

Application ref: 2024/4022/P  
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Date: 12 November 2024

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
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WC1H 9JE

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Gruff Ltd  
Emperor House, Unit D  
Dragonfly Place  
London  
SE4 2FL

Dear Sir/Madam

## **DECISION**

Town and Country Planning Act 1990 (as amended)

### **Full Planning Permission Granted**

Address:

**Flat 6**  
**3 Fawley Road**  
**London**  
**NW6 1SL**

Proposal: Erection of timber balustrade, installation of timber deck and replacement of window with door in connection with the use of the existing flat roof at 2nd floor level as a roof terrace.

Drawing Nos: G335-100, G335-120, G335-140, G335-160, G335-200, G335-400,  
Design and Access Statement.

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 this permission.

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:

G335-100, G335-120, G335-140, G335-160, G335-200, G335-400, Design and Access Statement

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 2 and 3 of the Fortune Green & West Hampstead Neighbourhood Plan 2015.

Informative(s):

- 1 Reasons for granting permission.

The proposal seeks permission for the erection of a timber balustrade, installation of a timber deck and replacement of a window with a door in connection with the use of the existing flat roof at 2nd floor level as a roof terrace.

The roof terrace would be enclosed on four sides by a timber balustrade which is considered appropriate in terms of design and materiality. Although the part of the balustrade adjoining no. 5 would be taller than the existing balustrade at no. 5, this is acceptable as it will ensure privacy is maintained between the two terraces. The terrace will be surrounded by planters which will contribute to screening. The proposed door in place of the existing window is acceptable as it is of an appropriate size. Overall, the proposed features of the roof terrace are considered appropriate in terms of design, scale and materiality.

The proposed development is not considered to harm the appearance of the building or the Conservation Area. Although the proposal would be visible in private views from the rear, and in part from the front elevation in the gap between no. 3 and no. 5, the impact on the West End Green Conservation Area is limited, and its character would be preserved.

Two objections were received from occupants of the neighbouring property, at no. 1 Fawley Road, which raised concern regarding potential overlooking, noise, and loss of daylight from the roof terrace. As the roof terrace will be enclosed by a timber balustrade and planters, it is considered that there would be minimal overlooking to the adjoining property, and privacy would be maintained. Due to the position and size of the balustrade, the proposal is not considered to result in loss of daylight, or sunlight to the neighbouring properties. It is considered that the roof terrace at the adjoining no. 5 Fawley Road, authorised under 2011/0719/P, forms a precedent for a roof terrace in this location.

The proposal is considered to preserve the character and appearance of the Conservation Area. Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the Conservation

Area, under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

The planning history of the site and surrounding area were 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 Camden Local Plan 2017 and policies 2 and 3 of the Fortune Green & West Hampstead Neighbourhood Plan 2015. The proposed development also accords with the London Plan 2021 and the National Planning Policy Framework 2023.

- 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](http://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 The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted 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 permission will not require the approval of a BGP before development is begun because it is below the de minimis threshold.

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).

6 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 written over a light grey rectangular background.

Daniel Pope  
Chief Planning Officer