

Application ref: 2024/4712/P
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Date: 13 January 2025

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Jonathan Tuckey Design
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Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Variation or Removal of Condition(s) Granted

Address:

**44 Downshire Hill
London
NW3 1NU**

Proposal: Variation of condition 2 (approved drawings) of planning permission 2023/5059/P dated 16/04/2024 (for 'Demolition of existing single-storey extension and stairs to rear and erection of replacement rear extension with roof terrace and green roof. Replacement of rooflight, replacement of existing door to the front and installation of solar panels to roof. '), namely to alter footprint of rear extension.

Drawing Nos:

As existing: JTD_0293_02_130 Rev A; JTD_0293_02_140 Rev A; JTD_0293_02_250 Rev A.

As approved: JTD_0293_02_131 Rev A; JTD_0293_02_141 Rev A; JTD_0293_02_251 Rev A.

As proposed: JTD_0293_02_132 Rev A; JTD_0293_02_142 Rev A; JTD_0293_02_252 Rev A.

Supporting documents: Rear Garden Low Wall RevA 04/11/24 DS/ED.

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of the original planning permission ref 2023/5059/P dated 16/04/2024.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

JTD_0293_02_001; JTD_0293_02_132 Rev A; JTD_0293_02_142 Rev A; JTD_0293_02_102 Rev A; JTD_0293_02_103 Rev A; JTD_0293_02_104 Rev A; JTD_0293_02_200; JTD_0293_02_252 Rev A; JTD_0293_02_202 Rev A; JTD_0293_02_210 Rev A; JTD_0293_02_211 Rev A; JTD_0293_02_212; JTD_0293_02_300; JTD_0293_02_301.

Reason: For the avoidance of doubt and in the interest of proper planning.

- 3 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies D1 and D2 of the London Borough of Camden Local Plan 2017 and policies DH1 and DH2 of the Hampstead Neighbourhood Plan 2018.

- 4 Before the relevant part of the work is begun, detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority:

- a) Details including sections at 1:10 of all windows (including jambs, head and cill), ventilation grills, external doors and gates;
- b) Manufacturer's specification details of all facing materials (to be submitted to the Local Planning Authority) and samples of those materials (to be provided on site).

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of Policies D1 and D2 of the London Borough of Camden Local Plan 2017 and Policies DH1 and DH2 of the Hampstead Neighbourhood Plan 2018.

- 5 Only the part of the flat roof of the extension on the plan 'JTD_0293_02_142 Rev A' hereby approved that is labelled as 'terrace' may be used for amenity purposes. The green roof area shall not be used at any time as amenity space, and any access out onto this area shall be for maintenance purposes only.

Reason: To safeguard the amenities of the adjoining neighbours in accordance

with the requirements of Policy A1 of the London Borough of Camden Local Plan 2017.

- 6 Before the relevant part of the work is begun, full details in respect of the living roof in the area indicated on the approved plan 'JTD_0293_02_142 Rev A' shall be submitted to and approved by the local planning authority. The details shall include:

- i. a detailed scheme of maintenance
- ii. sections at a scale of 1:20 with manufacturers details demonstrating the construction and materials used
- iii. full details of planting species and density

The living roof shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies G1, CC1, CC2, CC3, D1, D2, and A3 of the London Borough of Camden Local Plan 2017.

- 7 The photovoltaic cells as indicated on the approved plan 'JTD-0293_02_104 Rev A' shall be installed on the building in full accordance with the details approved by the Local Planning Authority and retained and maintained thereafter.

Reason: To ensure the development provides adequate on-site renewable energy facilities in accordance with the requirements of Policies G1, CC1, and CC2 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Reasons for granting permission:

The application relates to minor alterations to the scheme granted on 16/04/2024 (ref. 2023/5059/P), which involved the replacement of the existing single storey rear extension and roof terrace above, along with other works to the roof and the replacement of the front door. The permission was granted alongside listed building consent, ref. 2024/0216/L, and this submission has been made with an associated application for listed building consent, ref. 2024/4780/L.

The alterations proposed relate to changes to the footprint of the proposed extension. The consented scheme involved the replacement of the low brick boundary wall between the application site and the adjacent property at no.45, with the extension to be built up against the brick wall. It is now proposed to remove this portion of the wall adjacent to the extension, instead building the extension wider so that its elevation closest to the neighbouring property is built over the removed part of the boundary wall, with the rest of the retained wall aligning with the extension wall. The boundary wall is in a state of poor repair

and is not historic, so its removal would not entail the loss of historic fabric.

