

Address:	16A Regent's Park Road London NW1 7TX	
Application Number:	2010/0077/P	Officer: Jenna Litherland
Ward:	Camden Town with Primrose Hill	
Date Received:	22/12/2009	
Proposal: Erection of a conservatory at rear upper ground floor level with raised platform to the rear and staircase leading to garden level (retrospective).		
Drawing Numbers: 5815/01; 5815/02; 5815/03; 5815/04; 5815/05; 5815/06; 5815/07 A; 5815/08;		
RECOMMENDATION SUMMARY: Grant conditional permission		
Applicant:		Agent:
Ms Vanessa Boz 16A Regent's Park Road London NW1 7TX		Pennington Phillips Ltd. Unit 16 Specturm House 32-34 Gordon House Road London NW5 1LP

OFFICERS' REPORT

Reason for Referral to Committee: **The Director of Culture and Environment has referred the application for consideration after briefing members [Clause 3 (ix)].**

1. **SITE**

- 1.1 An existing 3-storey plus basement property situated on the northern side of Regents Park Road, close to its junction with St Marks Crescent. The property is not listed but is located within Primrose Hill Conservation Area. The Primrose Hill Conservation Area Statement identifies the property as a positive contributor to the Conservation Area. The building has been subdivided into flats and this application relates to Flat A, at upper ground floor and lower ground floor level.

2. **THE PROPOSAL**

- 2.1 Retrospective planning permission is sought for the replacement of a conservatory at rear upper ground floor level. The works include the replacement of the structure at upper ground floor level, replacement of the raised platform immediately to the rear of the extension which provides access to the staircase from the extension to

garden level adjacent to the boundary with No. 18 and erection of a trellis adjacent to the boundary with No. 18.

History of the current application

- 2.2 The current planning application was submitted on 22nd December 2009 and made valid on 27th January 2010. Consultation letters were sent out to neighbours on the 1st February 2010 and a site notice was erected soon after this. An objection to the application on behalf of the occupiers of No. 18 was received by the Council on the 19th February 2010. The case officer visited both properties and then wrote a delegated report with a recommendation to grant planning permission which was reported to Members Briefing on the 15th March 2010. The application was deferred for further negotiations as Members commented that the trellis over the boundary fence adjacent to the staircase was obtrusive and dominant and suggested it could be reduced in height and length. Following this amended drawings were submitted showing the trellis reduced in length and height. The objector was informed that such amendments had been sought. The amended drawing was not put on the Council's website nor was a copy of it sent to the objector. The case officer then amended the delegated report which was then referred to Members Briefing and granted on the 1st June 2010. As this meeting was held during the election period there was no Members Briefing Panel therefore the decision to determine the application under delegated powers was made by the Assistant Director of Planning and Public Protection. The amended report was not put on the Council's website until after the decision was made.
- 2.3 Following the Council's determination of the application the decision was judicially reviewed. The claimants were the occupiers of No. 18 Regents Park Road and they claimed that the Council was in breach of legitimate expectations created by its published policy and procedures to consult them on the revised drawing, to make the officers report and drawing available for comment, and to consult a Members Briefing Panel on whether the application should be referred to the Development Control Committee.
- 2.4 The Judge ruled that the Council had acted unlawfully, in breach of the legitimate expectations set out in Council policy and procedures and that the planning decision should be quashed and reconsidered as the question remains as to whether the amendments made during the course of the application were sufficient to make the scheme acceptable. In the Judgement the Judge at some points expressed her own view of the planning merits of the case. An example of this is para. 110 of the Judgement where the Judge states the proposal 'managed to cause overlooking and harm outlook'. It is important to note that the purpose of Judicial Review is to examine the lawfulness of a decision or action made by a public body and is a challenge to the *way in which a decision has been made*. Whilst the judge may have offered her personal opinion on the proposal in her decision, she is not a planning professional and her view in this respect does not hold significant weight.
- 2.5 The Judge's ruling resulted in the application becoming live again. Following consultation and an assessment by the case officer that application was reported to Members Briefing on the 19th November 2012 with a recommendation for approval.

Members made the decision to refer the application to Development Control Committee.

3. RELEVANT HISTORY

- 3.1 **PE9800542** – Planning permission was *granted* in September 1998 for the erection of a lower ground floor extension at the front of the building and the associated relocation of the external staircase.
- 3.2 **8700299** – Planning permission was *granted* in May 1987 for the erection of a rear extension at basement and ground-floor level and the demolition of the vaults at the front of the house with the erection of a study at basement level.

4. CONSULTATIONS

Conservation Area Advisory Committee

- 4.1 Primrose Hill CAAC: No reply to date.

