

**REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE**  
**14 October 2020**

**REFERENCE:** HW/HSE/20/00363

**OFFICER:** John Harrison

**APPLICANT:** Mr Anthony Marsh

**LOCATION:** 12 Brickcroft Hoppit,  
Newhall,  
Harlow,  
CM17 9FJ

**PROPOSAL:** Installation of roof terrace (5m x 5m) and external stairs

**LOCATION PLAN**



**REASON BROUGHT TO COMMITTEE**

Two representations have been received which are contrary to the officer recommendation

## **Application Site and Surroundings**

The site is a modern detached house on the corner of Brickcroft Hoppit and Honor Street, Newhall on the northern side of Brickcroft Hoppit. It has a relatively small plot with a 14-metre frontage to Brickcroft Hoppit and an 11-metre one to Honor Street – the house is built up to the back of the footpath on both sides.

It has a flat-roofed detached garage, approximately 5 metres x 5 metres, to the east between it and the neighbour, 10 Brickcroft Hoppit, an end-of-terrace house. The garage is attached to 10's side wall and there are no windows in that wall. The house to the north is a detached one, 25 Honor Street. The road to the north, parallel to Brickcroft Hoppit is Simplicity Lane.

## **Details of the Proposal**

The applicants have put a balustrade round the garage roof so it can be used for sitting out. There is a staircase up to it between the house and the garage and also a link at first-floor level to the house, though there is no door in the side of the house providing access to it. The application is a retrospective one to retain this roof terrace.

## **RELEVANT PLANNING HISTORY**

There is no relevant planning history.

## **CONSULTATIONS**

No Consultee Comments Received.

## **Neighbours and Additional Publicity**

Number of Letters Sent: 16

Total Number of Representations Received: 5

Date Site Notice Expired: N/A

Date Press Notice Expired: N/A

## **Summary of Representations Received**

A neighbour - Invasion of privacy of bedroom kitchen and garden, rules about obtaining permission in Newhall have been ignored, terrace has not been constructed to hold many people only for maintenance access, since construction there have been continuous late night noise, drinking, music playing and shouting, adjacent to a neighbouring family home and children's bedrooms.

A neighbour (same address as previous comments) - Views into bedroom, bathroom, kitchen and garden, continuous gatherings on the terrace with loud music late into the night and being high up noise travels further, twinkling lights, breach of covenants with Newhall developers, adjacent to bedrooms of a family which have a young family, allowing this will jeopardise the unique feel of the neighbourhood.

A neighbour – Have no discrepancy about the design, does not have a negative impact on the area, but complements unique architectural design, precedent has been set by nearby property having two roof terraces, does not block out light, raise privacy issues or appear overbearing, no impact on parking or traffic, environmental impact on the estate comes from outside people, not this terrace, most households have summer celebrations, there will always be noise on the estate.

An immediate neighbour - The objections are disappointing, the terrace brings a whole new look to ugly garages, terrace is not a privacy issue, experiences more overlooking from the house behind, have had no issues of loud noise or unsocial from the application property.

An immediate neighbour - No objection

## **PLANNING POLICY**

BE1:"Character and Identity" new and extended buildings should relate to their setting to strengthen, enhance, protect or create local character. Permission will be granted for new development providing: it is well connected to and integrated with the wider settlement; the height massing, layout, appearance and landscape makes an appropriate visual relationship with that of the form, grain, scale, materials and details of the surrounding area; building design is specific to the site and its context; it enhances the character, image and perception of the area when highly visible.

### **Harlow Local Development Plan Pre-Submission Publication (2018)**

The new Harlow Local Development Plan is currently being examined by an Inspector appointed by the Secretary of State.

Paragraph 48 of the NPPF sets out that weight may be given to relevant policies in emerging local plans according to the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given); the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight may be given); and the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The 'Harlow Local Development Plan Pre-submission Publication' (the 'emerging Local Plan') was submitted for examination in October 2018. The Examination started with public hearings which ran between March and April 2019.

In December 2019, the Inspector wrote to the Council with suggested modifications to the emerging Local Plan. The modifications are necessary in order to ensure the Plan is sound, that issues raised during the Examination have been considered, and that the Plan can, therefore, be formally adopted by the Council.

