

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 19 April 2022	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Abbey Road	
<b>Subject of Report</b>	<b>90D Clifton Hill, London, NW8 0JT</b>		
<b>Proposal</b>	Installation of timber decking with provision for drainage and retention of black painted railings to terrace (Linked with 21/08062/LBC)		
<b>Agent</b>	Mr Elie Osborne		
<b>On behalf of</b>	Mr Zein Khan		
<b>Registered Number</b>	21/08061/FULL 21/08062/LBC	<b>Date completed</b>	14 February 2022
<b>Date Application Received</b>	25 November 2021		
<b>Historic Building Grade</b>	II		
<b>Conservation Area</b>	St John's Wood		

## 1. RECOMMENDATION

1. Grant conditional permission
2. Grant conditional listed building consent
3. Agree reasons for granting conditional listed building consent as set out in Informative 1 attached to the draft decision letter

## 2. SUMMARY

Planning permission and listed building consent are sought to retain the black painted railings which enclose the small roof terrace which serves this second floor flat and the proposed installation of decking and pipework. This property is a Grade II listed semi-detached villa located in the St John's Wood Conservation Area.

A total of eight objections have been received from the Managing Company and residents on several grounds, namely the use of the flat roof as a terrace will result in overlooking/loss of privacy, the impact of the works on this listed building, the quality of the submitted drawings and insufficient information has been provided to show how the new decking is going to be constructed, access to the new pipework and flat roof to prevent further water ingress. The Management Company have also requested several conditions if the Council is minded to approve.

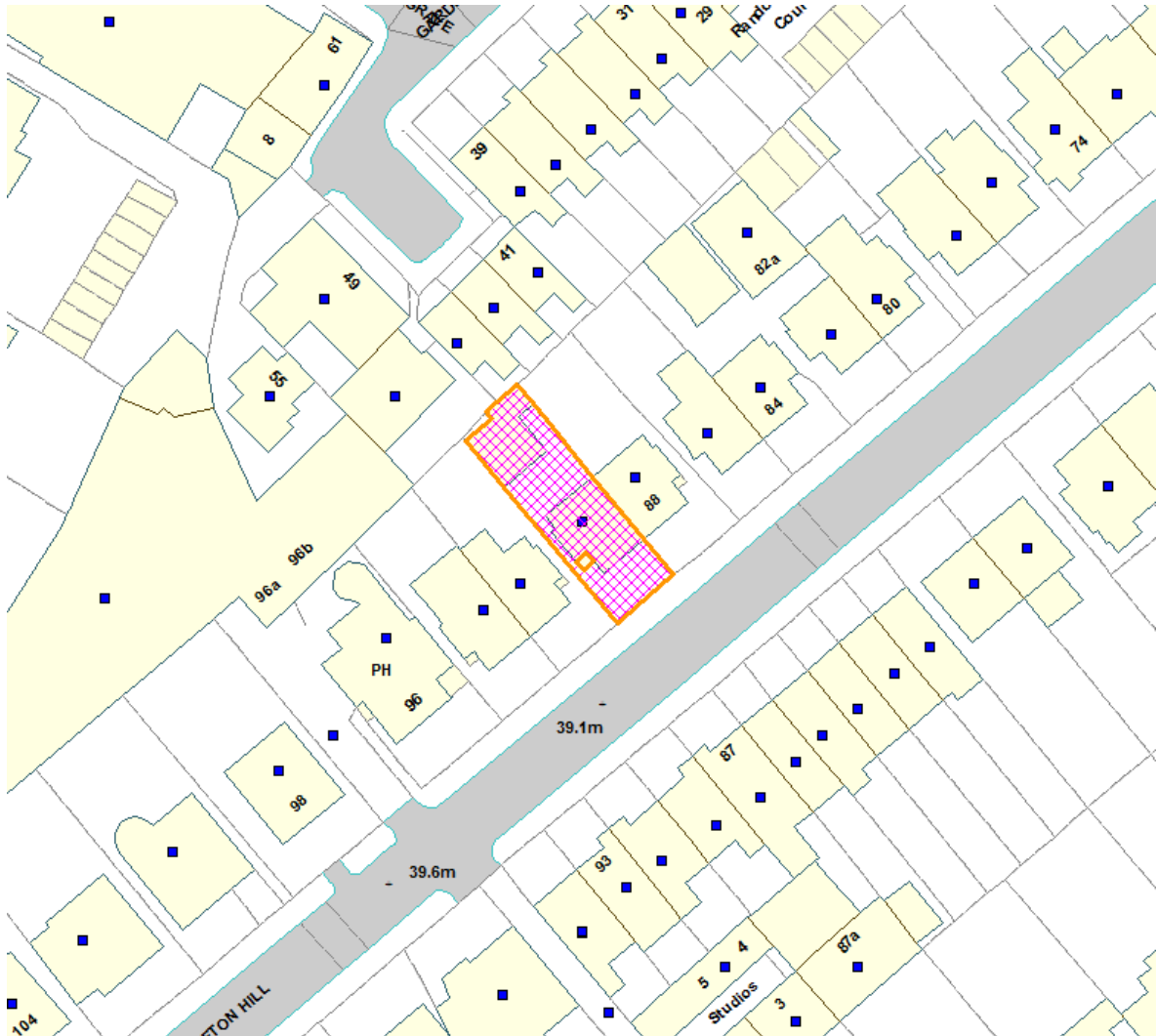
The key considerations are :

