

PLANNING 13

Grounds for Appeal rev04

of

Planning application PLANNING 12

London Borough of Camden ref **2019/6143/P**

for

Planters and balustrades at roof level

and

Previously consented side extensions and roof extensions

for application site

7 and 8 Oak Hill Park Mews

London

NW3 7LH

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Introduction

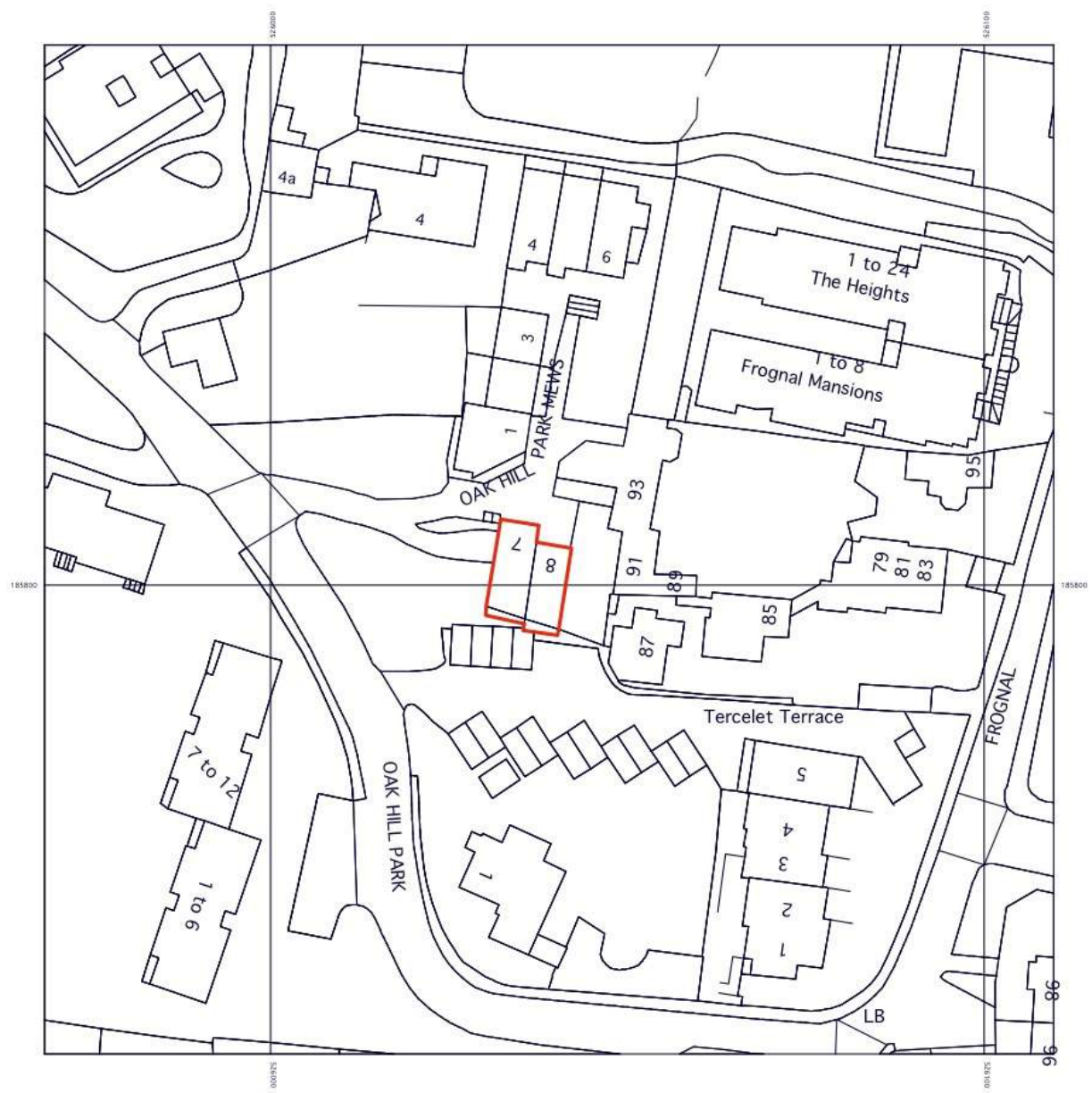
This statement accompanies an appeal by Richard Farr against the decision of Camden Council to refuse an application for planters and a stainless steel cable balustrade on the roof terraces of 7 and 8 Oak Hill Park Mews, Hampstead, London. The Council refused the application in March 2020.

