



Officer Report

Application Number:

HGY/2024/0914

Application Type:

Removal/variation of conditions

Address:

1 Pound Lane, Hornsey, London, N6 5AS

Proposal:

Section 73 application to vary condition 2 (approved plans) attached to planning permission HGY/2019/3050 to provide an amended fencing design with increased height, and changes to increase ground levels of the driveway.

Case Officer:

Nathan Keyte

Valid Date:

02/04/2024

Applicant:

Ms. Jothi Reddy

Agent:

Miss Oana Ciurescu

1. PROPOSED DEVELOPMENT AND LOCATION DETAILS

Proposed development

- 1.1. This is an application for the variation of condition 2 (approved plans) attached to planning permission HGY/2019/3050 to provide an amended fencing design with increased height, and changes to increase ground levels of the driveway.
- 1.2. A fence has been constructed around the property; however, this is proposed to be replaced in parts (south and east of the dwelling, and part of a driveway) with a timber fence with a gravel board base, and open trellis on the top 0.30m - 0.45m atop the fence on parts of the southern and eastern boundaries. The

close boarded fence height will remain the same as that which currently exists around the property, with the trellis height to be added to this.

1.3. The ground level has been raised across the southeastern portion of the site and access driveway by approximately 300mm-600mm in parts and in a few locations exceeding 700mm. The raising of ground levels is stated in the submitted documents as being due to:

- Working around UKPN electrical cables, which were at depths which clashed with proposed drainage pipes in the driveway.
- Adjustments to the ground levels on the upper driveway and on the garage forecourt were then made to align with the interior of the house to create step-free access for mobility reasons and to achieve an improvement in slope across the site.

1.4. The dwelling house has been completed and there are understood to have been no material changes to the finished floor level or design of the dwelling. The application is limited in scope to the change in ground levels and where the boundary treatment fencing is proposed to be changed as shown in the submitted drawings.

Site and Surroundings

1.5. The application site is a two-storey detached dwelling which has been constructed following grant of permission HGY/2019/3050. The site was a back land site located to the rear of 9 to 13 Stanhope Gardens and to the rear of Alford House. Access to the site is from an existing crossover to Stanhope Gardens (between Nos 11 and 13). The dwelling is located on the eastern section of the property, with the driveway and associated paving located to the south and east of the dwelling.

1.6. A visit was conducted to the site as part of application HGY/2023/2583 (since withdrawn), with a further visit to the site undertaken in October 2024 by Council Officers.

Relevant Planning and Enforcement history

1.7. The most recent planning history in relation to the site is as follows:

- HGY/2019/3050 – Construction of a new detached two storey dwelling house with associated single storey garage, carport, garden outbuildings and landscaping – approved with conditions 10/02/2020.

- HGY/2021/1206 – Approval of details pursuant to condition 3 (Materials) attached to planning permission HGY/2019/3050 – approve 12/05/21.
- HGY/2021/3389 – Approval of details pursuant to condition 5 (landscaping), 6 (Site boundary details) and 7 (External lighting) attached to planning permission ref HGY/2019/3050- approved 09/12/2021
- HGY/2022/2532 – Approval of details pursuant to condition 5 (landscaping) attached to planning permission HGY/2019/3050 - approved 18/11/2022
- HGY/2020/2044 – Approval of details pursuant to condition 4 (Construction Management Plan) attached to planning permission HGY/2019/3050 – approved 07/10/2020.
- HGY/2024/1952 - Application to erect two single storey lean-on greenhouses to the rear of the house – approved with conditions 29/09/24.

1.8. Enforcement:

ENF/2023/0285 - Land Rear of, 11-13 Stanhope Gardens, London, N6 5TT
Investigation ongoing with regards to a change in the ground levels which are considered an engineering operation.

2. CONSULTATION RESPONSE

2.1. The responses below were received following consultation on the application:

Highgate CAAC: No response.

Highgate Society: No response.

Highgate Neighbourhood Forum: No response.