- The impact of the works on the amenities of neighbours.
- Impact of the railings and decking on the special architectural and historic interest of this Grade II listed building, its paired villa and whether the works will preserve the character and appearance of this part of the St John's Wood Conservation Area

Despite the objections received, the use of this flat roof area for sitting out purposes is lawful in planning terms. It would appear that prior to the building being listed in 2010, there was a plainer rail which enclosed this area, and there is a door in the side elevation providing access onto this flat roof.

The applicant is seeking approval to retain the current simple black railings which are fixed to the existing parapet wall. Despite the objections raised to the quality of the submitted drawings, it was clear from the site visit how the railings are fixed. Their design is not considered to be harmful to this designated heritage asset, it's pair or this part of the St John's Wood Conservation Area. The proposed timber decking is a reversible feature and applicant has amended the drawings to show an access hatch to allow access to the pipes below. The railings and the decking therefore comply with policies 38, 39 and 40 in the City Plan. It is not considered that the conditions requested by the Managing Agents are reasonable.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS

Front elevation and balcony railings to terrace



Existing terrace at No 90 D and railings





Existing flat roof with existing pipework, show fixing of the railings to parapet wall



## 5. CONSULTATIONS

St John's Wood Society: Note the objections made by neighbours and given this is a listed building request that the Conservation Officer makes a site visit to ensure that the character of the building is not harmed.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 17

Total No. of replies: 7

No. of objections: 7

No. in support: 0

Seven objections received to date, raising the following issues:

#### Design

- Quality of the drawings are poor and are misleading. Drawing 4D01E Existing elevation does not show the railings as they appear now and show an indicative representation of how the railings were before they were altered without listed building consent around 2008. Drawing 4D2E Proposed elevations shows how the railings are now but provides no dimensions, how they are constructed and how they are fixed to the building, and this is contrary to Council's guidance on planning applications.
- Application is contrary to the advice the Council's guide Demolition and Development in Conservation Areas which states that terraces at roof level are often unacceptable in principle especially listed buildings.
- No information has been provided and council should be unable to assess whether the existing railings are suitable to remain. Believe that the design of the railings are not in keeping with the building and if the Council is minded allowing the area to be used as a balcony, they should be more in keeping with the listed building. Drawings should be amended to include details of the construction.

#### Amenity

- Question the use of this flat roof as terrace/balcony as not aware of this area being used for over 20 years.
- Terrace will result in direct overlooking into the Cottage at the rear No's 87,89 and 92 Clifton Hill and result in loss of privacy.