Adjoining Occupiers

	2010	2012
<i>Number of letters sent</i>	7	7
<i>Total number of responses received</i>	0	0
<i>Number of electronic responses</i>	0	0
<i>Number in support</i>	0	0
<i>Number of objections</i>	1	1

- 4.2 When this application was originally assessed in 2010 a site notice was displayed from 29/01/2010 until 19/02/2010, letter were also sent to the occupiers of 7 neighbouring properties.
- 4.3 *A letter of objection was received from 18 Regents Park Road, raising concerns relating to overlooking, amenity, privacy, outlook and harm to the Conservation Area.*
- 4.4 Following the judicial review which quashed the earlier decision it was necessary to re-consult on the application.
- 4.5 During the current assessment of this application a site notice was displayed from 25/07/2012 until 15/08/2012 and press notice was also placed in the Ham and High on the 06/09/2012. Letters were sent to 7 neighbours.
- 4.6 A letter of objection was received from Dalton Warner Davis on behalf of the occupants of No. 18 Regents Park Road raising concerns relating to:

- overlooking from the raised platform to the rear of the extension and the staircase into the living room and garden at No. 18 Regents Park Road resulting in loss of privacy;
- the sense of enclosure and loss of outlook from the living room at lower ground floor level at No. 18 as a result of the trellis;
- harm to amenity from noise resulting from use of the staircase.

4.7 The application was reported to Members Briefing on the 19th November 2012. The Members of the Members Briefing Panel received a letter dated 16/11/2012 from Dalton Warner Davis on behalf of the occupants of 18 Regents Park Road in advance of this meeting which raised the following concerns:

- Inconsistency in planning decisions - The current application has been considered differently and unfairly in terms of amenity to the following applications:
 - The occupiers of No. 18 obtained planning permission for a lower ground floor extension (ref:2006/2287/P), this permission included a condition that the roof should not be used as a roof terrace for reasons of privacy and overlooking.
 - At No. 12 Regents Park Road (ref: 2007/0194/P) amendments were made to the application to protect amenity by removing play equipment which had raised platforms which would allow views into the neighbouring gardens.
 - The previous application at No. 16 Regents Park Road (ref: 8700299) for the original conservatory was amended during the course of the application to move the stairs away from the boundary with No. 18, the assumed reason for this is to prevent overlooking.
 - An application at No. 1 Daleham Mews (ref:2012/3676/P) has recently been refused for a roof terrace as it would result in overlooking into a neighbouring garden and into habitable rooms.
- Description of development is incorrect as it makes no reference to the balcony to the rear of the conservatory, furthermore, the conservatory should be considered as a rear extension as it is a more solid structure.
- The proposal allows a high level structure which allows people to loiter on top of the boundary wall and look into No. 18
- The proposed reflective quality of the glass should not be relied upon to prevent overlooking. Uncertainty about whether people standing on the staircase are able to see into no. 18 creates an overbearing and intimidating situation for occupants of no. 18.
- The use of the stair results in a loud metallic sound which harms neighbour amenity.
- The stairs were not in use at the time when the case officer visited the property so it is difficult for her to assess the real impact of the use of the structure on the occupiers of No. 18.

5. **POLICIES**

5.1 **National Planning Policy Framework 2012**

5.2 **London Plan 2011**

5.3 **LDF Core Strategy and Development Policies**

CS5 (Managing the impact of growth and development)
CS14 (Promoting high quality places and conserving our heritage)

DP24 (Securing high quality design)
DP25 (Conserving Camden's heritage)
DP26 (Managing the impact of development on occupiers and neighbours)

5.4 **Supplementary Planning Policies**

CPG1 (Design)
CPG6 (Amenity)

6. **ASSESSMENT**

6.1 The principal considerations material to the determination of this application are summarised as follows:

- Design, and
- Amenity

6.2 **Design**

6.2.1 Policy DP25 of the LDF states that development within Conservation Area should preserve and enhance and character and appearance of the Conservation Area. CPG1 states that rear extensions should respect the design of the original building, and the Primrose Hill Conservation Area Statement states that rear extensions should be as unobtrusive as possible.

6.2.3 Planning permission was granted in 1987 for the rear extension that previously existed at this site and hence the principle of an extension has already been established here. The extension that has replaced the previous conservatory consists of full height glazed sliding doors and a glazed flat roof. The extension also incorporates a raised platform approximately 1m in depth which leads to the stairs which allow access to the rear garden. The stairs to the garden are located alongside the boundary with No. 18 Regents Park Road, whereas previously they were located centrally. The new extension covers the same footprint as the previous extension and is lower in height [as it has a flat rather than a pitched roof]; therefore it is considered to be acceptable in terms of scale and bulk. The extension is contemporary in design, is lightweight in appearance and is considered to be an acceptable addition to the original building.

