

PLANNING 14

Grounds for Appeal rev04

of

Planning application PLANNING 11

London Borough of Camden ref **2019/6144/P**

for

Glass balustrade 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

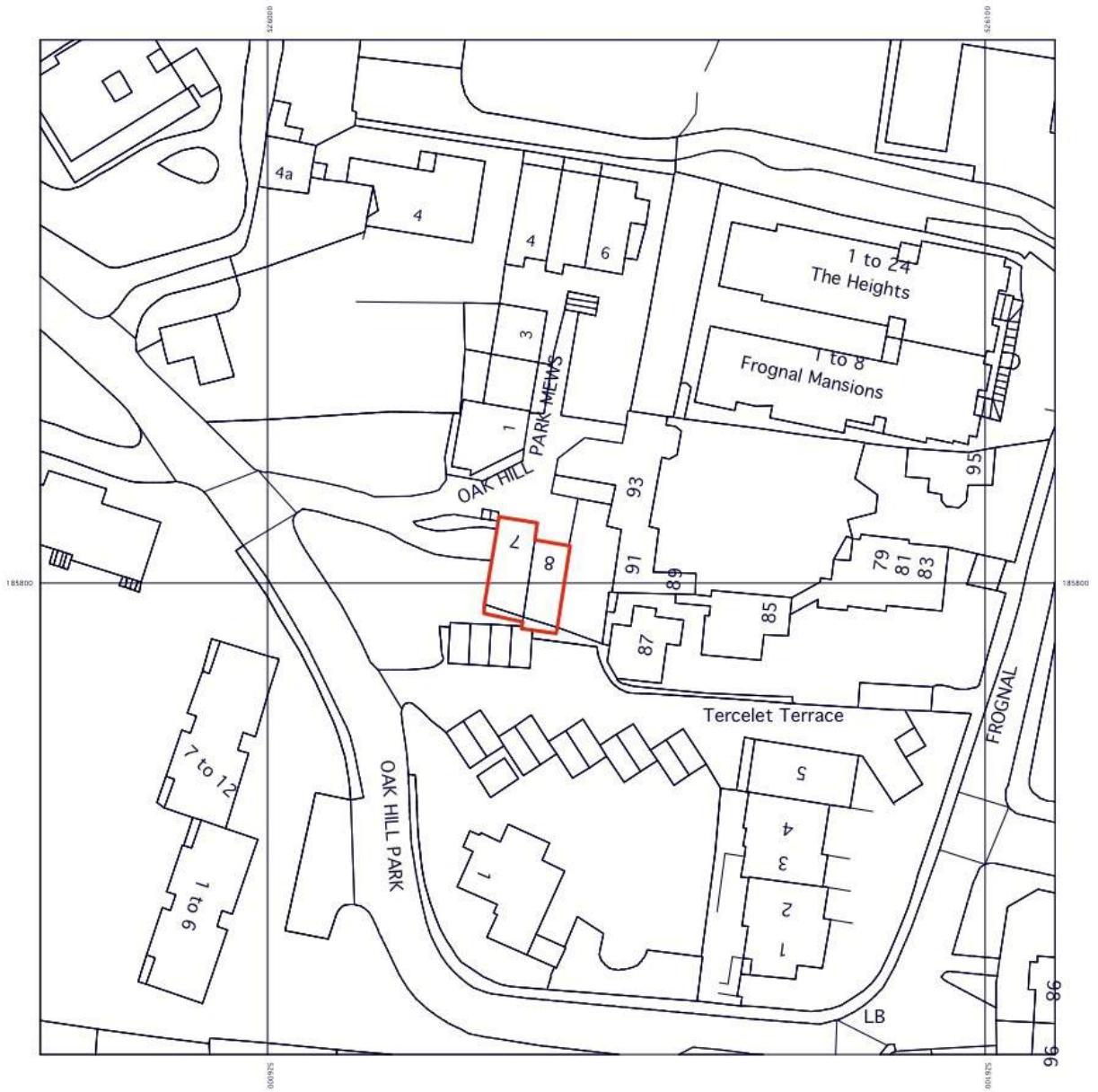
This statement accompanies an appeal by Richard Farr against the decision of Camden Council to refuse an application for a glass balustrade on the roof terraces of 7 and 8 Oak Hill Park Mews, Hampstead, London. The Council refused the application in March 2020.