CASCH: No response.

LBH Arboricultural Officer: From an arboricultural point of view, there appears to be no significant concerns with the variation. Providing the technical note from Tree Environmental Practice is conditioned and adhered to, Arborist has no concerns.

LBH Drainage Officer: The change in ground levels will not result in drainage issues to neighbouring properties, due to the drainage already installed for the

house/ driveway, with only a small area in front of the garage not being directed into the public system.

LBH Conservation Officer: No objection.

While not generally a formal consultee, for the purposes of informing this application, feedback has been provided from Building Control relating to groundworks and drainage considerations:

The works to raise the driveway are not notifiable works under the Building Regulations and therefore Building Control can have no control or involvement. The matter is a private matter between landowners.

With regard to the French drain, this may be controllable under the Regulations. If this was first installed when the original works for the property were carried out, then it may have been inspected by the Approved inspector and any concerns should be raised with them.

3. LOCAL REPRESENTATIONS

3.1. The application has been publicised by way of 1 site notice displayed in the vicinity of the site 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 responses: 9

Objecting: 9 (includes multiple submissions from some individuals).

Supporting: 0

Representation: 0

3.2. Objections material to planning:

- Impacts on privacy and amenity on adjoining properties as a result of an increase in ground levels, with the proposed trellis not considered adequate. [Officer comment: addressed in assessment below].
- Impacts on drainage as a result of change in ground levels, noting previous situation and the soil type in the area being London Clay, and location of side extension at no. 13.
- Impacts of fence height on light levels. [Officer comment: addressed in assessment below].

- Request for design of fence to extend fence type further down the driveway, to provide a uniform aesthetic
- Inaccuracy of the rise in land levels. [Officer comment: addressed in assessment below].
- Lack of clarity regarding height of the fence. [Officer comment: address in assessment below].
- Rise in backfill already causing issues with wood at bottom of fences. [Officer comment: The applicant is proposing a gravel board to address this in the replacement fence].
- Risk from people entering and leaving the property [Officer comment: this would not be impacted by the proposed changes from the previously approved permission].
- Security impacts on neighbouring sites due to raise in ground level and introduction of planting box structures. [Officer comment: addressed in assessment below].

3.3. Objections non-material to planning:

- Request for change to the colour of the garage door. [Officer comment: outside the scope of the current application.]
- Loss of amenity during the previous construction period of the house.
- Building regulations prohibit installation of soakaway within 1.5m of a boundary and within 5m of a building. [Officer comment: Agent has responded to this point in the letter dated 29/07/24 that the term 'soakaway' may not have been the correct term. The area previously referred to as a 'soakaway' was clarified to be a non engineered solution, being a runoff area].
- Change in floor height of the dwelling [Officer comment: a change in finished floor height of the dwelling has not been included in the proposal. Based on the information provided in topographical information and previously approved plans, there is not considered to have been a material change in height of the building].

4. MATERIAL PLANNING CONSIDERATIONS

- 4.1. An application can be made under s73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied. A Section 73 application results in a new permission being issued.
- 4.2. Guidance for determining s73 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.

4.3. 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 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.

4.4. In this case while the London Plan (2021) has come into effect since the original permission was granted, there have been no material changes to adopted policies since the original grant of planning permission as relevant to this development. The main planning considerations raised by the proposed development are:

1. Design and impact on the character and appearance of the conservation area;
2. Impact on neighbouring amenity;
3. Impact on drainage,
4. Impact on trees &
5. Planning conditions.

Background

4.5. Following the completion of the dwelling and works authorised under planning permission HGY/2019/3050 for the construction of a new detached house and other works, it was brought to the LPA's attention that a rise in ground levels had occurred on the site. The objections that have been received note that the raising of ground levels is having consequential impacts upon fencing, as well as the state of drainage of the site, amongst other points.

4.6. The objections raised concern the accuracy of the topographical surveys provided, suggesting that the information may be misleading and with conflicting evidence provided.

