

REPORT FOR CONSIDERATION AT PLANNING SUB-COMMITTEE

1. APPLICATION DETAILS

Reference No: HGY/2015/1667

Ward: Highgate

Date received: 05/06/2015

Last amended date: 14/09/2015

Drawing number of plans: Applicant's drawing No.(s) 755 LY 0X03 REV A, 755 LY 0S06, 755 LY 0S07, 755 ES 0X04 REV A, 755 ES 0X05, 755 ES 0X06, 755 ES 0X08, 755 ES 0X09 REV A, 755 EX 0S00, 755 EX 0X01, 755 EX 0X02, 755 EX 0X03 REV A, 755 SK 004.

Address: 3-5 Church Road N6 4QH

Proposal: Construction of new 3rd floor (roof extension) to existing block of flats. New 3rd floor to accommodate 2 new one bedroom apartments. (AMENDED PLANS)

Applicant: Holdhazel Ltd & Frank Collins Estate

Ownership: Private

Officer contact: Matthew Gunning

1.1 The application has been referred to the Planning Sub-Committee for a decision due to the amount of local objections.

1.2 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The design, siting and form of the roof extension is considered acceptable.
- The townscape and special character of Highgate conservation area is considered to be preserved and there is no harm.
- The residential accommodation would be of an acceptable layout and standard meeting the necessary internal floorspace standards and providing external amenity space.
- The residential amenity of neighbouring properties would not cause unacceptable overlooking or loss of privacy or affect daylight/ sunlight to neighbouring properties and gardens.
- The scheme will have no adverse impact on the surrounding highway network or on car parking conditions in the area.

2. RECOMMENDATION

2.1 GRANT PERMISSION subject to conditions and S106 Agreement

Conditions

- 1) Development begun no later than three years from date of decision;
- 2) In accordance with approved plans;
- 3) Materials submitted for approval;

- 4) Screening for refuse bins;
- 5) Central dish/aerial system;
- 6) Construction Management Plan.
- 7) Replacement windows.

Informatives

- 1) Naming and numbering;
- 2) CIL liability
- 3) Hours of construction;
- 4) Land ownership;
- 5) External Improvements

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3. PROPOSED DEVELOPMENT AND LOCATION DETAILS

Proposed development

- 3.1 The proposal is for the construction of a new 3rd floor (roof extension) to this existing block of flats. The floor will accommodate 2 new one bedroom apartments. The application has been amended from that initially submitted, namely a screen has been introduced on the side of the roof terraces.

Site and Surroundings

- 3.2 The application site 3-5 Church Road, is a three storey detached block of six flats, with individual entrances to no. 3 and no. 5. The site is located on the southern side of Church Road between Talbot Road and North Road and falls within Highgate Conservation Area. The building is not listed and has limited architectural quality.
- 3.3 Church Road runs between North Hill and Archway Road, past All Saints Church that is described under Talbot Road. There are a limited number of buildings on the road including the building in question. There is a vicarage associated with the church near the junction with Archway Road, and there are views at the crossroads behind the terraces on Talbot Road. There is a less uniform arrangement along Church Road in comparison to neighbouring streets (i.e. Talbot Road). There are mature trees and vegetation within the gardens of many properties which lend a pleasant quality to the area.
- 3.4 Planning permission was granted in 2013 for a single storey dwelling house with a basement to the rear of 3-5 Church Road which is currently being built. It is accessed from the side of 5 Church Road, located adjacent to houses in Bramalea Close.

- 3.5 The site is surrounded by the gardens of 50-58 Talbot Road to the west which are two storey dwelling houses with a third floor in the roof. To the east is Health Clinic at the corner of Church Road and North Hill. To the rear and north of the property and rear of North Hill are two storey dwelling houses in Bramalea Close and the new dwelling house currently under construction. To the south, directly opposite are two storey 1930's dwelling houses, no. 4 -6 Church Road and 60 Talbot Road to the north east.

Relevant Planning and Enforcement history

- 3.6 HGY/2011/1809 GDT 15/11/11 Flat A 3 Church Road Erection of single storey rear extension, including replacement of ground floor windows in north east facing elevation

HGY/2013/1558 GDT 18/9/2013 Land rear of 5 Church Road Demolition of existing disused garages and erection of 1 x 2 storey house comprising 2 bedrooms at ground floor and basement level.