The changes to the extension footprint would be minimal and would not substantially increase the size or massing of the extension. There would therefore be little difference from the consented scheme and no subsequent material impact on the character or appearance of the building or the wider Conservation Area, nor the significance of the listed building. Therefore, the impact of the proposed alterations would be minimal and considered to be acceptable.

Special regard has been paid to the desirability of preserving or enhancing the character and appearance of the conservation area and preserving the listed building, its setting and its features of special architectural or historic interest, under s.66 and s.72 of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

As with the previously approved application, the proposed amendments are not considered to introduce any new amenity impacts, including by way of loss of light, outlook, or privacy.

No objections were received prior to making this decision. The planning history of the site has been taken into account when coming to this decision.

As such, the proposed development is in general accordance with Policies A1, D1, and D2 of the London Borough of Camden Local Plan 2017 and Policies DH1 and DH2 of the Hampstead Neighbourhood Plan 2018. The proposed development also accords with the London Plan 2021 and the National Planning Policy Framework 2024.

- 2 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 3 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444). Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 4 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at www.camden.gov.uk) or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

- 5 Your proposals may be subject to control under the Party Wall etc Act 1996 which covers party wall matters, boundary walls and excavations near neighbouring buildings. You are advised to consult a suitably qualified and experienced Building Engineer.
- 6 The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 ("1990 Act") is that planning permission granted in England is subject to the condition ("the biodiversity gain condition") that development may not begin unless:
 - (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
 - (b) the planning authority has approved the plan.

The local planning authority (LPA) that would approve any Biodiversity Gain Plan (BGP) (if required) is London Borough of Camden.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are summarised below.

Based on the information available, this will not require the approval of a BGP before development is begun because the planning permission is not "major development" and is granted under section 73 of the Town and Country Planning Act 1990 and the original (parent) planning permission was made or granted before 2 April 2024.

+ Summary of statutory exemptions for biodiversity gain condition:

1. The planning application was made before 12 February 2024.
2. The planning permission is retrospective.
3. The planning permission was granted under section 73 of the Town and Country Planning Act 1990 and the original (parent) planning permission was made or granted before 12 February 2024.
4. The permission is exempt because:
 - It is not "major development" and the application was made or granted before 2 April 2024, or planning permission is granted under section 73 and the original (parent) permission was made or granted before 2 April 2024.
 - It is below the de minimis threshold (because it does not impact an onsite priority habitat AND impacts less than 25 square metres of onsite habitat with biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat).
 - The application is a Householder Application.
 - It is for development of a "Biodiversity Gain Site".
 - It is Self and Custom Build Development (for no more than 9 dwellings on a

site no larger than 0.5 hectares and consists exclusively of dwellings which are Self-Build or Custom Housebuilding).

- It forms part of, or is ancillary to, the high-speed railway transport network (High Speed 2).

7 + Irreplaceable habitat:

If the onsite habitat includes Irreplaceable Habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements. In addition to information about minimising adverse impacts on the habitat, the BGP must include information on compensation for any impact on the biodiversity of the irreplaceable habitat. The LPA can only approve a BGP if satisfied that the impact on the irreplaceable habitat is minimised and appropriate arrangements have been made for compensating for any impact which do not include the use of biodiversity credits.

+ The effect of section 73(2D) of the Town and Country Planning Act 1990:

If planning permission is granted under section 73, and a BGP was approved in relation to the previous planning permission ("the earlier BGP"), the earlier BGP may be regarded as approved for the purpose of discharging the biodiversity gain condition on this permission. It will be regarded as approved if the conditions attached (and so the permission granted) do not affect the post-development value of the onsite habitat, or any arrangements made to compensate irreplaceable habitat, as specified in the earlier BGP.

+ Phased development:

In the case of phased development, the BGP will be required to be submitted to and approved by the LPA before development can begin (the overall plan), and before each phase of development can begin (phase plans). The modifications in respect of the biodiversity gain condition in phased development are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with the National Planning Policy Framework. The council publishes its adopted policies online, along with detailed Camden Planning Guidance. It also provides advice on the website for submitting applications and offers a pre-application advice service.

You can find advice about your rights of appeal at:

<https://www.gov.uk/appeal-planning-decision>.

If you submit an appeal against this decision you are now eligible to use the new [submission form](#) (Before you start - Appeal a planning decision - GOV.UK).

Yours faithfully

A handwritten signature in black ink, appearing to read 'DPope', is positioned in the upper left quadrant of the page.

Daniel Pope
Chief Planning Officer