#### Other Matters

- No details on how the proposed decking is to be constructed, materials used and how attached to the building and how sufficient access to enable the pipe work to be maintained. The previous decking was fitted without the landlord's approval and without listed building consent. It needed to be removed in December 2017 as it caused a leak to the roof finish and vitally important it does not happen again.
- New owner of flat D has been advised of the landlord's requirement for fitting decking to this roof and has ignored this and made no efforts to incorporate these requirements in the application.
- Application should be amended to incorporate all these requirements, so the Grade II listed building is protected from further water ingress.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

Revised Scheme

**ADJOINING OWNERS/OCCUPIERS :**

No consulted: 7 No Replies: One further email from the Management Company

- Not all the leaseholders received latest letter from the City Council
- No detailed construction drawings
- Revised drawings fail to specify that this will satisfy the freeholder and leaseholder of the property and the terms of the lease as legally required
- Should permission be granted request the following conditions
- No work can start on these parts of the development until the freeholder has given written approval
- Balcony decking and construction, protection of roof finish and access to clear blockages to drainage pipes and rainwater outlets ( 1:5 and 1:20 )
- Railing construction and fixing details ( 1:5 and 1:20)
- Management Company and leaseholders will only consider approval if the submission meets all the requirements specified in the freeholder's documents Flat D Procedures and Guidance for Installing Structure on the Balcony copy was sent to the City Council and the applicant prior to the purchase of the flat
- Once approved, any work must be carried out in accordance with these details. The reasons for these conditions to ensure that the Grade 2 listed building is protected from water leaks and the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area, to maintain the integrity of the building , to ensure that building insurance remains valid and the warranty of the flat roof covering ( from 2018 remains valid)

**6. BACKGROUND INFORMATION****6.1 The Application Site**

No 90 is a Grade II semi-detached villa located on the north side of Clifton Hill within the St John's Wood Conservation Area. The building is subdivided into flats and these applications relate to the second floor Flat D.

At the side of the building, there is an addition, and its flat roof forms part of the demise of Flat D and has been used as an outside amenity area .There is an existing door in the side elevation which provides access onto the flat roof area, and there are simple black metal railings fixed to the parapet wall.

The building was listed in 2010.

**6.2 Recent Relevant History**

Listed building consent approved on 24.2.2003 for internal alterations the removal of non-load bearing partitions wall and door frame between kitchen and sitting area to form open plan kitchen (03/00558/LBC).

**7. THE PROPOSAL**

Permission and listed building consent are sought for the retention of the black metal

railings which have been fixed to the parapet walls , and the installation of a new timber decking above the existing flat roof surface.

The existing terrace measures approximately 4.2m long and 1.2 wide and has soil pipes and bathroom waste pipes running across the flat roof . There is standing water on the existing flat roof.

Joist hangers will be laid over the existing flat roof for the new non-slip timber decking which will have a slight fall to add drainage and renew the gulley .

There was decking on this roof installed approximately 15 years ago, but it was removed due water ingress to the flat below. The current railings which the applicant wishes to retain were installed over 10 years ago.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

Despite the objections that this flat roof has not been used as a terrace, the use of this flat roof is lawful. This flat roof area has been enclosed by a simple rail and there is door access onto it, and this appears to predate the building being listed in 2010.

### **8.2 Townscape and Design**

The key legislative requirements in respect to designated heritage assets are as follows:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *“In considering whether to grant listed building consent for any works the local planning authority or 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.”*

Section 66 of the same Act requires that *“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.”*

Section 72 of the same Act requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, considering the statutory duty to have special regard or pay special attention, as relevant. This should also consider the relative significance of the affected asset and the severity of the harm caused.



Objections have been received that the design of the railings are not in keeping with the host listed building and contrary to advice in the Council's SPG Roofs a Guide to Alterations and Extensions on Domestic Buildings which advises that terraces at roof level are often considered unacceptable in principle especially on listed buildings and may only be considered favourably where there is a clear consistent pattern established within the terrace.