4. CONSULTATION RESPONSE

- 4.1 The following were consulted regarding the application:

4.2 Residents and surrounding properties

3-9 Bramalea Close N6
Welfare Clinic, Church Road N6
44 Health Centre, North Hill
1,3,4,5,6 Church Road
48, 50, 52,54, Church Road
56 Talbot Road Flats 1,2,3,4,5,6,
3 Church Road, Flats A,B,C
5 Church Road, Flats A,B,C
1 Church Road Flat B, Upper floor, School

4.3 Amenity Groups

The Highgate Society
Highgate CAAC

4.4 Internal Consultees

Transportation
Cleansing
Housing Renewal
Conservation Officer

- 4.5 The following responses were received:

Internal:

LBH Conservation Officer –Raises no objection points out that “The additional floor would be discrete in appearance and as such I do not consider it to cause harm to any heritage assets. The architectural unity achieved by the proposed floor could be

further enhanced by altering the windows and making them uniform across the building.LBH Design Officer – Scheme discussed with and is supportive off”.

LBH Transportation Team: No objections raised. S 106 agreement required to ensure that the residential units are defined as “car free”. A Construction Management Plan also required.

LBH Waste Management - Adequate waste storage must be provided off the street.

External:

London Fire and emergency Planning Authority:- The Brigade is satisfied with the proposal for fire fighting access. The Authority recommends that sprinklers are considered for new developments and major alterations to existing premises.

Thames Water: No objections. Informative required to be attached:- Require that informative be attached to this planning permission. Aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow of 9 litres/minute at the point where it leaves Thames Water pipes. The developer should take account of this minimum pressure in the design of the proposed development.

5. LOCAL REPRESENTATIONS

5.1 The application has been publicised by way of 1 site notice displayed in the vicinity of the site and 51 letters. The number of representations received from neighbours, local groups, etc in response to notification and publicity of the application are as follows:

No of individual responses: 19

Objecting: 14

Supporting: None

5.2 The following local societies made representations:

The Highgate Society:

- Area is predominantly low to medium scale area. A 25% increase in height of a 3 storey block will not be in keeping with the area and will make the already unprepossessing building even more prominent and detract from the conservation area.
- Highcroft is the only four storey building within 50m of this building and prominence is not in keeping with surrounding buildings in this locality in the Conservation area. Drawings do not show its wider context and shows small houses of Bramalea Close looming large.
- The proposal will add to bulk and volume and be more significant visually from a wider area. The materials are inappropriate and bland design –grey metal cladding is not appropriate in a Conservation area.
- Two open topped bin enclosures will be visible from the public realm taking up significant part of the front garden of no. 5 Church Road. It will impact significantly on the amenity of the occupiers. The second bin enclosure is proposed on the drive way of 5a Church Road which is currently being built at the back of the site. This is on their property and will impede emergency access.

- Local residents have submitted strong objections both in the 'community involvement' report and to the adverse impact on their amenities from overlooking and reduction of daylight and sunlight.

5.3 The following issues were raised in representations that are material to the determination of the application and are addressed in the next section of this report:

- Loss of Sunlight and Daylight from windows and gardens.
- 4 Church Road – In the winter the sun is very low and barely reaches over the building, if the roof is any higher, it could block the sun completely. It will cut out sunlight which shines on the front of our house into the garden causing shadow for most of the day in the winter month.
- 52, 54, 56 Talbot Road -The new roof breaches a 25 degree angle at a point 2ms from the ground level on the relevant elevation of the house and therefore unreasonably impinge on daylight, and sunlight. No 56 will have no sunlight in the garden and result in overshadowing.
- Sunlight to properties directly opposite will be reduced. The south facing windows and front garden of 4 Church Road will be completely deprived of sunlight during the winter months and the second floor windows will also be affected.
- Why has 21st March been used in the Sunlight/daylight study, as this discounts the winter days which would be most affected as the sun is at its lowest and shadows are the longest.
- Shadows will be more noticeable further up Talbot Road during the summer months.
- The report does not give a clear and full picture of the loss of daylight to the surrounding area.
- Loss of privacy and overlooking to properties at the rear of 3-5 Church Road-Bramalea Close.
- Loss of prospect and outlook.
- Additional height and bulk visually detrimental to the character and appearance of the conservation area.
- Four storey building is out of character with the surrounding buildings which are two /three storeys apart from Highcroft.
- Ugly design style and lacking in architectural merit.
- Noise and nuisance from garden terraces above bedrooms of top floor flats.
- Noise and nuisance from new flats above from inadequate soundproofing.
- Dustbin location in front garden of 5 and on access way of building to the rear of 5 Church Road. Will be highly visible and result in loss of amenity.
- Increased parking pressure.