6.3 **Amenity**

6.3.1 The relocation of the landing and the staircase adjacent to the boundary with No. 18 Regents Park Road has resulted in concern from the occupiers of No. 18 who have objected to the proposal in this respect. The objections relate to loss of privacy. The objectors are concerned that when the occupiers use the stairs leading to the garden and the raised platform it would result in overlooking of the garden and the living room of No. 18 which is situated to the rear of the building at lower ground floor level and has a glazed roof. It should also be noted that the occupier of No. 18 have erected a trellis adjacent to the boundary which has a

height consistent with the trellis at No. 16 (for which permission is sought as part of this application) but extends further to the rear. The trellis at No. 18 is unauthorised.

- 6.3.2 It is noted that limited views of the garden from the previous extension were possible, as the extension was fully glazed and there was no privacy screen between the properties. Furthermore, it was, and is still possible to see the neighbouring garden from the rear upper floor windows of the application site. It is accepted that a certain amount of overlooking from the new landing into the garden was possible prior to the erection of the trellised privacy screen at No. 16 which has been erected. It is possible to see glimpses of the rear garden from the staircase through the trellis when purposefully trying to look through it. The case officer made the following observations during a site visit:
- 6.3.3 Whist standing on the raised platform immediately to the rear of the building adjacent to the boundary with No. 18 and actively trying to look into the neighbouring property it is possible to see the glazed roof of the living room at the lower ground floor level of No. 18, however the reflective properties of the glazing prevented views through the roof into the living room. When stepping further to the rear of the raised platform adjacent to No. 18 looking toward the garden it is possible to view glimpses through the terrace to the part of the garden adjacent to the boundary with No. 20. Further to the rear as you step down onto the first step the only view afforded is of the boundary fence with No. 20 and the roof of living room but no view is afforded in to the living room. On the next step down it is possible to gain views into the top of the corner of the living room adjacent to the boundary with No. 20, however all that can be seen is the ceiling beam and part of the side wall at high level only. The next step down is sufficiently below the level of the solid boundary to prevent any overlooking what so ever.
- 6.3.4 Concern has been raised that a person loitering on the staircase would have views into the living room at No. 18. Objection has been raised that prolonged use of the raised platform/staircase would give rise to an intimidating and overbearing impact on occupants in the living room at No. 18. Given the location of the site in a built up area of London it is not expected that occupiers will be completely concealed from their neighbours. It is considered that any person loitering on the staircase would not have views into the living room due to the reflection of the glass and oblique angle of the views. Views are possible into the rear garden when purposely trying to look through, however this is mainly of the boundary wall on the far side of the garden which would not impact on amenity. The letter of objection also states that the reflective quality of the glass should not be relied upon to prevent overlooking. It is considered that even if at times of the day views were afforded through the glass this would not result in overlooking as someone wanting to see into the living room would have to purposefully look through the trellis at close proximity to the trellis and would only see glimpses into the room. This is not considered to be a likely situation and this would not harm neighbour amenity.
- 6.3.5 It is considered that the limited views described above are not sufficient to justify refusal of this application on the grounds of overlooking to No. 18.
- 6.3.6 An assessment should also been made as to whether the proposal would harm the amenity of the occupiers of No. 18 by virtue of creating an unpleasant outlook or

appearing overbearing or dominant. The case officer has visited No. 18 and has viewed the extension and the associated staircase from the garden and living room of the property (Contrary to the information set out in the letter from Dalton Warner Davis to the Members Briefing Panel, the case officer did see the staircase in use during the site visit to No. 18 Regents Park Road). It is possible from the garden of No. 18 to see people using the stairs which lead to the garden. This is not a clear or direct view and anyone using the stairs is mainly concealed by the boundary fence and trellising. It is considered that a partially concealed view of the applicants using the staircase would not have an overbearing impact. Concern has also been raised in relation to the impact the proposed trellis has on the outlook at No. 18. The proposed trellis is perpendicular to the rear elevation of the living room and only projects to a distance of 2.1 metres into the garden, as such the proposed trellis does not appear dominant in views from the living room at No. 18 and does not harm outlook from this room. Views of the staircase from the living room at No. 18 are not considered to have an overbearing impact on occupiers.