The detailed Main Modifications to the emerging Local Plan, were consulted upon between 12 March and 31 May 2020. On the 8 September 2020: Harlow Council published a new report relating to housing need. A consultation on this report ran for 2 weeks until 25 September 2020. Subject to receipt of the Inspectors report, is anticipated the Plan will be formally adopted by the Council in Autumn 2020.

It is considered, therefore, that the policies within the emerging Local Plan are consistent with the policies in the 2012 NPPF, as it was submitted during the transition period between the 2012 and 2018 NPPF versions. Significant weight can, therefore, be given to relevant emerging Local Plan policies at this stage. Relevant policies are discussed within the Planning Assessment section.

## **PLANNING STANDARDS**

National Planning Policy Framework (NPPF) (2019) - sets out the Government's key economic, social and environmental objectives and the planning policies to deliver them. These policies will provide local communities with the tools they need to energise their local economies, meet housing needs, plan for a low-carbon future and protect the environmental and cultural landscapes that they value. It seeks to free communities from unnecessarily prescriptive central government policies, empowering local councils to deliver innovative solutions that work for their local area.

### **Supplementary Planning Documents/Current Planning Guidance**

The Harlow Design Guide SPD (2011)

### **Summary of Main Issues**

As this is an application to alter a residential property in a residential area, the principle of the development is acceptable. Issues to be considered are appearance, overlooking, noise and activity and lighting.

Reference has been made in one of the representations on this application to a nearby house with two roof terraces. This is presumed to be one at 17 Great Auger Street which is in the same block as 12 Brickcroft Hoppit in the diagonally opposite position. This house has two terraces, one above the garage and one on the roof. These were authorised when the house was granted permission under reference HW/PL/09/00283. A condition was imposed relating to screening of the roof terrace. There are also terraces on top of garages further away on the Newhall development at High Chase. These are understood to be adjacent to staircases, so the chances of noise affecting bedrooms is reduced and the houses were built with them, so occupiers would be aware of them when they moved in. The existence of roof terraces elsewhere on the estate would indicate an objection to the roof terrace being out of character with the development would not be justifiable.

When planning permission is granted for a dwelling, it is unusual to impose conditions about how their gardens should be used. It is envisaged that generally residents will behave in a sociable way and avoid excessively noisy activities particularly late at night. There are no restrictions on how the garden of 12 Brickcroft Hoppit should be used. This roof terrace, however, is adjacent to bedrooms but, on the other hand, only a few feet above the garden. There are also environmental health powers to deal with regular excessively noisy activities.

### **Appearance**

The terrace is not prominent in the streetscene as it is between 10 and 12 Brickcroft Hoppit. The work has been carried out in a neat manner. As explained above, it would not be reasonable to refuse the terrace as being out of character with the area as others are nearby. Thus, the proposal is considered to comply with policy BE1 of the Local Plan and the Design Guide.

### **Overlooking**

This area of Newhall is relatively tight-knit with gardens generally being visible from the upper floors of neighbouring properties. It is considered that overlooking from a roof terrace is potentially more intrusive than from an upstairs window. Upstairs windows tend to be bedrooms or bathrooms from which one would not be likely to spend a lot of time in peering out of the window. Furthermore, neighbours are less likely to be aware that somebody is looking out of such a window. In contrast, people can potentially spend a lot of time on a roof terrace

and, because it is elevated, neighbours are more likely to be aware of the presence of people on it.

The only windows likely to be significantly overlooked to the rear are those of 16 and 18 Simplicity Lane. These are 20 metres from the terrace and 20 metres is generally considered an acceptable distance between two parallel rows of houses to avoid unacceptable overlooking. There is also potential for overlooking the houses on the opposite side of Brickcroft Hoppit. The nearest, number 19, is set at an angle of approximately 45 degrees which reduces the overlooking impact. Furthermore, the front windows of number 12 are closer to 19's windows than the terrace is. The design of the neighbour to number 19, number 17, and its relationship with number 12 is such that there would not be significant overlooking into that property.

As well as overlooking windows, it is necessary to consider possible overlooking of gardens. The roof terrace is only 6 metres from the boundary with 25 Honor Street and there are very obtrusive views into their rear garden. There is visibility into part of the garden of 10 Brickcroft Hoppit, but this is restricted. Visibility into the garden of 16 Simplicity Lane is very restricted, but if some bushes were removed, it would become worse.