4.7. One location raised in an objection relates to the levels of the driveway adjoining a ground floor extension at no. 13 Stanhope Gardens. Photos

provided show an increase of the driveway height above the damp proof course between 2016 and 2023/ present:



Figure 1 – showing the driveway height adjacent to the side building at no. 13 Stanhope Gardens stated to be taken in 2016 (left) and 2023 (right). Source: Representation of 13 Stanhope Gardens.

- 4.8. A stated independent survey by the objector indicates that the level has been raised approximately 0.3m at the rear corner of the building, and by up to 0.8m near the northeast corner of the site of no. 13 Stanhope Gardens.
- 4.9. It is also acknowledged that the site as it existed before development took place was uneven and contained various features such as the earth banks adjoining some parts of the driveway. The topographical survey submitted with the application notes an increase of approximately 0.35m at the point in the vicinity of the corner of the building, and a change of RL 79.16 to RL 79.78 in the general location of the rear corner of the property. Therefore while the increase in levels is acknowledged to have taken place, the data provided by the submitted topographical survey seems to generally align with the other information provided, albeit noting the difficulties in where different locations may have been used.
- 4.10. While these points are noted it is important to point out that when a local authority assesses a planning application, their primary focus is on evaluating the proposed works as shown in the application, not arbitrating on pre-existing conditions of the site. Given that this application is partly retrospective, and considering the details submitted, the objections received, and the fact that the current ground levels in the application reflect the existing conditions, the LPA believes there is enough evidence to assess the application and its potential impact on the environment and neighbouring properties.

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

- 4.11. London Plan (2021) policies emphasise the importance of high-quality and seek to optimise site capacity through a design-led approach. Policy D3 'Delivering good design' states that development proposals should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance, and shape, with due regard to street hierarchy, building types, forms, and proportions.
- 4.12. Local Plan Policy SP11 (2017) and Development Management Development Plan Document (DPD) Policy DM1 seek to secure the highest standard of design which respects local context and character to contribute to the creation and enhancement of Haringey's sense of place and identity. DPD Policy DM1 'Delivering High Quality Design' requires development proposals to meet a range of criteria having regard to the following: building heights; form, scale, and massing prevailing around the site; urban grain; sense of enclosure and where appropriate following existing building lines; rhythm of neighbouring or local regular plot and building widths; active, lively frontages to public realm; and distinctive local architectural styles, detailing and materials.
- 4.13. 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.
- 4.14. The proposed raising of ground levels and associated fencing alterations present no design concerns or implications for the character and appearance of this part of the conservation area. The resulting fencing, in terms of design, height, and materiality, is considered acceptable and poses no issues for the visual appearance of the site or its setting within the conservation area.
- 4.15. Therefore, considering the above points, the character and appearance to the conservation area will not be harmed, as such left preserved, meeting the relevant statutory test and the requirements of the policies as set out above.

Impact on neighbouring amenity

- 4.16. 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.

4.17. 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.

4.18. The applicant has provided a topographical survey which provides comparative analysis to understand changes in ground levels pre and post development. The survey indicates that the driveway area south of the dwelling and along the existing access has been raised. While the height of the increase varies across this area, based on the topographical survey provided, a rise of 300mm-400mm is generally observed, with this exceeding 700mm in respect of some points.

4.19. It is noted in the original permission and subsequent 'Approval of Details' application that the car manoeuvring area/ ground was sloped down from north to south. The proposed drawings show this to now be an area raised to be flatter, with a change of level at the boundary.

4.20. It is acknowledged in the objections received that the exact height of the proposed fence relative to the neighbouring sites' garden levels is not absolutely defined, with the agent for the applicant stating this is due to being unable to measure from within those adjoining properties. The submitted information does however include a height to the existing fence on the site above the ground levels of No 1 Pound Lane. The height of this existing fence has been observed by Officers on the site, such that an understanding of the proposed fence and trellis height in relation to this enables a sufficient understanding of what is proposed and to understand the resulting impacts for amenity in relation to neighbouring properties.