- 6.3.7 It is considered that the proposal, given its modest depth and height, would not impact on daylight or sunlight to the neighbouring property, No. 18.
- 6.3.8 In order to ensure that the amenity of the occupiers of No. 18 are protected in perpetuity a condition would be placed on any permission requiring the trellis screen to be permanently retained in this location.
- 6.3.9 It is also noted that the garden level of the neighbouring property has been excavated and is at a lower level than the garden of the application site, which further assists in protecting the privacy of No. 18, as it means that views into the garden are more difficult. The original objection letter also makes reference to the planning permission for the previous extension (ref: 8700299) and states that the stairs were repositioned away from the boundary with the neighbouring property. The drawings were revised in this scheme; however, there is no reference to the reasoning for the amended drawings in the documentation that is available. Notwithstanding the arrangement that previously existed, the current proposal is considered to be acceptable on its own merits.
- 6.3.10 **Noise** – Concern is raised that the proposed staircase results in loud metallic sound when in use which harms neighbour amenity. However, it is considered that the use of the stairs does not result in noise levels of a frequency that would harm neighbour amenity.

6.4 **Additional concerns raised by the objectors**

- 6.4.1 **Concerns of inconstancy in decision making** - The letter of objection submitted to the Members Briefing Panel on behalf of the occupiers of No. 18 Regents Park Road raises concern in terms of inconstancy in decision making. Planning permission (ref: 2006/2287/P) for the lower ground floor extension at No. 18 Regents Park Road (which the objection refers to) included a condition advising that the flat roof shall not be used as a roof terrace. The flat roof at No. 18 is higher than the raised platform at No. 16 and would have allowed views into both adjoining gardens (Nos. 20 and 16) as well as views into the ground floor window at No. 20.

The raised platform at No. 16 does not result in overlooking owing to its narrow depth and positioning.

- 6.4.2 The letter also refers to planning permission (ref: 2007/0194/P) for a play structure in the garden at No. 12 Regents Park Road. The proposed play structure was at raised level and close to the boundaries of the garden resulting in views from the structure into neighbouring properties. This is considered to be a different situation to that at the application site, where owing to the trellis, the raised platform does not provide views into neighbouring properties.
- 6.4.3 Finally the objection letter refers to a planning refusal (ref: 2012/3676/P) for a roof terrace at No. 1 Daleham Mews. This application was refused as it was considered that the proposed terrace would result in direct overlooking into the private terrace and habitable rooms of the first and second floor flat of No. 30 Daleham Gardens (to the rear of the application site). Overlooking is afforded by the elevated position of the terrace at second floor level. It was also considered that the proposed privacy screen erected across the east elevation of the terrace would harm the outlook from a window serving a habitable room at No. 3 Daleham Mews to the detriment of the amenity of the occupiers.
- 6.4.4 Overlooking - In terms of overlooking the proposals are not directly comparable. The proposed terrace at No. 1 Daleham Mews would have resulted in direct views into the projecting bay window and terrace at No. 30 Daleham Gardens. The raised platform and staircase at No. 16A Regents Park Road by contrast would not provide views into habitable rooms at No. 18 Regents Park Road, it would only allow for glimpses of the rear garden to be viewed when purposefully trying to look through the trellis.
- 6.4.5 Outlook – In relation to outlook the proposals are also considered to be incomparable. At No. 1 Daleham Mews, the proposed 1.8 metre high privacy screen would have been located on the eastern boundary of the terrace directly facing a habitable room window at No. 3 Daleham Mews which is located across an area of flat roof. The window is already 1.2 metres lower than the level of the terrace so from that window the 1.8 metre high screen would appear above an area of c.1.2 metres of brickwork resulting in an obstruction approximately 3 metres in height at a distance of 4-5 metres away from the face of the window. As such, it is considered that the privacy screen at that level would significantly impact on outlook from that window to the detriment of the amenity of the occupiers. At No. 16A Regents Park Road the trellis adjacent to the raised platform and staircase is perpendicular to the glazed elevation of the living room at No. 18. Therefore even though there is a difference in ground levels at the sites which result in the trellis being at greater height at No. 18 than at No. 16, as it does not directly face the living room window, it is considered not to have a detrimental impact on outlook from the living room.
- 6.4.6 **Description of development** – Concern is raised that the description of development is incorrect as it does to make reference to the balcony to the rear of the conservatory and that the extension is described as a conservatory rather than an extension. The description is considered to be accurate. It is described as a

conservatory as it has a glazed rear elevation and roof. The raised platform is not a balcony, it is a raised platform which gives access to the staircase.

- 6.4.7 The objections raised have been fully considered and raise no material reason for refusing the application.

7. CONCLUSION

- 7.1 In light of the above, the existing extension, raised platform, staircase and trellis are considered to be sympathetic in design and in no way detrimental to the amenities of the neighbouring properties or the surrounding Conservation Area.

- 7.2 Planning Permission is recommended subject conditions.

8. LEGAL COMMENTS

- 8.1 Members are referred to the note from the Legal Division at the start of the Agenda.