

<b>Item No.</b> 7.1	<b>Classification:</b> OPEN	<b>Date:</b> 10 December 2013	<b>Meeting Name:</b> Planning Sub-Committee B
<b>Report title:</b>	<b>Development Management planning application:</b> Application 12/AP/2745 for: Full Planning Permission  <b>Address:</b> FLAT 8, HIGHLAND COURT, 182 OVERHILL ROAD, LONDON SE22 0EB  <b>Proposal:</b> Retrospective application to retain glass balustrade installed to perimeter of rear flat roof parapet and to use the enclosed area as a patio/terrace.		
<b>Ward(s) or groups affected:</b>	College		
<b>From:</b>	Head of development management		
<b>Application Start Date</b>	10/10/2012	<b>Application Expiry Date</b>	05/12/2012
<b>Earliest Decision Date</b> 10/10/2013			

## RECOMMENDATION

- 1 That planning permission be granted.

## BACKGROUND INFORMATION

### Site location and description

- 2 The application site is a an upper second floor flat on a part three and part four storey development containing nine flats. It is located on the northern side of Overhill Road. Immediately to the east is 180 Overhill Road, a development containing 10 flats while to the northwest are the semi-detached dwellings on Mount Adon Park. The area is predominately residential and the site is not within a conservation area or within the vicinity of a listed building or structure.

### Details of proposal

- 3 The proposal is for the retention of a balustrade that has been constructed around a flat roof to the northeast of flat 8 and for the use of the flat roof as a terrace. The construction of the balustrade was undertaken without planning permission, details of which are discussed below. The balustrade was, according to the applicant, installed for health and safety reasons - to provide edge protection for anyone accessing the flat roof for maintenance or other such purposes. Subsequently, the occupier of this flat started to use the flat roof as a terrace. This application has been submitted to regularise the breach.

### Planning history

- 4 08-AP-2432  
Planning permission granted on 14 April 2009 for the:  
Demolition of existing building and garage block. Construction over three and four storeys of seven two bed flats and two one bed flats with 6 parking spaces, cycle and refuse storage and associated amenity space.

- 5 Several conditions were imposed on this permission but most notable with reference to this application is condition 10 which reads:
- 6 *The section of flat roof on the second floor, overlooked by Flat 8 on Plan no. E328/PP/003 hereby permitted shall not be used as an amenity area including use as a roof terrace or balcony or for the purpose of sitting out.*
- Reason*  
*In order that the privacy of other units within the block and the gardens of the adjoining properties may be protected from overlooking from use of the roof area in accordance with Policy 3.2 'Protection of Amenity' of the Southwark Plan 2007.*
- 7 The area referred to in the condition is the area subject to this application.

#### 12-AP-2746

- 8 Planning application to:  
To retain glass balustrade installed to perimeter of the flat roof to the northeast of 8 Highland Court solely to provide edge protection during maintenance operations; original Juliet balustrade to be reinstalled across of existing patio doorway to prevent recreational use of first roof.
- 9 This is an application submitted simultaneously with the present one and is also under consideration at this meeting. Should both applications be granted permission, the applicant has advised that the permission requested by this application will be implemented. Implementation of this permission will be apparent because a condition is recommended to require the installation of a privacy screen (discussed below) following submission if its details for approval.

#### 12-EN-0116

- 10 Planning enforcement investigation into a breach of condition 10 of planning permission reference 08-AP-2432. The present application and application reference 12-AP-2746 were submitted following the commencement of the enforcement investigation to regularise the breach. This case has been closed and a separate investigation has been opened up under reference 13-AP-0334, awaiting the outcome of this application and 12-AP-2746.

### **Planning history of adjoining sites**

- 11 None of relevance

### **KEY ISSUES FOR CONSIDERATION**

#### **Summary of main issues**

- 12 The main issues to be considered in respect of this application are:
- a. The impact of the development on the amenity of neighbouring properties
  - b. The design of the balustrade

### **Planning policy**

- 13 Core Strategy 2011

Strategic Policy 12- Design and Conservation  
Strategic Policy 13- High Environmental Standards

14 Southwark Plan 2007 (July) - saved policies

The Council's cabinet on 19 March 2013, as required by para 215 of the NPPF, considered the issue of compliance of Southwark Planning Policy with the National Planning Policy Framework. All policies and proposals were reviewed and the Council satisfied itself that the policies and proposals in use were in conformity with the NPPF. The resolution was that with the exception of Policy 1.8 (location of retail outside town centres) in the Southwark Plan all Southwark Plan policies are saved. Therefore due weight should be given to relevant policies in existing plans in accordance to their degree of consistency with the NPPF. The following saved policies are considered particularly relevant for this application:

Policy 3.2- Protection of Amenity  
Policy 3.13- Urban Design

15 London Plan 2011

Policy 7.6- Architecture  
Policy 7.15- Reducing Noise and Enhancing Soundscapes

16 National Planning Policy Framework (NPPF)

This application should be assessed against the NPPF as a whole but of particular relevance are the following sections:

7- Requiring good design  
12- Conserving and enhancing the natural environment

**Principle of development**

- 17 Condition 10 of planning permission 08-AP-2432 prohibited the use of the flat roof as a terrace. This condition was imposed to protect the privacy of adjoining gardens and the new units created by that permission. Following the receipt of the enforcement complaint, a site inspection was undertaken and having viewed the flat roof in its context and juxtaposition with neighbouring properties. It was felt that the harm to local amenity may not be as significant as was thought at the time the 2008 application was being considered, when the assessment was made on the drawings submitted. There are a number of other patios on the site and the use of the flat roof as a terrace is acceptable in principle, so long as it complies with relevant planning policies and material considerations with respect to protection of local amenity.

**Environmental impact assessment**

- 18 Not required for a development of this nature

**Impact of proposed development on amenity of adjoining occupiers and surrounding area**

- 19 The terrace will afford new views into neighbouring properties to the north and east. The properties most likely to be affected are the dwellings on Mount Adon Park, flats at 180 Overhill Road and of course other flats within 182 Overhill Road.

Potential impacts on these sites are discussed below.

20 Mount Adon Park.

The rear gardens of the dwellings on this road are relatively close to the flat roof, the

closest being approximately 7.5m to the northwest with the dwellings themselves being approximately 30m in the same direction. There is substantial screening afforded by vegetation between the application site and the residential properties on Mount Adon Park which, together with the distance separation means that loss of privacy from overlooking is not considered to be substantial. There is certainly the potential for it to occur and to mitigate, it is recommended that a condition be imposed requiring a suitable screen to be erected along the northwestern part of the flat roof. Such a screen would prevent views likely to reduce privacy for the occupiers of Mount Adon Park.

21 180 Overhill Road

This development, being closer to the application site is potentially more sensitive. As is the case with Mount Adon Park, there is screening from vegetation. A significant difference is that there are windows for both of these developments presently providing a degree of overlooking due to the close proximity of the sites. The proposed terrace is not likely to exacerbate this matter to an unacceptable degree. Indeed, there are outdoor amenity spaces at 182 Overhill Road closer to 180 Overhill Road.

22 182 Overhill Road

The only areas that are likely to be overlooked by users of the terrace are the amenity spaces for flats 2 and 3 which are to the northeast and southwest of the terrace, respectively. There are presently views afforded into these amenity areas from flats at second floor level; the use of the flat roof as a terrace will not significantly add to this effect.

23 Noise

As referred to above, there are private outdoor amenity spaces on the northeast part of the site and the addition of a terrace area is not likely to add significantly to any noise disturbance that may presently be experienced by nearby residential properties. Furthermore, the noise from the use of the gardens on Mount Adon Park- being closer to each other - is more likely to be noticed by other residents on this road than any noise from the terrace. Should the terrace be used unreasonably and cause a noise nuisance, the Council has power under the Environmental Protection Act 1990 to take enforcement action to abate the nuisance.

24 Two letters of objection have been received from residents of 12A and 12B Mount Adon Park making reference to loss of privacy and noise. These matters have been considered on the assessment above.

**Impact of adjoining and nearby uses on occupiers and users of proposed development**

25 There are no nearby uses that would adversely affect this development

**Design issues**

26 The balustrade is constructed of glass with a brushed aluminium rail and supports of white powder coated metal. It has been designed to match external balustrades elsewhere on the development. The balustrade on this flat roof causes no harm to the design of the parent building.

**Planning obligations (S.106 undertaking or agreement) and Community Infrastructure Levy (CIL).**

27 The proposal is below the threshold for a S106 payment. No additional residential units have been created and change of use relates to a space of less than 100sq.m,

thus the development is not liable for the CIL.

### **Conclusion on planning issues**

- 28 The use of the flat roof at 8 Highland Court as a terrace is not likely give rise to unacceptable harm to local amenity subject to a condition requiring details of a privacy screen to be submitted for approval, installed and maintained. Due to the proximity of existing outdoor amenity spaces, noise from the terrace is similarly not likely to cause unacceptable harm. It is recommended that planning permission is granted.

### **Community impact statement**

- 29 In line with the Council's Community Impact Statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process. No impact on a group with the above protected characteristics expected.

### **Consultations**

- 30 Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

### **Consultation replies**

- 31 Details of consultation responses received are set out in Appendix 2.