4.21. The proposal will result in a fence exceeding 2m in height along the southern boundaries with Nos 7 – 13 Stanhope Gardens (odd) and Alford House to the east. The fence will be approximately 2.4m- 2.8m in height along parts of the shared boundary with Nos 7 to 13 Stanhope Gardens (odd) based on originally surveyed levels, and which may appear higher due to the slope of the land. Regarding the fencing adjoining Alford House, this will have a maximum height of 2.3m in parts.

4.22. Noting the objections received regarding impacts on privacy as a result of change in ground levels, the changes relate to the driveway and car park

manoeuvring areas of the application site, rather than outdoor living areas which are located further to the northwest of the dwelling. The use of the access and manoeuvring spaces would therefore be limited, and intermittent. Any residual impacts on privacy will be suitably addressed by the proposed fence and trellis.

- 4.23. The resulting fence heights along the boundaries shared with Nos 7 – 13 Stanhope Gardens (odd) are noted to exceed 2.0m above the original ground levels recorded on the site. Notwithstanding this, the applicant has applied for the raised ground levels and fence heights and so must be assessed. The concerns about the height of the fence relative to neighbouring properties and potential to appear dominant and forming a sense of enclosure is noted. However, in this case the neighbouring properties of No.s 7 to 11 have gardens of approximately 20m in depth, with No.13's being approximately 14m. This, in addition to the raised fencing largely being limited to the rear boundaries of the properties in question with the top section of the fencing being a trellis feature, serve to ensure the presence of such a feature will not affect the residential and visual amenity of adjoining residents or their ability to enjoy their gardens.
- 4.24. Objections received raised concerns regarding to security, resulting from changes to ground levels and introduction of raised planters. The change in ground levels are such that this would not result in a material planning difference as relates to security from that prior to development occurring. Additional height to the existing fence is now proposed by the trellis is also noted and an acceptable measure to secure neighbour security. However the Applicant would be encouraged to address concerns regarding security of neighbouring properties.
- 4.25. Overall the works in question do not present issues in terms of impact on neighbouring amenity in this particular context, as such being compliant with the policies outlined above.

Impact on drainage

- 4.26. In the representations received, it is noted that concerns have been raised regarding drainage issues resulting from the increased ground levels on the subject site. Specifically, the raised flower bed near the driveway has been stated as being 500mm higher than the level of 13 Stanhope Gardens, with the proposed 'soakaway' along the adjoining boundary with Nos. 7–11 Stanhope Gardens potentially causing water to percolate into those properties. The objection from No. 13 Stanhope Gardens also mentions that a low earth bank

previously directed water away from the boundary and into the rainwater drainage system.

- 4.27. There is disagreement between the applicant and those raising objections about the impact of the development on drainage in the area. The objections claim that following the works, there has been increased runoff into some of the neighbouring properties.
- 4.28. In response to the concerns about changes in drainage, the applicant has provided comments from their drainage engineer. The engineer's response highlights that the site is located within flood zone 1 and that the land naturally slopes from north to south. During heavy rain, water historically flowed overland from the north. The drainage system installed as part of the development is claimed to have improved the pre-existing conditions of the site, with the natural flow paths and surface water continuing to the south, where the lowest point of the site is located in the southeast corner. Additionally, the area of impermeable paving south of the new garage is said to follow the original topography and water flow path of the site, which has not been altered. The engineer notes that a smaller area now drains via this route, which represents an improvement compared to the site's previous condition.
- 4.29. It is generally accepted that the drainage system installed across the site has reduced the amount of surface water runoff directed towards neighbouring properties. Rainwater from the roof areas and parts of the driveway are now captured and discharged through an underground drainage system. While the impervious area south of the garage may have slightly altered flow rates compared to a grassed area, the previously approved cross-section drawings show that the ground level was already sloped towards the neighbouring properties. Therefore, any changes in flow rates are considered minor and would typically be addressed during the Building Control stage rather than at the planning stage.
- 4.30. Regarding the raised driveway levels, it is understood that the works to elevate the driveway are not considered notifiable under Building Regulations, meaning Building Control would not have any oversight or involvement. This issue would be a private matter between the respective landowners. As for the drainage system on the site, it may have been inspected by an Approved Inspector (since the Council's Building Control did not sign off on the site's building works). Any concerns should therefore be addressed with the Approved Inspector.