5.4 The following issues raised are not material planning considerations:

- Impact on property values (Not a relevant planning issue).
- Noise and nuisance during construction (A construction plan must be submitted and hours of work to be restricted).
- Noise and disturbance following construction (Soundproofing is an issue dealt with under Building Control).
- Wear and tear during construction to building and drive and to residents properties and gardens (Planning has limited control over this issue)
- Loss of chimney – Applicants has agreed to retain it.

6 MATERIAL PLANNING CONSIDERATIONS

6.1 The main planning considerations raised by the proposed development are:

1. Principle of the development;
2. Design and impact on the character and appearance of the conservation area;
3. Impact on the amenity of adjoining occupiers; including sunlight and daylight
4. Living conditions for future occupants;
5. Parking and highway safety;
6. Waste Management.

Principle of the development

6.2 The NPPF, London Plan Policy 3.3 and Local Plan Policies SP1 and SP2 seek to maximise the supply of additional housing to meet future demand in the borough and London in general. An additional floor will be added to the three storey block of flats incorporating 2 x 1 bedroom flats. The principle of introducing two additional residential units at the site would be supported by the Council in meeting the intent of the NPPF, London Plan Policy 3.3 and Local Plan Policies SP1 and SP2, albeit all other material planning considerations are to be met.

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

6.3 The application site falls within Highgate Conservation Area. The NPPF should be considered alongside with London Plan 2015 Policies 3.5 and 7.6 and Local Plan 2013 Policy SP11, and draft DM policies DM1 and which identifies that all development proposals should respect their surroundings by being sympathetic to their form, scale, materials and architectural detail.

6.4 London Plan Policy 7.8 requires that development affecting heritage assets and their settings to conserve their significance by being sympathetic to their form, scale and architectural detail. Haringey Local Plan Policy SP12 requires the conservation of the historic significance of Haringey's heritage assets. Saved Haringey Unitary Development Plan Policy CSV5 requires that alterations or extensions preserve or enhance the character of the conservation area.

Statutory test

6.5 There is a legal requirement for the protection of the Listed Building and Conservation Area and Historic Park. The Legal Position on the impact on these heritage assets is as follows, and Sections 66(1) and 72(1) of the Listed Buildings Act 1990 provide:

“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.

6.6 *“In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the*

character or appearance of that area.” Among the provisions referred to in subsection (2) are “the planning Acts”.

- 6.7 The Barnwell Manor Wind Farm Energy Limited v East Northamptonshire District Council case tells us that "*Parliament in enacting section 66(1) did intend that the desirability of preserving listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given “considerable importance and weight” when the decision-maker carries out the balancing exercise.*"
- 6.8 The Government in the case of the Queen (on the application of The Forge Field Society) v Sevenoaks District Council says that the duties in Sections 66 and 72 of the Listed Buildings Act do not allow a Local Planning Authority to treat the desirability of preserving of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. If there was any doubt about this before the decision in Barnwell, it has now been firmly dispelled. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area or a Historic Park, it must give that harm considerable importance and weight. This does not mean that an authority's assessment of likely harm to the setting of a listed building or to a conservation area is other than a matter for its own planning judgment. It does not mean that the weight the authority should give to harm which it considers would be limited or less than substantial must be the same as the weight it might give to harm which would be substantial. But it is to recognise, as the Court of Appeal emphasized in Barnwell, that a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one, but it is not irrebuttable. It can be outweighed by material considerations powerful enough to do so. An authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering.
- 6.9 In short, there is a requirement that the impact of the proposal on the heritage assets be very carefully considered, that is to say that any harm or benefit needs to be assessed individually in order to assess and come to a conclusion on the overall heritage position. If the overall heritage assessment concludes that the proposal is harmful then that should be given "*considerable importance and weight*" in the final balancing exercise having regard to other material considerations which would need to carry greater weight in order to prevail.
- 6.10 3-5 Church Road was built in the 1950's and is a detached three storey building with a flat roof with separate entrances to 3 and 5. The building is of limited architectural quality within the conservation area. The proposed 3rd floor roof structure, 2.7m high above the existing building, would be set in from the front and sides of the building (except for the part above the staircase core). The parts of the additional floor recessed along the frontage would be set back 1.4m.
- 6.11 While the proposed additional floor would be visible from the street and from neighbouring properties this must be considered in the context of the design, scale and form of the existing building, the character of the area and the quality of the

proposal. Within the broader locality there are buildings of comparable height (i.e. on North Hill and Archway Road).