These applications relate to a terrace on the flat roof of the addition of this semi-detached villa and is not located on the main roof. It appears that prior to the building's listing in 2010 there was a simple black rail which enclosed this terrace. The replacement black railings were installed approximately 10 years ago. It is not considered that the design of these railings which are simple are harmful to the special architectural and historic interest of this Grade II listed building.

One of the objections requests that the design of the railings needs to be amended to be more in keeping with the listed building. This is not considered to be a reasonable request. Their design is simple and similar to other railings located at No 80 and not harmful to this listed villa or its adjoining pair. The retention of these railings will preserve the character and appearance of this part of the St John's Wood Conservation Area.

The proposed decking over the existing flat roof and pipework will not be visible from street level, as it will be screened by the existing parapet wall. It is an alteration which is reversible and can be removed if access is required to the pipework on the roof at a later date. It is not considered that the decking will harm the special architectural and historic interest of this Grade II listed building.

As such, the proposal is considered acceptable, mindful of policies 38, 39 and 40 of the City Plan; and therefore, a recommendation to grant conditional permission and listed building consent would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **8.3 Residential Amenity**

#### **Privacy**

Objections have been received on the grounds that the terrace will result in overlooking to neighbouring residents in Clifton Hill to the front, rear, and side. However, the use of this flat roof as a terrace is lawful and therefore these objections cannot be sustained.

### **8.4 Transportation/Parking**

Not applicable for a development of this nature.

### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

### **8.6 Access**

Not applicable for a development of this scale

#### **8.7 Other City Plan /Westminster Policy Considerations**

In dealing with these applications regard has been had to the advice in the Council's supplementary planning advice Repairs and Alterations to Listed Buildings.

#### **8.8 Westminster City Plan**

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

#### **8.9 Neighbourhood Plans**

Not applicable as there is no Neighbourhood Plan which covers this part of the city

#### **8.10 London Plan**

These application raises no strategic issues.

#### **8.11 National Policy/Guidance Considerations**

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are consistent with the NPPF unless stated otherwise.

#### **8.12 Planning Obligations**

Planning obligations are not relevant in the determination of this application.

#### **8.13 Environmental Impact Assessment**

Not applicable

#### **8.14 Other Issues**

##### **Drawings**

The objectors cite that the existing drawings do not show the railings as they appear now and show an indicative representation of how the railings were before they were altered without listed building consent around 2008. Drawing 4D2E Proposed elevations show how the railings are now but provides no dimensions, how they are constructed and how they are fixed to the building, and this is contrary to Council's guidance on planning applications.

The existing drawings do show how the former railings looked and has been amended to address the relationship of the railings with the existing side windows and doors .The proposed drawings show the current railings which the applicant is applying to retain. The dimensions can be scaled off the drawings. A further amended drawing has been submitted by the agent to show a section through the deck and a hatch to allow access to the pipework below .In addition to a site visit to the property, it is considered that the City Council has sufficient information to determine these applications.

### **Other Matters**

Several of the objections including the Management Company have requested further details to show the decking will be constructed, the materials to be used, how it will be attached and how can access be provided to allow access to the existing pipework on the roof and the existing roof finish. The objectors cite damage caused in the past and how these works may affect the warranty/insurance policies relating to the existing flat roof.

The proposed timber decking will be laid above the existing flat roof, joist hangers will be installed which will sit above the existing pipework which runs across the roof and the decking fixed to these hangers/frame. The applicant has confirmed access will be provided to the existing pipework which runs along the flat roof and the decking will sit below the main soil pipe which runs along the side elevation.

The objections raised by the Managing Agent that the applicant is not adhering to the terms set out for construction of the decking to protect the existing roof finish , this is not a ground for the City Council to refuse planning permission or listed building consent and is a private matter between the two parties. An informative is attached to the draft decision letter reminding the applicant to obtain all other necessary approvals under the terms of their lease before starting works.

The Management Company in a further representation has requested several conditions to be imposed. Firstly, that no works can commence until the freeholder has given written approval. This is not considered to meet the six tests for imposing planning conditions and is a private matter.

A condition to reserve the balcony construction to show details, and it is considered that we have sufficient information on the proposed decking, and this could again be a private matter between the applicant and the Managing Agents.