The application was one of two which Mr. Farr submitted at the same time; the other application (2019/6143/P) was for a steel 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 an existing roof terrace (which benefits from a certificate of lawfulness) can be used safely.

1. Location Plan



2. Photographs of Existing



South Elevation

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North Elevation



North Elevation



South East Elevation from 1 Oak Hill Park Mews

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South Elevation from 1 Oak Hill Park Mews

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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 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;

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4. Planning History

4.1. application 2011/4671/P

4.1.1. Full Planning Permission.

4.1.2. Refused (Nov 16 2011)

4.1.3. 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

4.2.1. Full Planning Permission.

4.2.2. Appeal Decided (refused) (Nov 19 2013)

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

4.3. application 2014/7160/P

4.3.1. Full Planning Permission.

4.3.2. Granted (May 13 2015)

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

4.4. application 2015/3569/P

4.4.1. Full Planning Permission.

4.4.2. Granted (Sep 8 2015)

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

4.5. application 2015/6854/P

4.5.1. Certificate of Lawfulness (Proposed).

4.5.2. Granted (Mar 14 2016)

4.5.3. 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

4.6.1. Variation or Removal of Condition(s)

4.6.2. Granted (Jun 21 2016)

4.6.3. 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

4.7.1. Full Planning Permission

4.7.2. Granted (Sep 21 2017)

4.7.3. 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

4.8.1. Full Planning Permission

4.8.2. Refused (Mar 16 2020)

4.8.3. 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

4.9.1. Full Planning Permission

4.9.2. Refused (Mar 16 2020)

4.9.3. 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 erection of glass balustrades 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 glass balustrades to the north, south, east and west façades are clear frameless glass and are 1100mm high from finished floor level. They are set back from the roof edge by 0.5 - 1.0m;
- 5.4. The application also includes previously consented elements of development as follows:
 - 5.4.1. *Creation of front and side extensions and associated alterations to building fenestration.*
 - 5.4.1.1. Consented application 2014/7160; and
 - 5.4.2. *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.*
 - 5.4.2.1. Consented application 2017/3844;
- 5.5. The balustrades are required for safety purposes. The use as terraces is existing but cannot currently be used safely;
- 5.6. 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;
- 5.7. The 1100 mm balustrade reflects the design of the second floor terrace balustrades permitted as part of application 2017/3844/P;
- 5.8. The over-riding aim is to provide guarding at 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. Glass balustrades have been consented with planning approval for use at second floor level. The glass is lightweight in appearance, clear (transparent) so avoids creating a sense of mass. The balustrades are significantly set back from the building edge. The proposed clear glass balustrades are an addition to the existing roof terrace that pick up on the existing use of glass in the main building to reinforce the modern nature of the architecture but which will sit subordinate to the visually much stronger and heavier stone of the facades. They will have no meaningful or detrimental impact when viewed from the surroundings.
- 5.9. The balustrades have been designed to be as minimal as possible and are set back from the edge to all sides thereby limiting views onto the balustrades from street level. We strongly believe that this is the best solution for making the existing terraces safe to use. If however it is concluded, by the Appeal Inspector, that guarding can be provided in a manner that is more appropriate then the applicant is open to agreeing a revised solution. In order to facilitate this as an option a separate application was submitted for planning approval (and is being appealed separately) that presents an alternative proposal (planting concealing stainless cable guarding). We trust that both applications will be considered by the Appeal Inspector allowing the merits of both to be properly considered.

- 5.10. 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 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 Frogal 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 relating to each of the reasons for refusal. 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 clear glass which, by its nature, will be transparent and so will be only a light presence on the otherwise tall, solid existing building. See below photo of 'mock-up' of glass guarding; note that in the delegated report the planning officer refers repeatedly to obscure glass, which is mistaken;

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. There is no obscure glass in the proposal. The planning advice stated that obscure glass was likely to cause a visual impression of greater volume. The application proposal responded to this by making all the glass clear. During consideration of the planning case officer failed to take into account this response to their comments and change to the proposal;

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

7.3.7. Glazing to windows has a dark backdrop of the room behind and when it is lighter externally this can cause the glass to become reflective - which presents as a more solid mass. Glazing to balustrades, when viewed from below, has a backdrop of sky, it is as bright behind as in front of the glass, and so reflective characteristics are not created. The glass remains transparent and no impression of solid mass is created;