- 6.12 The proposed top floor would be more lightweight in appearance than an extra floor built in masonry/ brick and would feature an entirely different treatment from the main form of the building. The new top floor would appear as a cap to this brick building and provide a unifying element at roof level. The additional floor would have a recessive relationship in relation to the floors below.
- 6.13 Highgate Society and residents have objected to the bulk, mass and height of the new roof extension within its surroundings. They are concerned that the increase in height in this location is incompatible with the scale and character and appearance of the conservation area.
- 6.14 Church Road is a connector road between North Road and Archway Road. Although there are two storey semi-detached properties on the opposite side and to the rear on Talbot Road and Bramalea Close, Church Road itself does not have a uniform character. Highcroft, a four storey building is located at one end of Church Road and a new high rise development is proposed at the Bishop Road, Archway Road junction. There is a church and nursery at the junction with Talbot Road and GP and Health Clinic at the junction with North Road. Given the varied character to this street and the manner in which this roof addition is designed the proposal would not be over dominant or create an oversized building.
- 6.15 Policy 7.6 of the London Plan, states that details and materials should compliment, not necessarily replicate, the local architectural character. The materials proposed have a modern finish in grey metal vertical seam cladding with dark grey window frames. In the interest of the appearance of the development and the effect on the area, the details of the materials to be used for the roof extension should be submitted for approval.
- 6.16 The proposal is considered to be in keeping with the proportions and the vertical and horizontal alignment of the windows below. The roof structure will not dominate the existing building and when viewed in the street, the eye will be drawn to the frontage of the building rather than the extra floor. Overall the roof form proposed here would be compatible with the proportions and size of the building and would not detract from the visual amenity of the area.
- 6.17 The development is deemed to be of an acceptable quality causing no harm to this part of the conservation area. The proposal is considered to preserve the setting of the conservation area. In this instance the introduction of a roof form is in part seen to improve the appearance of this building as will the measures to partly screen the refuse bins, as such representing a public benefit. Officers have asked that as part of the works to the site replacement windows of a common design, proportion, material and means of opening be provided (as per condition 7) to improve its external appearance and to achieve a more balanced appearance to this building.
- 6.18 The townscape and special character of Highgate Conservation Area is considered to be preserved, consistent with saved UDP Policies UD3 and CSV5, Local Plan Policies SP11 and SP12, London Plan Policies 7.4, 7.5, 7.6 and 7.8 and SPG2 'Conservation and archaeology'.

Impact on the amenity of adjoining occupiers

6.19 The London Plan 2015 Policy 7.6 *Architecture* states that development must not cause unacceptable harm to the amenity of surrounding land and buildings. Saved Policy UD3 also requires development not to have a significant adverse impact on residential amenity in terms of loss of daylight, or sunlight, privacy overlooking, aspect noise, pollution and of fume and smell nuisance. Draft Policy DM1 'Delivering High Quality Design' requires an appropriate protection of privacy to neighbouring properties.

Daylight, sunlight and overshadowing

6.20 Residents have raised issues in respect of loss of daylight, sunlight and overshadowing. No 54 and No 56 Talbot Road have raised concern that the 25 degree angle from the ground floor window, 2m above ground level has been breached. The ground floor windows of No 56 are however already breached by the existing building. It is important to bear in mind that the relevance of the 25 degree angle test, namely a trigger/ requirement under BRE's 'Site Layout Planning for Daylight and Sunlight' for further investigation to be carried out.

6.21 The applicant has submitted a Daylight, Sunlight and Shadowing Analysis report, comprising of the 'Vertical Sky Component' (VSC) and 'Annual Probable Sunlight Hours' (APSH) to the adjacent buildings; 56 Talbot Road, 1 Church Road and 4 Church Road. Vertical sky component (VSC) is a measure of the amount of light available to any window and depends upon the amount of unobstructed sky that can be seen from the centre of a window under consideration. In the BRE guidelines, it states that if the VSC at the centre of a window is more than 27%, then the diffuse daylighting of the building will not be adversely affected. Annual Probable Sunlight Hours (APSH) is used to calculate the number of hours in a year that a window can be expected to receive direct sunlight, taking account of external obstructions and the likelihood of cloud cover throughout the year.

6.22 The result of the sunlight and daylight analysis shows that following development all of the existing surrounding residential properties would continue to receive good levels of daylight. The window that would be most affected, in 56 Talbot Road, would experience a reduction of 3.4% daylight and as such much less than the 27% VSC component measured. In respect of sunlight, the Annual Probable Sunlight Hours (APSH) are well above the BRE standard of 25% total and 5% in the winter months. The proposal therefore complies with the requirements of the BRE guidance in respect of daylight and sunlight.