A condition to show railing construction and fixing details at a scale 1:5 and 1:20. The railings have already been installed and the method of their fixing to the parapet wall is clearly visible on site, and it is not considered that such a condition is necessary or reasonable.

A condition that the Management company and leaseholders will only consider approval if the submission meets all the requirements specified in the freeholders document Flat D – Procedures and Guidance for Installing Structure on Balcony. Again, such a condition is not reasonable and is a private matter.

A condition once approved any work must be carried out in accordance with these

details. A standard condition is imposed to ensure that the development is carried out in accordance with the approved drawings. However, it is not reasonable to include the freeholder's approval for the reasons set out above.

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

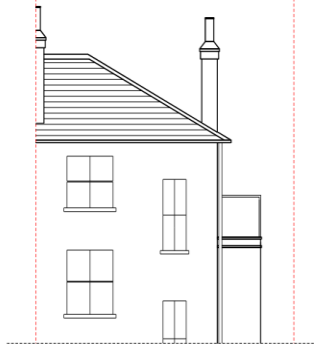
**IF YOU HAVE ANY QUERIES ABOUT THIS REPORT, PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT [RHANDLEY@WESTMINSTER.GOV.UK](mailto:RHANDLEY@WESTMINSTER.GOV.UK).**

KEY DRAWINGS

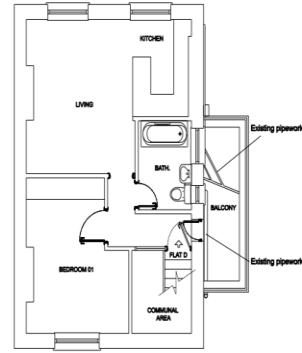
Existing Elevations ,floor plan, section pre the new railings being installed



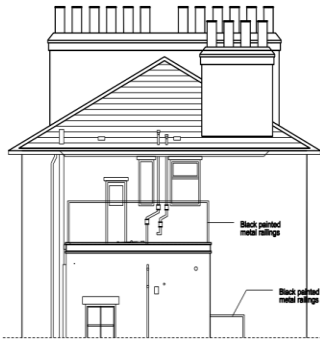
Existing Front Elevation



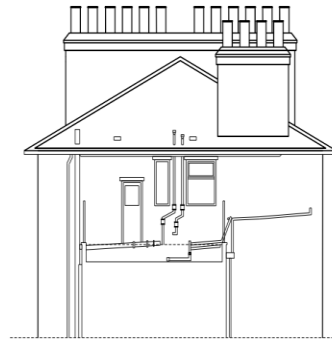
Existing Rear Elevation



Existing Floor Plan



Existing Side Elevation



Existing Section - Elevation



Written dimensions to be taken in preference to scaled dimensions. The Contractor is responsible for checking all dimensions before work starts.  
All work is to be carried out to the requirements, and to the satisfaction of the Local Authority.  
These drawings are for planning purposes only.  
Any discrepancies to be brought to the attention of 4D Planning Consultants immediately.

Location Plan

Rev	Date	Description	By	CHK

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Client

4D PLANNING

Project

90 Clifton Hill, NW8 0JT

Title

Existing Elevations

Date: Dec 2021

Scale: 1:50 @ A1, 1:100 @ A3

Drawing No. 4001E

Rev:

A

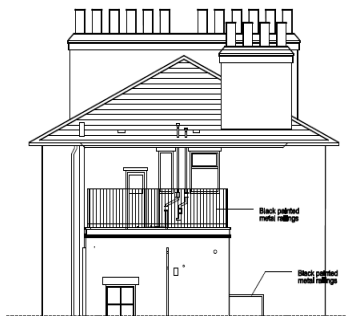
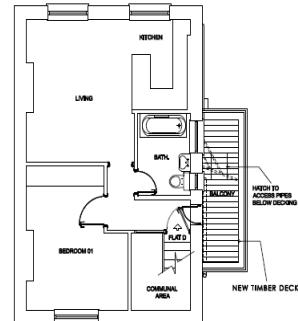