The application was one of two which Mr. Farr submitted at the same time; the other application (2019/6144/P) was for a glass balustrade at the same location. The Council refused that application and Mr. Farr is lodging a separate appeal at the same time as this one.

The two appeals raise similar issues of design and are probably best considered jointly.

The essence of the proposals is simply to ensure that the existing roof terraces (which benefits from a certificate of lawfulness) can be used safely.

1. Location Plan



2. Photographs of Existing



South Elevation



North Elevation



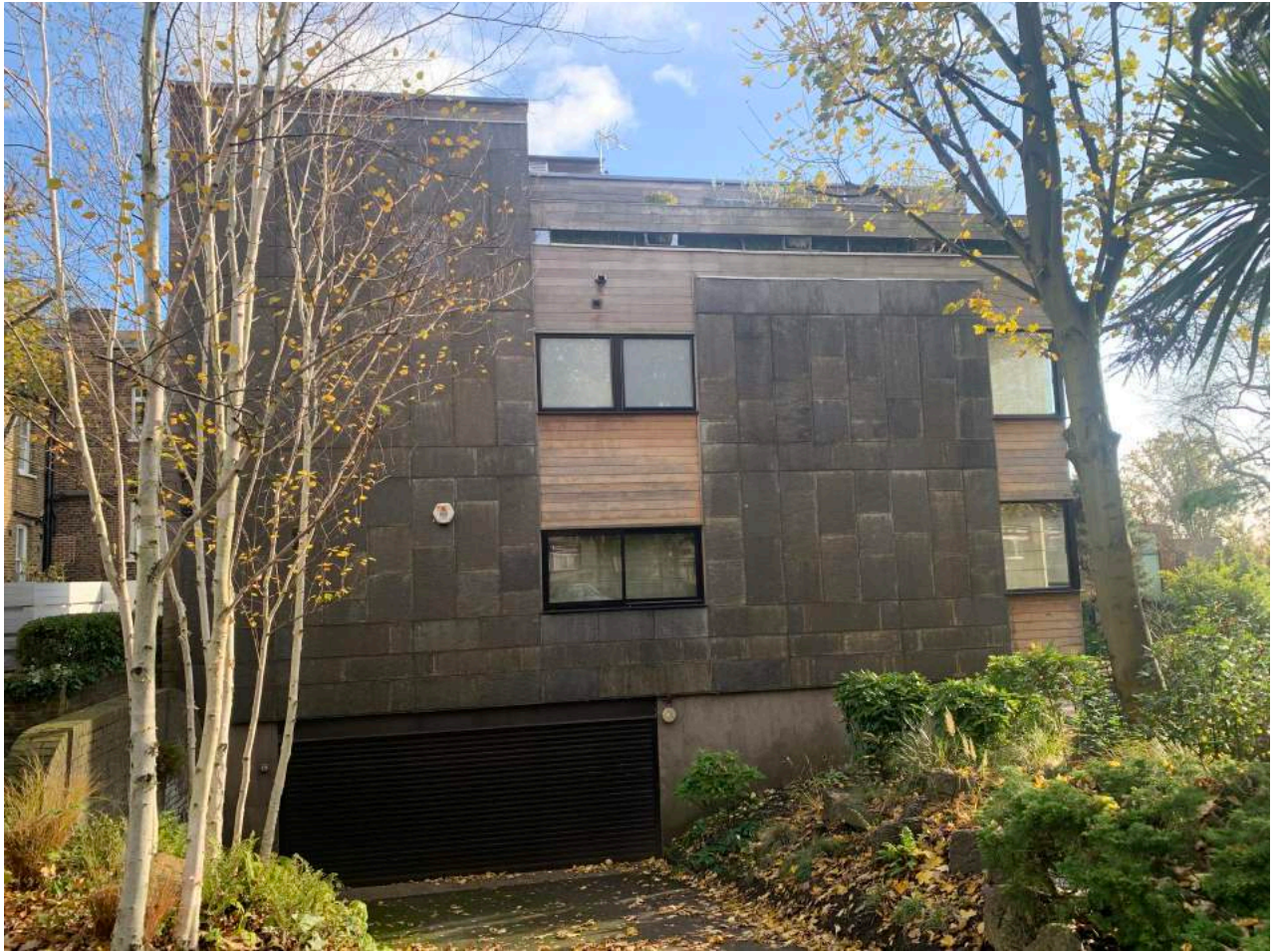
North Elevation



South East Elevation from 1 Oak Hill Park Mews



South Elevation from 1 Oak Hill Park Mews



West Elevation

3. Existing Buildings

- 3.1. The existing building at 7 and 8 Oak Hill Park Mews sits within the conservation area of Hampstead;
- 3.2. The existing building at 7 and 8 Oak Hill Park Mews is a pair of semi-detached three storey single-family dwellings built over an underground car park. In plan the building reads as two rectangles offset from each other;
- 3.3. The planning case officer has stated that the dwellings are not considered positive contributors in the Conservation area;
- 3.4. The building was built in about 1962 in a contemporary style, with a flat roof and terraces at second floor that are cut into the rectangular massing of the building. There are large expanses of glazing to the elevations and a mix of cladding materials consisting of timber, brickwork and slate. There are existing door openings onto the terraces at second floor level;
- 3.5. To the south of the site the ground falls away to an area with two rows of lock up garages. To the east there is communal bin area on top of the roofs of the basement garages and residential properties of three storeys plus pitched roof beyond. Oak Hill Park Mews extends to the north. To the west of number 7 Oak Hill Park Mews there is a green space with mature trees, access to the underground car park and Oak Hill Park road beyond;
- 3.6. Above the properties each property has an existing plant room. The flat roof terraces are at present accessed via a fixed ladder to the rear of number 8.