6.23 The shadow path analysis demonstrates that following the development there would be no adverse overshadowing impact in comparison to the existing on the residential gardens adjacent to the proposed development. In respect of overshadowing to properties on the other side of the road there is a very limited change in respect of the shadow cast.

6.24 In respect of 1 Church Road and 56 Talbot Road, the existing building casts a shadow on the gardens from 12pm onwards. 56 Talbot Road is significantly in shadow from 3pm onwards on 21st March. This would remain the same following the development. The relevance of the 21st March has been questioned. This is the equinox month and is the set day for testing overshadowing in accordance with the BRE guidance.

- 6.25 Officers accept that the existing building on site with its various windows on the side flank wall has an awkward relationship with No 56 and to a less extent on No 54. The test here however is whether as a result of the development in question there would be an adverse infringement on the daylight/ sunlight of the nearby residential properties and gardens and unacceptable increase in overshadowing.
- 6.26 In relation to No 54 Talbot Road and the properties to the south of this, and having regard to their position in relation to the application site and the sun's trajectory, the proposal would not materially affect daylight and sunlight to these properties.

Privacy and overlooking

- 6.27 The amended drawings propose a privacy screen to match the roofing material colour to be placed on the sides of the terrace, as such minimising overlooking from the flank of the building down into gardens of properties on Talbot Road.
- 6.28 While additional windows will be introduced on the rear elevation of the building the degree of overlooking created here is not considered to be significant and certainly not to a degree to refuse consent, particularly given the current arrangement of overlooking from the upper floor windows and the urban nature of the site and its surroundings. The patio doors will be well set back and as such the line of vision inside the room behind these doors will be down onto the flat roof of the terraces.

Noise and disturbance

- 6.29 Noise pollution is dealt with under saved UDP Policy UD3, which resists developments involving an unacceptable level of noise beyond the boundary of the site. This stance aligns to the NPPF and with London Plan Policy 7.15 and Policy SP14 of Haringey's Local Plan.
- 6.30 Noise during construction can be managed with the submission of a construction management plan, which would seek to minimise disturbance to the current residents. Building regulations would apply to ensure that the proposal complies with the relevant standards in respect of insulation and the transmission of noise between floors.
- 6.31 The potential noise emanating from use of the terraces from the two 1 bedroom flats would not exceed a level of noise and disturbance over and above that of a typical dwelling/flat in this urban location.

Other issues

- 6.32 Concern has been raised in respect of the loss of the chimney stack, as this is one of the main heating sources of one of the occupants below. The applicants have agreed to retain the chimney stack as removal of the stack is not an essential feature of the design.
- 6.33 Overall it can be demonstrated that there will be no adverse infringements to daylight/ sunlight of the nearby residential properties and gardens in question given the current arrangement/ height of the building on site. There would also be no unacceptable harm to the living conditions of neighbouring residents in relation to privacy, noise and disturbance. As such the scheme is considered to be in accordance with London Plan policy 7.6 and saved UDP policy UD3.

Living conditions for future occupants

- 6.34 London Plan Policy 3.5 and accompanying London Housing Design Guide set out the space standards for all new residential developments to ensure an acceptable level of living accommodation offered.

London Plan Requirement	Proposed unit size	Compliance?
1 bed 2persons 4th floor - 50 sqm	51 sqm	Yes
1 bed 2 person 4th floor flat – 50sqm	51sqm	Yes

- 6.35 In assessing the proposal against the above requirements, the new residential units would accord with the minimum unit size requirements.

Parking and highway safety

- 6.36 Local Plan (2013) Policy SP7 Transport states that the Council aims to tackle climate change, improve local place shaping and public realm, and environmental and transport quality and safety by promoting public transport, walking and cycling and seeking to locate major trip generating developments in locations with good access to public transport.
- 6.37 The application site falls within an area that has a medium Public Transport Accessibility Level of 4 and is served by the 43, 134, 143, 234 and 263 bus routes, which operate with a combined two-way frequency of 80 buses per hour. The site is also within walking distance of Highgate underground station. It is therefore considered that prospective residents are likely to use sustainable modes of transport for journeys to and from the site.
- 6.38 It has been noted that the site falls within the Archway Road restricted conversion area, an area identified as suffering from high on-street parking pressure. In view of this the applicant would normally be required to provide 2 on-site parking spaces. In this instance the development can be secured as a 'car free' development by way of a S106 agreement. This will prevent prospective residents from being eligible to apply for an on-street parking permit. As the site falls within the Highgate Station Controlled Parking Zone, such designation would provide ample mitigation against any increase in on-street parking pressure. Subject to the above the Council's Transportation Team do not object to the proposal.