Proposed elevation, floor plan and section



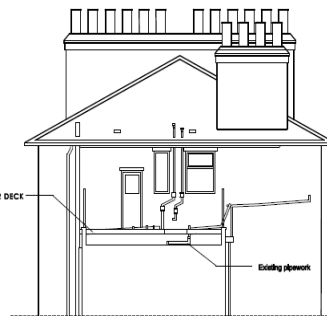
Proposed Front Elevation

Proposed Rear Elevation



Proposed Side Elevation

**Method of Construction** (sourced from client's contractor)  
 Alterations to the existing balcony area, currently has a waterproof system with top battings and metal pipework running through the balcony connecting to pipework on the outside of the property. There is an insulibent full towards the drainage leading to standing water which creates a slippery surface and a path for standing stagnant water. The purpose of these alterations are to rectify standing water and allow a good safe standing surface.  
 -Install joist hangers at 400 centres in chased slots and reath Road  
 -Install suitable timber decking 12.5 Oak 3 with 1.40 falls to drainage  
 -Install Timber decking system  
 -Re new Gully allowing water to travel to rainwater downpipes



Proposed Section - Elevation



Written dimensions to be taken in preference to scaled dimensions. The Contractor is responsible for checking all dimensions before work starts.  
 All work is to be carried out to the requirements, and to the satisfaction of the Local Authority.  
 These drawings are for planning purposes only.  
 Any discrepancies to be brought to the attention of 4D Planning Consultants immediately.

Location Plan

Rev	Date	Description	By	chk

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Client  
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 Project  
 90 Clifton Hill, NW8 0JT  
 Title  
**Proposed Elevations**  
 Date: Dec 2021 Rev:  
 Scale: 1:50 @ A1, 1:100 @ A3 A  
 Drawing No. 4D022

**DRAFT DECISION LETTER**

**Address:** 90D Clifton Hill, London, NW8 0JT,

**Proposal:** Installation of timber decking with provision for drainage and black painted railings.  
(Linked with 21/08062/LBC)

**Plan Nos:** 4D01E Rev A R; 4D02E Rev A, ; PL-PP-01; Heritage, Design and Access Statement November 2021; Photos; Block Plan; Location Plan.

**Case Officer:** Amanda Coulson

**Direct Tel. No.** 07866037509

**Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:**

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
  - o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 3 The metal railings shall be maintained in a black colour .

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

**Informative(s):****1 HIGHWAYS LICENSING:**

Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please visit our website at [www.westminster.gov.uk/guide-temporary-structures](http://www.westminster.gov.uk/guide-temporary-structures).

**CONSIDERATE CONSTRUCTORS:**

You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).

**BUILDING REGULATIONS:**

You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)

- 2** In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 3** You are advised of the need to obtain all necessary approvals from the freeholder company before starting work on the installation of the timber decking .

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.

**DRAFT DECISION LETTER**

**Address:** 90D Clifton Hill, London, NW8 0JT

**Proposal:** Installation of timber decking with provision for drainage and black painted railings. (Linked with 21/08061/FULL)

**Reference:** 21/08062/LBC

**Plan Nos:** 4D01E Rev A, 4D02E Rev A ; PL-PP-01; Heritage, Design and Access Statement November 2021; Photos; Block Plan; Location Plan.

**Case Officer:** Amanda Coulson **Direct Tel. No.** 07866037509

**Recommended Condition(s) and Reason(s)**

- 1 The works hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

## Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)

- 2 The metal railings shall be maintained in a black colour .

## Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

**Informative(s):**

- 1 **SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT -**  
In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan (March 2021), the City Plan (April 2021), as well as relevant supplementary planning guidance, representations received and all other material considerations., , The City Council decided that

the proposed works would not harm the special architectural and historic interest of this listed building., , In reaching this decision the following were of particular relevance:, Policies 38, 39 and 40 of the City Plan 2019 - 2040 adopted in April 2021 and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

2. You are advised of the need to obtain all necessary approvals from the freeholder company before starting work on the installation of the timber decking .