area. There are several locally listed buildings on Victoria Road but none immediately adjacent.

The host building is an end-of-terrace terraced residential building and align with the remainder of the terrace benefits from rear gardens. The 33sqm garage occupies the rear most part of the existing garden of no. 67 Victoria Road. Its north-eastern end bounds with no. 36 Albert Road.

Relevant Planning and Enforcement history

Planning history:

HGY/2022/0828 – planning permission granted on 21/7/2022 for the demolition of an existing garage and erection of new dwelling

Consultation response

There were no statutory consultees for this planning application.

2. LOCAL REPRESENTATIONS

The application has been publicised by way of letters sent to neighbouring properties. 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: 4

Objecting: 4

3. MATERIAL PLANNING CONSIDERATIONS

The main planning considerations raised by the proposed development are:

1. Scope of Section 73 application;
2. Design and character.
3. Sustainability and biodiversity

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 but 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 been judged to be acceptable in principle at an earlier date.

Consequently the extent of the material planning considerations are 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.

With the exception of minor alterations made to the National Planning Policy Framework (NPPF) in 2013, in this case since the granting of planning permission, the same policy documents used in the assessment of the proposal are currently adopted, and there are no further policy documents that have been adopted that materially alter the assessment of the current proposal.

The overall policy approach relating to development of such sites, housing mix, design and character, and living conditions for future occupants remain consistent.

The changes to the approved development relate to the removal of a green roof, conditioned under condition 11 and corrections to the informed CIL, which would be due prior to commencement of the development. It is however noted that this development has partially been commenced, following an earlier permission.

Design and character

DM Policy (2017) DM1 'Delivering High Quality Design' states that development proposals should relate positively to their locality, having regard to, building heights, form, scale & massing prevailing around the site, urban grain, sense of enclosure and, where appropriate, following existing building lines, rhythm of any neighbouring or local regular plot and building widths, active, lively frontages to the public realm, and distinctive local architectural styles, detailing and materials.

Local Plan (2017) Policy SP11 states that all new development should enhance and enrich Haringey's built environment and create places and buildings that are high quality, attractive, sustainable, safe and easy to use. Development shall be of the highest standard of design that respects its local context and character and historic significance, to contribute to the creation and enhancement of Haringey's sense of place and identity which is supported by London Plan (2021) Policies D3.

The proposal seeks to remove the previously agreed green roof in this historically rear garden and garage, within a tight urban setting between two end of terraces. The green roof detail was originally secured, following a revised application which sought amendments to the originally approved scheme. The green roof was agreed in order to improve the visual amenity and outlook of adjoining occupiers, increase biodiversity and improve the sustainability credentials of the revised scheme, in the context of the enlarged garage replacement. As such, the removal of condition 11 is not supported.

Conclusions

The proposed amendments cannot be treated as a minor material amendment to the original grant of planning permission.

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

4. CILAPPLICABLE

The applicant highlighted an error in the calculation of the CIL liable amount. It is agreed that the existing garage was a lawful structure and therefore 33sqm should be deducted from the previously stated CIL calculations. The revised figures are as per below.

The development is less than 100 square metres but is for a whole new unit and as such is liable for CIL. Based on the information given on the plans, the Mayoral CIL charge will be £1,998.15 (33sqm x £60.55) and the Haringey CIL charge will be £12,184.59 (66sqm x £369.23 (Indexation included)).

This will be collected by Haringey should the scheme be implemented and could be subject to surcharges for failure to assume liability, for failure to submit a commencement notice and/or for late payment, and subject to indexation in line with the construction costs index. An informative will be attached advising the applicant of this charge.

8. RECOMMENDATION - Refuse variation

Refusal Reasons:

The proposed development of erecting a new dwelling required the scheme to be constructed with a green/biodiverse roof. There are no justifications in planning terms put forward as to why this cannot be achieved, with the loss of such a feature taking from the design, sustainability and amenity credentials of such a scheme, contrary to Policy G5 of the London Plan 2021 and

Policies SP0, SP4 and SP11 of the Haringey Local Plan 2017 and Policies DM21 and DM12 of The Development Management DPD 2017.

Informatives:

INFORMATIVE; CIL

The applicant is advised that the CIL liability informative has been revised to:

The development is less than 100 square metres but is for a whole new unit and as such is liable for CIL. Based on the information given on the plans, the Mayoral CIL charge will be £1,998.15 (33sqm x £60.55) and the Haringey CIL charge will be £12,184.59 (66sqm x £369.23 (Indexation included)). This will be collected by Haringey should the scheme be implemented and could be subject to surcharges for failure to assume liability, for failure to submit a commencement notice and/or for late payment, and subject to indexation in line with the construction costs index. An informative will be attached advising the applicant of this charge.