Waste Management

- 6.39 London Plan policy 5.17 'Waste Capacity' and Saved UDP Policy UD7 'Waste Storage' requires development proposals to make adequate provision for waste and recycling storage and collection.
- 6.40 Currently refuse bins are stored to the front of the building and are not screened. The position of refuse/recycling facilities will still be located to the front of the building however slightly changed in positioned and enclosed in open topped timber bin enclosure with double doors.

- 6.41 Objections have been received in relation to the bin enclosures on grounds that they would be unsightly and remove part of the garden of 5a Church Road. Concerns have also been raised about the impact on emergency access. The position of the bins and measures to partly screen are an improvement to the current situation.
- 6.42 The applicant has indicated that they have a lease on this part of the land and have entered into a legal agreement with the new owners of the adjoining driveway to provide a bin enclosure for the benefit of 3-5 Church Road. They also indicate that there is sufficient space for access. A condition will be imposed to secure final detail of the bin enclosure.

Affordable Housing

- 6.43 In line with London Plan policies s 3.9, 3.10, 3.11, 3.12 and 3.13, Local Plan Policy aims to provide affordable housing by:
- Achieving 20% affordable units on sites of 1 - 9 net units in line with Local Plan Policy SP2
 - Using a residual land value approach, with the difference in value of providing an affordable unit included, in order to establish a robust per unit contribution that reflects both the 20% requirement in the policy, and availability of the borough in line with the newly adopted Planning Obligations SPD (2014)
- 6.44 In November 2014, a ministerial statement directed all councils in England not to apply affordable housing contributions or any other tariff style contributions for sites of 10 homes or less. The reason given was to support small-scale housebuilders. A judicial review of this decision by West Berkshire District Council and Reading Borough Council v Department for Communities and Local Government [2015] EWHC 2222 (Admin) (31 July 2015), concluded that Local Authorities are legally permitted to return to implementing local policies setting thresholds for affordable housing requirements on proposed developments. However this decision was challenged and a court of appeal decision in May 2016 sets out that the issuing of the ministerial statement was not unlawful such is now back in force and prevents the seeking of affordable housing on sites of 10 units or less that have a floorspace of less than a 1000 sqm.

Planning Obligations

- 6.46 Section 106 of the Town and Country Planning Act 1990 allows the Local Planning Authority (LPA) to seek financial contributions to mitigate the impacts of a development. Below are the agreed Heads of Terms:
- A requirement to amendment of the relevant Traffic Management Order (TMO) controlling on-street parking in the vicinity of the site to reflect that the 2 new residential units shall be designated 'car free' and therefore no residents therein will be entitled to apply for on street residents. A sum of £1,000.00 is sought towards the amendment of the Traffic Management Order.
- 6.47 Based on the information given in the plans, the Mayoral CIL charge will be £5,419.89 (126 x £35 x inflation factor of 1.229) and the Haringey CIL charge will be £ 35,193.06 (126 x £165 x inflation factor 1.054). This will be collected by Haringey after/should the scheme is/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.

Conclusions

- 6.48 The development is deemed to be of an acceptable quality causing no harm and preserving this part of the conservation area. The townscape and special character of Highgate Conservation Area is considered to be preserved, consistent with saved UDP Policies UD3 and CSV5, Local Plan Policies SP11 and SP12, London Plan Policies 7.4, 7.5, 7.6 and 7.8 and SPG2 'Conservation and archaeology' and this has been viewed to be less than substantial and is outweighed by the improvements to the appearance
- 6.49 The residential accommodation would be of an acceptable layout and standard meeting the necessary internal floorspace standards and providing external amenity space. In terms of impact on the residential amenity of neighbouring properties the proposal is considered acceptable and would not cause unacceptable overlooking or loss of privacy or affect daylight/ sunlight. The scheme will have no adverse impact on the surrounding highway network or on car parking conditions in the area
- 6.50 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

7. RECOMMENDATION

7.1 GRANT PERMISSION subject to conditions and subject to a S106 Agreement.

1. The development hereby authorised must be begun not later than the expiration of 3 years from the date of this permission, failing which the permission shall be of no effect.

Reason: This condition is imposed by virtue of the provisions of the Planning & Compulsory Purchase Act 2004 and to prevent the accumulation of unimplemented planning permissions.

