

<b>LDC Report</b>	22/01/2018
<b>Officer</b>	<b>Application Number</b>
Matthias Gentet	2017/6828/P
<b>Application Address</b>	<b>Recommendation</b>
Flat C 158 Haverstock Hill LONDON NW3 2AT	Grant Certificate
<b>1<sup>st</sup> Signature</b>	<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>	
Use of a flat roof as a roof terrace with timber railings and patio doors atop an existing side extension.	
<b>Assessment</b>	
<p>The site is located on the north-eastern side of Haverstock Hill, approximately 20m from the corner with Upper Park Road. The host building is divided into flats, and is one of two semi-detached 4-storey properties.</p> <p>The application relates to the use of the flat roof at upper ground floor atop an existing side extension, with timber railings and patio doors.</p> <p>The building is not listed and is located in the Parkhill Conservation Area.</p> <p>The applicant is required to demonstrate, on balance of probability that the roof has been used as a roof terrace and that the associated railings and patio doors have existed for a period of 4 years or more such that the continued use would not require planning permission.</p>	
<b>Applicant's Evidence</b>	
<p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> <li>• Supporting Statement of Use of the Roof Terrace (22/01/2018);</li> <li>• Cover Letter (05/12/2017);</li> <li>• Photo 1;</li> <li>• Street View 2008, 2012, 2015;</li> <li>• Property details 05/12/2017;</li> <li>• Design and Access Statement.</li> </ul> <p>The applicant has also submitted the following plans:</p>	

- Site Location Plan;
- 108 - First Floor Plan.

### Council's Evidence

There is no relevant planning history or enforcement action on the subject site.

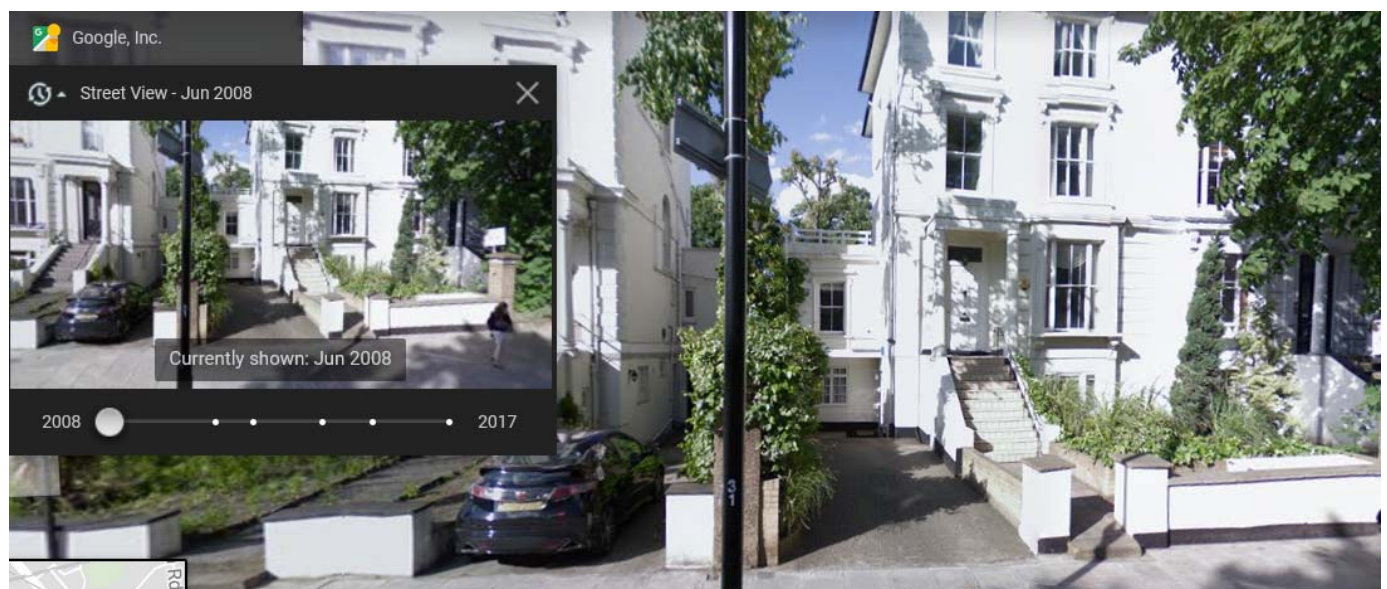
Photographic evidence from 2008, 2012, 2014, 2015, 2016 and 2017 show the presence of the roof terrace and timber railings/fencing.

A site visit to the property was undertaken in January 2018. The officer was satisfied that the flat roof area is indeed used as a roof terrace.

### Assessment

The Secretary of State has advised local planning authorities that the burden of proof in applications for a Certificate of Lawfulness is firmly with the applicant (DOE Circular 10/97, Enforcing Planning Control: Legislative Provisions and Procedural Requirements, Annex 8, para 8.12). The relevant test is the "balance of probability", and authorities are advised that if they have no evidence of their own to contradict or undermine the applicant's version of events, there is no good reason to refuse the application provided the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate. The planning merits of the use are not relevant to the consideration of an application for a certificate of lawfulness; purely legal issues are involved in determining an application.

The Council have evidence demonstrating/supporting the applicant's version of events, in the form of photographic evidence as earlier as 2008:





The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the flat roof area at atop the existing side extension has been used as a roof terrace for a period of more than 4 years as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

**Recommendation: Grant Certificate of Lawfulness (Existing)**