Impact on Trees

4.31. The erection of the fencing proposed will occur within proximity to trees located within a conservation area. The applicant has provided an Arboricultural Technical Note to support the works and concludes that removal and re-installation of the fence is feasible without tree damage, due to the previous excavation which occurred in the area to establish the current fence. The information has been reviewed by Council's Arboricultural Officer with no objection being raised. Noting this, and considering the works previously undertaken on the site were supported by arboricultural input, the proposed changes to fencing will not have an adverse impact upon protected trees.

Planning conditions

4.32. As per the planning history outlined above the applicant has already submitted details to the LPA to discharge details in respect of conditions 3, 4, 5, 6, 7 and 8. As a result of such conditions being discharged these are not carried over/ do not feature in the new planning consent granted by way of approving this application.

4.33. Two conditions have been added as a consequence of changes to condition 2, requiring works to be undertaken within 3 months of the grant of the s73 permission, and to account for protection works to trees during the works.

Conclusion

4.34. The proposed amendments as outlined above are viewed to be accepted in terms of design, impact on the character and appearance to this part of the conservation area and in relation to neighbouring residential amenity.

4.35. All other relevant policies and considerations, including equalities, have been taken into account. Planning permission should be granted for the reasons set out above.

5. CIL APPLICABLE

5.1. N/A – No additional floorspace created.

6. RECOMMENDATION

GRANT PERMISSION subject to conditions

Conditions:

1	The approved plans comprise drawing nos (85447-CFM-A-SIT-08-500 Rev 1, 501 Rev 2, 301 Rev 3, 302 Rev 3, 101-2, 102 Rev 2, 103 Rev 2, 201 Rev 3 & Design & Access Statement Rev 2; Arboricultural Technical Note ref: 230226-1.0-SG-TN-AN; Variation of Condition 2 (document) rev 04; CFM-85447-A-SIT-08-512 rev C01; CFM-85447-SK-041 Fence Detail at the Boundary rev 04; Topographical Survey SD231932-02 Dec 2023; Planning Response: Below Ground Drainage and Civils Design ref: 2318-LT-001 dated 24 July 2024; Trellis Spot Levels dated 21/06/2024). The development shall be completed in accordance with the approved plans except where conditions attached to this planning permission indicate otherwise or where alternative details have been subsequently approved following an application for a non-material amendment. Reason: In order to ensure the development is carried out in accordance with the approved details and in the interests of amenity.
2	Within 3 months of the consent hereby approved, unless otherwise agreed in writing with the local planning authority, the boundary treatment works as shown in approved plans CFM-85447-A-SIT-08-512 rev C01; CFM-85447-SK-041 Fence Detail at the Boundary rev 04 shall be completed and retained thereafter. Reason: In the interest of public safety and security and to protect the visual amenity of the locality consistent with Policy SP11 of the Haringey Local Plan 2017 and Policy DM1 of The Development Management DPD 2017.
3	The works shall be undertaken in accordance with the Tree Protection and Methodologies in the Arboricultural Technical Note ref: 230226-1.0-SG-TN-AN. Reason: In order to safeguard the root systems of those trees which are to remain after building works are completed in the interests of visual amenity.
4	Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order), the dwelling hereby permitted shall not be altered or extended, nor shall any building, structure or enclosure (other than those approved as part of this permission, including the discharge of conditions) be erected within the curtilage of the dwellings. Reason: To safeguard the amenities of neighbouring occupiers and the general locality.
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.