4. Planning History

4.1. application 2011/4671/P

Full Planning Permission.

Refused (Nov 16 2011)

Erection of extensions at second floor level front and rear, erection of roof extension with rear roof terrace including balustrading all in connection with existing dwelling houses.

4.2. application 2012/4929/P

Full Planning Permission.

Appeal Decided (refused) (Nov 19 2013)

The above application was appealed and under application 2012/4929/P.

4.3. application 2014/7160/P

Full Planning Permission.

Granted (May 13 2015)

Creation of front and rear extensions and associated alterations to building fenestration.

4.4. application 2015/3569/P

Full Planning Permission.

Granted (Sep 8 2015)

Installation of accessible roof lights and new plant at roof level.

4.5. Application 2015/6854/P

Certificate of Lawfulness (Proposed).

Granted (Mar 14 2016)

Confirmation the lawful use of existing flat roof at third floor level as a terrace, in association with existing dwelling house.

4.6. application 2016/2156/P

Variation or Removal of Condition(s)

Granted (Jun 21 2016)

Removal of condition 4 of application (2015/3569/P) granted 08/09/2015 for installation of accessible roof lights and new plant room at roof level and for use of existing flat roof at third floor level as a terrace, in association with existing dwelling house.

4.7. application 2017/3844/P

Full Planning Permission

Granted (Sep 21 2017)

Installation of accessible sliding box roof lights and new plant room at roof level and for use of existing flat roof at third floor level as a terrace, in association with existing dwelling house. Erection of front and side extensions and associated alterations to building fenestration.

4.8. application 2019/6143/P

Full Planning Permission

Refused (Mar 16 2020)

Installation of accessible sliding box roof lights, plant room, planters and balustrades at roof level.
Erection of front and side extensions and associated alterations to building fenestration.

4.9. application 2019/6144/P

Full Planning Permission

Refused (Mar 16 2020)

Installation of accessible sliding box roof lights, plant room and balustrades at roof level. Erection of front and side extensions and associated alterations to building fenestration.