The overlooking of 25 Honor Street's garden is not considered acceptable. A condition requiring the erection of a screen along the northern side of the terrace is therefore recommended. As this is on the rear of the garage it would not be prominent in the streetscene, but given the strong design character of Newhall it is considered necessary that the condition also control the materials for this screen to ensure they are consistent or compatible with the pallet of materials locally to preserve the character of the area. This would not only prevent overlooking of the garden of 25 Honor Street, but also other gardens to the north. Although the occupiers of 25 Honor Street have not objected to the application, it is considered such a condition is appropriate to protect the privacy of future occupiers of that house.

### **Noise and activity**

The objectors have indicated the terrace is being used for regular noisy activity. The objectors are not immediate neighbours. If the terrace was being used for such activity it would seem likely that more objections and ones from closer residents would have been received. In fact, letters of support have been received from residents closer than the objector. The applicant refutes he has been carrying out such activity and suggests the complainants are referring to activities carried out by other residents in the area.

In theory a condition could be imposed restricting the hours of use of the terrace and, as it is immediately adjacent to the first floor of 10 Brickcroft Hoppit, there is a potential argument for this. Such a condition would also prevent activity which would not significantly affect neighbours, such as two or three people having a normal conversation, however. Thus, such a condition is not recommended. Consideration was also given to the possible imposition of a condition preventing the playing of music after 8pm on the rationale that this would discourage the use of the terrace for party-type activities.

The National Planning Policy Framework makes clear that for the Council to impose any condition, it has to meet the 6 tests. Namely, that the condition is: necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable.

Music could be played in the garden for a party without there being a breach of planning control. Therefore, in order to justify why it is 'necessary' for a restrictive condition on the playing of music to be imposed on the terrace, the Council needs to identify a material difference between the impact of the music being played in the garden and music being played

on the terrace. In this instance the difference is that the terrace is positioned against the wall of 10 Brickcroft Hoppit, the other side of which are bedrooms. This is different from a garden, and from the other examples of roof terraces locally.

It should be noted that no objection has been received from the occupiers of 10 Brickcroft Hoppit. Indeed, in the representation made on the application by the occupiers of number 10 they say: *"We have no objection to the above mentioned roof terrace. We have not experienced any excess noise as a result of the occupants using the terrace, and certainly aren't aware of any parties having occurred"*. In light of these comments, it is considered unlikely that the Council could reach a conclusion that it would be necessary or reasonable to impose restrictive conditions on the use of the terrace.

## **Lighting**

Though a neighbour has expressed concern about the lighting on the terrace, it is just solar lights. These are not likely to unduly affect neighbours. It would be possible to impose a condition requiring approval for more intensive lighting, but as there are environmental health powers to deal with excessive lighting, this is not considered necessary.

## **Other issues**

Though neighbours have raised issues relating to covenant consent from the Newhall developers and the strength of the roof which is a building regulations issue, these are not material planning considerations.

## **CONCLUSIONS**

The proposal is considered to be acceptable in appearance terms. Subject to the provision of a screen as recommended, the issue of overlooking neighbours is considered to be satisfactorily addressed. The Council doesn't have evidence to indicate that the use of the terrace would be materially different, in terms of the noise impacts on surrounding residents, to the occupants using their garden area.

## **RECOMMENDATION**

Grant Planning Permission subject to the following conditions:

- 1 The use of the terraced area hereby approved shall cease within six months of the date of this decision a 1.8 metre high screen, details of which have been submitted to and approved by the Local Planning Authority has been erected on the northern side of the terrace and the use shall not recommence until a screen approved under the terms of this condition has been erected. Once erected, the screen shall be permanently retained in position.

**REASON: To protect the privacy of the occupiers of 25 Honor Street.**

- 2 The development hereby permitted shall be carried out in accordance with the approved plans as shown listed in the table below.

<b>Plan Reference</b>	<b>Version No.</b>	<b>Plan Type</b>	<b>Date Received</b>
	--	Location Plan	30.07.2020
	--	Block Plan	30.07.2020
2205.01	--	Existing Plans and Elevations	10.08.2020
2205.02	--	Proposed Plans and Elevations	10.08.2020

### **INFORMATIVE CLAUSES**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.