2. Notwithstanding the information submitted with the application, the development hereby permitted shall only be built in accordance with the following approved plans: Applicant's drawing No.(s) 755 LY 0X03REV A, 755 LY 0S06, 755 LY 0S07, 755 ES 0X04REV A, 755 ES 0X05, 755 ES 0X06, 755 ES 0X08, 755 ES 0X09 REV A, 755 EX 0S00, 755 EX 0X01, 755 EX 0X02, 755 EX 0X03 REV A, 755 SK 004.

Reason: To avoid doubt and in the interests of good planning.

3. Samples of the materials to be used in conjunction with the proposed development, shall be submitted to and approved in writing by the Local Planning Authority, before any development is commenced. The development shall thereafter be implemented in accordance with the approved samples.

Reason: In order for the Local Planning Authority to retain control over the exact materials to be used for the proposed development and to assess the suitability of the samples submitted in the interests of visual amenity.

4. Notwithstanding the approved drawings and before the occupation of the residential units hereby permitted full details of the enclosures and screening of recycling containers, wheeled refuse bins and/or other refuse storage containers shall be submitted to and approved in writing by the Local Planning Authority and thereafter provided and maintained on site. Details of landscaping to be planted immediately inside the front boundary of the site shall also be included in such measures to screen the appearance of these bins.

Reason: To ensure a satisfactory appearance for the development and to protect the amenities of the area.

5. The proposed development shall have a central dish/aerial system for receiving all broadcasts for all the residential units created, details of such a scheme shall be submitted to and approved by the Local Planning Authority prior to the occupation of the property and the approved scheme shall be implemented and permanently retained thereafter.

Reason: In order to protect the visual amenities of the neighbourhood.

6. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented and retained during the construction period.

Reason: To ensure there are no adverse impacts on the free flow of traffic on local roads and to safeguard the amenities of the area consistent with Policies 6.3, 6.11 and 7.15 of the London Plan Policies SP0 of the Haringey Local Plan 2013 and Saved Policy UD3 of the Haringey Unitary Development Plan 2006.

7. Notwithstanding the approved drawings full details of replacement windows of a common design, proportion, material and means of opening to the front elevation of the building shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the plans approved before the occupation of the residential units hereby permitted.

Reason: To ensure a satisfactory appearance to the building and to enhance the appearance of the conservation area.

INFORMATIVE: The new development will require numbering. The applicant should contact the Local Land Charges at least six weeks before the development is occupied (tel. 020 8489 3472) to arrange for the allocation of a suitable address.

INFORMATIVE : Community Infrastructure Levy

The applicant is advised that the proposed development will be liable for the Mayor of London and Haringey CIL. Based on the information given on the plans, the Mayor's CIL charge will be £ 5,419.89 (126 x £35 x inflation factor of 1.229) and the Haringey CIL charge will be £35,193.06 (126 x £165 x inflation factor 1.054). This will be collected by Haringey after the scheme is 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.

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.



1 Location Plan As Existing

Site Location Plan



Front elevation of building



Rear elevation of building

General Notes:

1. Copyright of this drawing remains the sole property of Cooley Architects unless otherwise assigned in writing.
2. If any of the dimensions to be checked in office, with any amendments recorded to this Architect's plan, to commence work on site.
3. Settle point is based on other survey only. All dimensions to be checked on site prior to construction. All dimensions of work to go live, unless noted. Further consult Cooley Architects.