7.3.8. The guarding will be without frame and without handrail. There will be no visibly solid elements to detract from the transparency of the glass guarding;

7.3.9. The glass balustrade will be set back behind the existing parapet on the flat roof. Only the top part of glass balustrade will be visible from below;

- 7.3.10. The existing parapet (i.e. the top of the façade walls of the existing building) will not be altered;
- 7.3.11. The glass guarding would be a minimal intervention. It is clear that it would have no visual impact on the otherwise tall, solid host building;
- 7.3.12. Camden Planning Department's main reason for refusal is their claim that the guarding would be "..... prominent in the street scene.....".
The previous appeal Inspector also agreed that this is a mistaken opinion in her report for Appeal ref APP/X5210/A/13/2193591. This was a much more extensive development proposal including an additional storey to the building. The Appeal inspector stated: "*Taken in this context, the principle of a modern piece of architecture on a modern building should not be ruled out. The proposed extensions would be light weight and largely glazed. The existing terrace areas would be glazed and this 'light weight' approach would not result in the architectural integrity of the building being compromised to an unacceptable degree. Furthermore, the new roof extension would be set in from the sides of the existing building's facades, and whilst the height of the building would increase, the resultant building would not be unduly bulky. I find the design approach imaginative and the detailed design in itself, of a high standard that reflects the character of the host building. I therefore conclude that the proposed extensions would not be harmful to its character or appearance.*"
- 7.3.13. The glass of the guarding picks up on, and reinforces, the detailing of wide ribbon windows used in the original design of the building;
- 7.3.14. There has been recent granting of planning approval for use of glass balustrading to other parts of the building;
- 7.3.15. 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 an existing flat roof very similar to the existing terraces to areas of flat roof;
- 7.3.16. 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;
- 7.3.17. There is a wide range of architectural styles within the immediate area. The variety between buildings in the immediate neighbourhood is such that there is no prevailing style or detail that must be followed to retain integrity of immediate surroundings;
- 7.3.18. The fact that glass is used for balustrading in the immediate area, whether or not in exactly the same format, is sufficient to demonstrate that this is a characteristic of local buildings;

- 7.3.19. Many of the building styles in the immediate area can be described as modern, with wide use of large areas of glass and with terraces, rather than traditional. The existing building and the proposed adjustments share many characteristics with others nearby;
- 7.3.20. In other ways 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 in the immediate area;
- 7.3.21. 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;
- 7.3.22. 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 lightweight appearance of the glass guarding will not be visually perceived as adding height to the host building;
- 7.3.23. One neighbour is a more traditional (and Listed) building. This building already sits amongst other buildings of varying and different styles. The inclusion of a lightweight balustrade to a building that is already very different in style, massing and form will have no overall impact on this existing relationship;
- 7.3.24. The use of glass balustrades is completely consistent with the architecture of the host building and because of the mix of styles (many being modern) of the neighbours does not introduce an element that conflicts with any prevailing or dominant local style;
- 7.3.25. Planning permission has been granted for glass balustrades to terraces at lower level - i.e. to replace the existing second floor terrace balustrades with glass panels. The balustrades to these terraces are naturally set forward from the built area above. This combined with the proposed setting back of the new third floor balustrades will have an attractive progression and logical context to them;
- 7.3.26. The existing building has many glass elements - it is one of the main overriding material uses. There is nothing to suggest that the use of further glass elements (in a minimal way set-back from roof edge) would cause harm to the integrity of the existing architecture;
- 7.3.27. The addition to the existing terrace of the lightweight glass guarding, 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;
- 7.3.28. Significant changes to the proposals have been made in response to feedback on previous and different applications. A previous application included an additional storey of accommodation (of which balustrades were a minor element). This application has been referred to within the decision report but it should be noted that it involved a far greater extent

of development and was completely different in nature. In response to this and the most recent application meeting, the balustrades have been set back from the roof edge by a significant distance;

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 permitted use of the terraces already exists. Both properties benefit from a certificate of lawfulness confirming the legal use of terraces under refs 2015/6853/P and 2015/6854/P;
- 7.4.4. 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



photo of mock-up of glass balustrade as it would appear from south side