5. Summary of Proposals

- 5.1. This submission is for the installation of low level planters and the erection of stainless steel guarding (behind the planters) to the existing third floor terraces.
- 5.2. The terraces were confirmed as legal by a Certificate of Lawful Development under application 2015/6854/P.
- 5.3. It is proposed that the planters are only 400mm high and so will project only 150-200mm above the existing parapet up-stands to the north, south, east and west façades.
- 5.4. The guarding, located behind the planters, is proposed as small gauge stainless steel cable at 1100mm high from finished floor level.
- 5.5. The guarding will be concealed by the planting in the planters. The planting proposed is laurel under-planted with variegated ivy. In the planning case officer's report it stated that specific detail about the planting proposal would be required. It should be noted that this detail was not requested during the planning application period – this is unfortunate as it could have been provided quickly.
- 5.6. In response to the request for planting detail therefore we provide below some further detail:-
 - 5.6.1. The laurel will be one of the smaller leaved variety such as Laurel Portugal Hedging. This is a hardy, evergreen plant that is well suited to the exposed nature of the location (wind, sun, cold). Although largely unrequired, the balustrade located behind it will help provide additional stability.
 - 5.6.2. The variegated ivy will cover the base of the laurel, will tumble over and conceal the base of the planters and will also soften the edge.
 - 5.6.3. The detail design, execution and planting will be undertaken by a professional landscape contractor and so drainage, soil type and irrigation will all be carried to the optimum level for the specific plants.
 - 5.6.4. The proposed plant varieties are a low maintenance option. Although requiring little care they will benefit from regular watering, feeding monthly and pruning twice a year;
- 5.7. The application also includes previously consented elements of development as follows:
 - 5.7.1. *Creation of front and side extensions and associated alterations to building fenestration.*
Consented application 2014/7160; and
 - 5.7.2. *Installation of accessible sliding box roof lights and new plant room at roof level. Erection of front and side extensions and associated alterations to building fenestration.*
Consented application 2017/3844.
- 5.8. The balustrades are required for safety purposes. The use as terraces is existing but cannot currently be used safely.
- 5.9. The balustrades respect the day and sun light constraint reports prepared by Jessop Associates and provided as part of planning application 2012/4929/P and its subsequent appeal.

- 5.10. The over-riding aim is to provide guarding to the roof level terraces for safety purposes. The most fitting way of doing this is using glass as it is already a material widely used in the existing building. The suitability of this has been set out in planning application 2019/6144/P. This planning application was refused and is being appealed concurrently with this appeal. Although we believe that frameless glass guarding is the best solution for making the existing terraces safe to use the overriding need for the client is any solution that provides safety and therefore this application proposal (planters, planting and stainless steel cable guarding) was submitted to provide an alternative option. We trust that the Appeal Inspector will consider both options. The applicant is open to agreeing a revised solution.
- 5.11. We have assessed the proposal in terms of the points raised by the previous pre-application advice (2014/1824/PRE), verbal advice given at a meeting on site (17.04.19) and in particular pre-application advice (2019/1501/PRE), and the delegated officer report relating to both applications.

6. Reasons for Refusal

6.1. Extracts of the planning case officer's statement of reasons for refusal are as follows:

6.1.1. The proposed balustrade and planters at roof level by reason of its siting, scale, detailed design and form, would create an incongruous addition to a prominent roofline, to the detriment of the form of the property and the character and appearance of the Conservation Area.....” ; and

6.1.2. “The proposed terrace, by reason of its location and proximity to the windows of the neighbouring properties at No.'s 87, 89, 91 and 93 Frognal and No.1 Oak Hill Park Mews would result in a harmful loss of privacy,”

7. Grounds for Appeal

7.1. As part of the planning application we responded directly to specific points raised by the planning case officer for the preceding pre-application advice exercise. These responses can be read in the design and access statement that was part of the application;

7.2. We reiterate the points, with additional comments below. The two reasons for refusal relate to design and privacy respectively:-

7.3. Reason for refusal 1: design

7.3.1. The proposal is the subtle and positive addition of guarding to the building that is required to ensure the existing roof terraces can be safely used.

7.3.2. Both properties are 3 bedroom, 3 storey 'family' sized units. Enabling the existing roof terraces to be used safely by installation of guarding will increase the area of private amenity space up to sizes (areas : 36sqm (no7) and 50sqm (no8) respectively) that are considered more appropriate for this unit size;

7.3.3. The guarding is comprised of low-level planters, in a mid grey colour, that will project only 200mm above the existing roof up-stand. Behind the planters the guarding will be small gauge stainless steel cable. The planters will be planted with evergreen low maintenance plants that will conceal both planters and guarding;

7.3.4. There is a distinction between the balustrades being visible and having a negative impact upon the surrounding area or the host building;

