



Officer Report

Application Number:	HGY/2024/0677
Application Type:	Removal/variation of conditions
Address:	2 Cholmeley Park, Hornsey, London, N6 5EU
Proposal:	Variation of conditions 2 (approved plans) & 4 (roof terrace) attached to planning permission HGY/2022/0090 to amend the approved scheme to include a rear first floor roof terrace.
Case Officer:	Eunice Huang
Valid Date:	12/03/2024
Applicant:	Mr Michael Rees
Agent:	Mr Michael Rees

RECOMMENDATION

Approve with Conditions

1. SUMMARY OF RECOMMENDATION

GRANT PERMISSION

2. PROPOSED DEVELOPMENT AND LOCATION DETAILS

Approved development

Planning permission granted under application reference HGY/2022/0090 for replacement of and side extension of existing rear addition along with internal refurbishment to provide 2no 1 bedroom apartments and 1no 2 bedroom apartment. Provision of new rear first floor terrace providing private external amenity to the first floor apartment.

Proposed amendments

This application seeks to vary conditions 2 (approved plans) and 4 (roof terrace) to amend the approved scheme to include a rear first floor roof terrace.

3. Consultation response

One response was following consultation on the application:

Conservation - The roof terrace would be visible from the street given the curve in the road and the addition of a roof terrace would make the extension less of a subordinate, modest extension than the previously approved, particularly if privacy screening on the north-east

side is required. However, as shown in the current proposed plans with a low railing, it would not be overly visible behind the side extension parapet and on balance the impact on the Conservation Area would remain the same as previously proposed. However, this could change if screening is required.

4. LOCAL REPRESENTATIONS

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 application were as follows:

No of individual responses:

Objecting: 4

Supporting: 0

The following issues were raised in representations:

- Unapproved roof terrace was used for parties, generating noise disturbance
- Proposal increases likely usage from one to two residences.
- Increase overlooking into gardens and rear windows of houses on Southwood Avenue.

5. REASONS FOR GRANTING PERMISSION

This is an application for the variation of condition 2 (approved plans) and 4 (roof terrace) to amend the approved scheme to include a rear first floor roof terrace.

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 Levelling Up, Housing and Communities 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.

The parent application originally included a roof terrace in the proposal. This was removed from the scheme, following neighbour objections regarding visual privacy and noise concerns. As such, Condition 4 was imposed in the planning permission, stating: “No part of any structure hereby granted shall be used as a roof terrace or balcony. Reason: In order to restrict the use of the premises to one compatible with the surrounding area

because other uses within the same Use Class or another Use Class are not necessarily considered to be acceptable consistent with Policy DM1 of the Development Management DPD 2017.

It is sought to remove Condition 4, to provide a terrace on the roof of the approved rear extension, accessed from Apartment 3 only. Apartment 3 is a two bedroom flat, which does not have access to an outdoor amenity space. The proposed roof terrace measures 4.01m width by 2.5m depth. As revised, it includes a 1.1m high balustrades, with a 1.7m privacy screen to the southern side.

A site inspection was conducted by the Planning Officer to view the potential overlooking and noise impacts of the proposal, noting concerns from neighbours.

In respect to visual privacy impact, it was noted that:

- There is a 25m separation distance from the roof terrace to the rear facades of properties to the rear (e.g. 13 Highgate Avenue), which mitigates the extent of the privacy impact. Furthermore, these views are largely similar to views that can be obtained through the rear kitchen/living/dining room windows of Apartment 3.
- The rear gardens of properties to the south, addressed to Southwood Avenue, are located some 20m from the terrace. The rear windows of the properties are located some 30m from the terrace. The ground level is also lower than the application site, with the boundary fence obstructing views into the gardens and ground level windows.
- A privacy screen is proposed on the southern side, although there are also limited views of neighbouring gardens and windows to the side.

In respect to noise disruption of the proposed roof terrace:

- It is understood that past occupants of the dwelling utilised the roof of the pre-existing rear extension in an unauthorised manner. The unauthorised roof terrace would have spanned a larger area, with the capacity for larger gatherings.
- The proposed roof terrace would be bounded by balustrades and screen, to an area of 4.01m width by 2.5m depth. This terrace size is not unreasonably large for the host building and surrounding area. Its depth of 2.5m would limit the capacity for large gatherings.

The roof terrace and its balustrades and privacy screen would have a satisfactory impact upon the appearance of the host building and surrounding area. The balustrades and screen would not dominate the host building nor neighbouring properties. There may be views of the balustrade available from Cholmeley Park, due to the curve in the road and the sloping topography. However, the balustrade is an subordinate structure and its views would not be prominent. In relation to the southern privacy screen, the dwelling pair at No. 2-4 Cholmeley Park are located more forward than No. 6 Cholmeley Park and beyond - hence the introduction of the rear roof terrace and balustrades/screen would not cause an overbearing impact on these properties.

The proposal is considered acceptable with regards to its design and impact in the Highgate Conservation Area, its standards of proposed accommodation, and its impact on neighbouring amenity.

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

RECOMMENDATION

GRANT PERMISSION

Conditions:

- 1 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.

- 2 The external materials to be used for the proposed development shall match in colour, size, shape and texture those of the existing building.

Reason: In order to ensure a satisfactory appearance for the proposed development, to safeguard the visual amenity of neighbouring properties and the appearance of the locality consistent with Policy D3 of the London Plan 2021, Policy SP11 of the Haringey Local Plan 2017 and Policy DM1 of The Development Management DPD 2017.

- 3 Notwithstanding the details shown on the plans and documents hereby approved, materials and details of the balustrade/privacy screen to the roof terrace shall be submitted to and approved in writing by the Local Planning Authority before the relevant part of the works begins on site. Development shall be carried out in accordance with the approved details prior to the first use of the terrace area and the screening shall be retained in perpetuity unless otherwise agreed in writing by the Planning Authority.

Reason: To avoid overlooking into the adjoining properties and to comply with Policy SP11 of the Haringey Local Plan 2017 and Policy DM1 of The Development Management DPD 2017.

- 4 Prior to the occupation of the development, details of the type and location of secure and covered cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. Such spaces shall be retained thereafter for this use only.

Reason: To promote sustainable modes of transport in accordance with policy T5 of the London Plan 2021 and Policy SP7 of the Haringey Local Plan 2017.

- 5 Prior to the occupation of the development, a detailed scheme for the provision of refuse and waste storage and recycling facilities shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme as approved shall be implemented and permanently retained thereafter.

Reason: In order to protect the amenities of the locality and to comply with Policy DM4 of The Development Management DPD 2017 and Policy 5.17 of the London Plan 2021.

Informatives:

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: 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: 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.