### **Summary of consultation responses**

- 32 Objections from the occupiers of 12A and 12B Mount Adon Park referring to loss of privacy and additional noise. These matters have been discussed above.
- 33 A letter of support has also been received from the occupiers of Flat 8, who are not the applicant. This letter highlights that the flat roof provides additional amenity space for them and that access to it is vital for maintenance, especially for the clearance of debris which gathers from nearby trees.

### **Human rights implications**

- 34 This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.
- 35 This application has the legitimate aim of providing a terrace for a residential premises. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/2555-186 Application file: 12/AP/2745 Southwark Local Development Framework and Development Plan Documents	Chief executive's department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 1778 Council website: www.southwark.gov.uk

## APPENDICES

No.	Title
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Recommendation

## AUDIT TRAIL

<b>Lead Officer</b>	Gary Rice, Head of Development Management	
<b>Report Author</b>	Dipesh Patel, Team Leader major applications team	
<b>Version</b>	Final	
<b>Dated</b>	27 November 2013	
<b>Key Decision</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance and Corporate Services	No	No
Strategic Director, Environment and Leisure	No	No
Strategic Director, Housing and Community Services	No	No
Director of Regeneration	No	No
<b>Date final report sent to Constitutional Team</b>		28 November 2013

## APPENDIX 1

### Consultation undertaken

**Site notice date:** 17/09/2013

**Press notice date:** N/A

**Case officer site visit date:** 17/07/12

**Neighbour consultation letters sent:**

11 September 2012

**Internal services consulted:**

None

**Statutory and non-statutory organisations consulted:**

None

**Neighbours and local groups consulted:**

STUDIO 24 MOUNT ADON PARK LONDON SE22 0DT  
14 MOUNT ADON PARK LONDON SE22 0DT  
10 MOUNT ADON PARK LONDON SE22 0DT  
FLAT 9 HIGHLAND COURT 182 OVERHILL ROAD LONDON SE22 0EB  
FLAT 5 HIGHLAND COURT 182 OVERHILL ROAD LONDON SE22 0EB  
FLAT 4 HIGHLAND COURT 182 OVERHILL ROAD LONDON SE22 0EB  
FLAT 7 HIGHLAND COURT 182 OVERHILL ROAD LONDON SE22 0EB  
FLAT 6 HIGHLAND COURT 182 OVERHILL ROAD LONDON SE22 0EB  
8 MOUNT ADON PARK LONDON SE22 0DT  
6 MOUNT ADON PARK LONDON SE22 0DT  
12B MOUNT ADON PARK LONDON SE22 0DT  
12A MOUNT ADON PARK LONDON SE22 0DT  
24 MOUNT ADON PARK LONDON SE22 0DT  
18 MOUNT ADON PARK LONDON SE22 0DT  
16 MOUNT ADON PARK LONDON SE22 0DT  
22 MOUNT ADON PARK LONDON SE22 0DT  
20 MOUNT ADON PARK LONDON SE22 0DT  
FLAT 3 HIGHLAND COURT 182 OVERHILL ROAD LONDON SE22 0EB  
FLAT 6 180 OVERHILL ROAD LONDON SE22 0DD  
FLAT 5 180 OVERHILL ROAD LONDON SE22 0DD  
FLAT 8 180 OVERHILL ROAD LONDON SE22 0DD  
FLAT 7 180 OVERHILL ROAD LONDON SE22 0DD  
FLAT 4 180 OVERHILL ROAD LONDON SE22 0DD  
FLAT 1 180 OVERHILL ROAD LONDON SE22 0DD  
FLAT 3 180 OVERHILL ROAD LONDON SE22 0DD  
FLAT 2 180 OVERHILL ROAD LONDON SE22 0DD  
FLAT 6 178 OVERHILL ROAD LONDON SE22 0PS

FLAT 5 178 OVERHILL ROAD LONDON SE22 0PS  
FLAT 2 HIGHLAND COURT 182 OVERHILL ROAD LONDON SE22 0EB  
FLAT 1 HIGHLAND COURT 182 OVERHILL ROAD LONDON SE22 0EB  
FLAT 4 178 OVERHILL ROAD LONDON SE22 0PS  
FLAT 1 178 OVERHILL ROAD LONDON SE22 0PS  
FLAT 3 178 OVERHILL ROAD LONDON SE22 0PS  
FLAT 2 178 OVERHILL ROAD LONDON SE22 0PS



## **APPENDIX 2**

### **Consultation responses received**

#### **Neighbours and local groups**

Objections from the occupiers of 12A and 12B Mount Adon Park referring to loss of privacy and additional noise. These matters have been discussed above.

A letter of support has also been received from the occupiers of Flat 8, who are not the applicant, referred to above.