7.3.5. The balustrades will be no higher than 1.1m above the terrace floor level;

7.3.6. The planting will provide a natural softening that compliments the very green setting of the building;

7.3.7. The guarding will be a very lightweight construction and concealed by planting. This will not be visible from outside the building;

7.3.8. The planters will be set back behind the existing parapet wall and stainless steel cable balustrade will be set back behind these planters;

7.3.9. The existing parapet (i.e. the top of the façade walls of the existing building) will not be altered;

7.3.10. The guarding itself would be a minimal intervention. It is clear that it would have no visual impact on the otherwise tall, solid host building. The planting would be the visible element and in this parkland setting would be a positive contribution;

7.3.11. The host building is not traditional in style. As such the introduction of the guarding is not an alien intervention. The Conservation Area guidelines (to terraces) are set out to protect

traditional buildings by preventing changes to pitched, butterfly and mansard roof forms. In the case of the application properties the addition of the guarding will be in line with the existing situation i.e. the terraces will be to existing flat roofs very similar to the existing terraces to other areas of flat roof;

- 7.3.12. The application is for the two semi-detached properties that form the building. This joint application ensures that the shared detailing of the host building is retained. There is the risk that the occupants of the two properties may individually choose to exercise their right to use their terraces in a manner that would be visually detrimental to the appearance of the building as a whole. This more controlled approach of a unified proposal avoids this risk;
- 7.3.13. There is a wide range of architectural styles within the immediate area. The variety between buildings in the neighbourhood is such that there is no prevailing style or detail that must be followed to retain integrity of immediate surroundings;
- 7.3.14. Planting in planters is evident elsewhere in the immediate area. See attached photograph which shows planting adjacent to 7 Oak Hill Park Mews at ground level and very similar in arrangement to the detail of planting proposed;
- 7.3.15. The existing building is unique in it's style, form and use of materials (e.g. dark stone and timber cladding), there are no others in the grouping that share it's exact qualities. The proposed adjustment of adding lightweight balustrading will therefore not conflict with any existing building characteristics nearby;
- 7.3.16. Often in neighbourhoods there is a strong relationship between buildings and it is useful to recognise rules that should be followed when developing further. Planning guidelines to retain homogeneity in such circumstances are understandable. In this application case however there is such an obvious variation between buildings that any relationship imposed on the grouping would be false and obstructive;
- 7.3.17. The application property and it's neighbours are on different parts of a hilly site and so there is no established datum for the grouping of buildings. When viewing the application building there are no references to height in the immediate setting. Therefore the subtle introduction of planting will not be visually perceived as adding height to the host building;
- 7.3.18. The planting will be the only visible element of the proposal. Planting is not a building material and is not evident as part of the materials of the existing building. As such its presence at the existing terraces will not be read as an increase to the mass or height of the host building;
- 7.3.19. The existing building already has small terraces at lower level. Planting in planters has been present on these terraces for many years. The introduction of further planting at the existing third floor terraces level will continue this existing practice. As such no change to the visible character of the building will be caused by the introduction of more of the same, planting;
- 7.3.20. One neighbour is a more traditional (and Listed) building. This building already sits amongst other buildings of varying and different styles. The inclusion of planting to a building that is

already very different in style, massing and form will have no overall impact on this existing relationship;

- 7.3.21. The addition to the existing terrace of planters and planting (with guarding concealed behind), set in from the roof edge would be a minimal intervention that would have no impact on the neighbours. No objection has been made by neighbours or other interested parties;

7.4. Reason for refusal 2: privacy

- 7.4.1. Both houses have the right, as a matter of law (not permission), for the roofs to be used for any use that is ancillary to the primary use of the properties, which is residential. Roof terraces fall within this definition. A Certificate of Lawfulness was obtained that confirmed this right;
- 7.4.2. This legal right also applies to any newly created roof areas as they will, in the same way, be ancillary to the primary (residential) use;
- 7.4.3. The planning officer acknowledges that the properties benefit from certificates of lawfulness to use the roof terraces. Despite this the officer refers to the likelihood of increased use of the terraces as a result of the balustrade. Whether or not there is increased usage is irrelevant since usage is not within the control of the planning system.



Planter to the side of the NW corner of 7 Oak Hill Park Mews showing planting similar in arrangement to that proposed. Note that the planter is both more visible and of a different material to that proposed. The planter is also shown on the right of the photographs of the north elevation on page 6.