1 Birdseye View As Proposed



2 View From Church Road As Proposed

Visualisation of additional floor

REV	DESCRIPTION	DATE

Cooley Architects

123 Aldergate Street
 London EC3A 4JQ
 T: 020 3 976 4483
 www.cooleyarchitects.com

CLIENT

**Holdhazel Ltd and
 Frank Collins Estate**

PROJECT

New Penthouse Flats

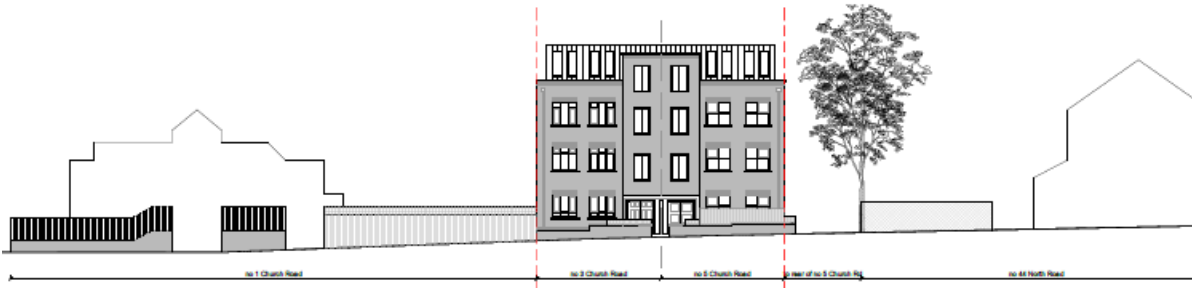
3-5 Church Road, Highgate

DRAWN/TITLE

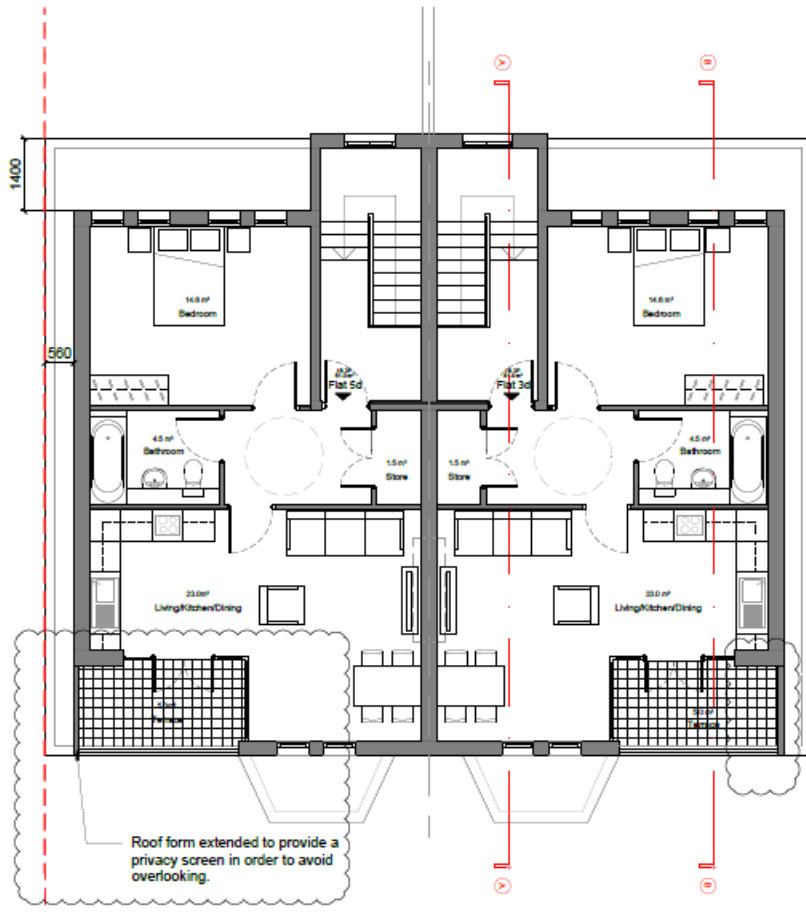
**3D Views
 As Proposed**

DRAWN BY	DATE	CHECKED
NB	Mar 15	GH
SCALE	SIZE	STATUS
-	A3	PRINTING

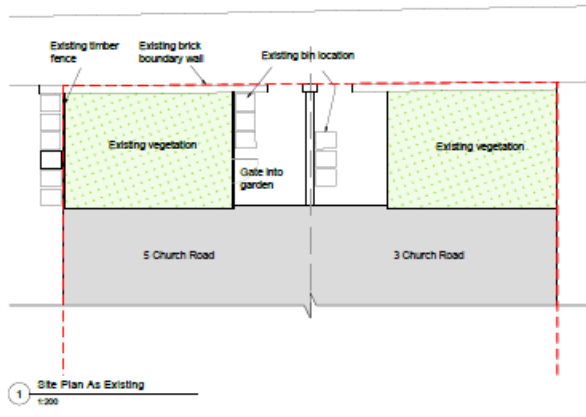
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755 - SK - 004	-



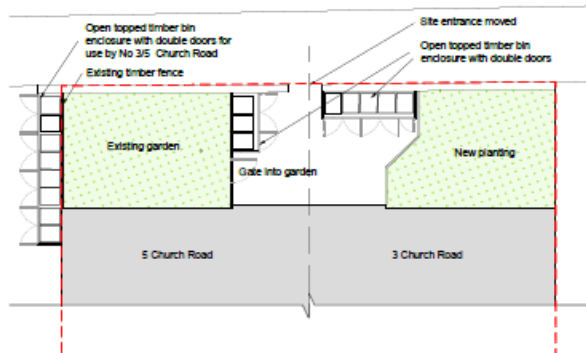
Street elevation



Floor plan for additional floor/ flats



Front Elevation refer to 755-ES-QXD4



Layout of bins