

Address:	9 Chalcot Gardens London NW3 4YB	
Application Number:	2009/0253/P	Officer: Hannah Parker
Ward:	Belsize	
Date Received:	18/12/2008	
Proposal: Retention of single storey extension (conservatory) at the rear of lower ground floor nursery school.		
Drawing Numbers:		
Design and Access Statement: Ideal Conservatories & Windows Letter: Proposed Elevation and Plan: Lower ground floor plan: Site location plan		
RECOMMENDATION SUMMARY: Refuse and Warning of Enforcement Action to be Taken		
Applicant:	Agent:	
Mrs H Morfey C/o agent	Indigo Planning 42 Brook Street LONDON W1K 5DB	

ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing (original)	D1	Non-Residential Institution	9.59m ²
Proposed (as constructed)	D1	Non-Residential Institution	29.33 m ²

OFFICERS' REPORT

Reason for Referral to Committee: The current scheme of delegation does not cover the issue of an enforcement notice for this breach of control.

1. SITE

- 1.1 The site is located on the south side of Chalcot Gardens, a narrow private road situated to the south of England Lane.
- 1.2 The building on site is a large semi detached property covering five floors. The building has been divided into three flats. This application refers to the basement flat which has a personal permission which allows the rear part of the property to be used as a nursery school.

- 1.3 The site is located in the Eton Conservation Area. The house is not listed but is a positive contributor to the area as indicated in the Eton Conservation Area statement.

2. THE PROPOSAL

Original

- 2.1 **Retention of single storey extension (conservatory) at the rear of lower ground floor nursery school.**

3. RELEVANT HISTORY

- 3.1 EN09/0021 Unauthorised conservatory increased at basement for use by 24 children.
- 3.2 8703269 9 Chalcot Gardens Change of use of basement flat to an under-5's nursery
Permission Refused 16/03/1988
- 3.3 8803971 9 Chalcot Gardens Change of use of rear part of basement flat to use as a "packaway playgroup" for the under 5s in addition to the existing residential use. **Temporary Permission Granted 22/09/1988**
- 3.4 9005427 Renewal of temporary planning permission for the use of rear part of basement flat at a packaway playgroup for the Under 5s in addition to the existing residential use
Temporary Permission Granted 14/11/1990
- 3.5 9200384 Renewal of temporary planning permission for the use of rear part basement flat as a "packaway playgroup" for the under 5's in addition to the existing residential use.
Temporary Permission Granted 04/06/1992
- 3.6 9500804 Variation of condition 01 on planning permission dated 05.06.92 to allow permanent use of the rear part of the basement flat as a "packaway playgroup" for under-five year old children. **Granted 03/08/1995.** Subject to the additional condition: "This permission shall be personal to Ms J Morfey during his/her/their occupation and shall not ensure for the benefit of the land. On his/her/their vacating the premises the use shall revert to the lawful use for residential purposes."

4. CONSULTATIONS

Conservation Area Advisory Committee

- 4.1 The CAAC's objections:

The proposal for a change of the basement was refused in March 1988 on the grounds that

- 1. The proposed development involved the loss of residential accommodation.*
- 2. The proposal would be detrimental to the amenities of adjoining properties by means of noise and disturbance unacceptable in a residential area.*
- 3. The proposed development would result in unacceptable increase in vehicular traffic.*

Your acceptance of the revised and limited proposal was that it was less detrimental to the neighbourhood in the area listed above. However, the school has been enlarged in a way that goes well beyond your acceptance of a packaway playground, now occupying the entire basement and an extension with a large footprint. What concerns us is what the

legal position is in regard to the extension and the fact that the playschool now occupiers the whole of the basement and new extension.

Local Groups

4.2 Belsize Residents Association

Object on the following grounds:

- The number of pupils
- The unauthorised use of ground floor
- The conservatory is large and ugly
- Results in light and noise pollution to flats above

The reason not been flagged up before is that neighbours have been indifferent.

4.3 **Adjoining Occupiers**

	Original
<i>Number of letters sent</i>	23
<i>Number in support</i>	23
<i>Number of objections</i>	6

4.4 Supports from neighbouring properties, parents of the children at the school and general supporters:

- No objection;
- Support for the school;
- Well run school;
- No car policy acceptable;
- Delighted with the conservatory. Safe, light, bright;
- Delighted with the school;
- School grew to take up whole of ground floor including flimsy leaking conservatory;
- School equipment spoiled;
- Structure replaced for all round use –tremendous improvement;
- Feel Eton conservation area should be proud of it;
- Unobtrusive;
- Integral to the school;
- Well lit encouraging enhanced learning;
- Thinks that the complaint was lodged by someone who doesn't like school;
- Precious resource to the school;
- Cannot be seen from street;
- Son likes conservatory best (where school does group activities);
- Should school not have conservatory, I would seriously consider sending him elsewhere
- Crucial loss;
- No other school compares;
- Conservatory perfectly in line with character of the building;
- Outside no visible change;
- Losing conservatory probably losing one of the best schools in the area;
- Light and airiness of conservatory;
- Most rooms at school dark;
- Discretely constructed;
- Good solution feels like part of the house;

- Conservatory in keeping preserves integrity of the house;
- Approve conservatory;
- Easy access to garden for little people;
- Conservatory offers outstanding benefits;
- No impact on street scene;
- Conservatory huge loss even if it is reduced in size;
- Built perfectly in the style of the surrounding building;
- Not an eyesore;
- Part of the community;
- Shocking that people who have just moved in can disrupt good order;
- Hopes good sense will prevail;

4.5 OBJECTIONS

3 objections from 9 Chalcot Gardens (upper floor) 10 Chalcot Gardens. 9 Chalcot Gardens top floor. Solicitors of 10 Chalcot Gardens

- Concerns about the further loss of residential accommodation;
- Object to conservatory;
- Object to use as a school;
- Existing conservatory plans wrong;
- Further loss of amenity;
- Shallow pitch;
- Noise and light pollution;
- Personal permission concerns. When school use ceases by applicant it reverts to residential;
- Future use seriously effect quality of life;
- Intrusive to upper floors;
- 24 children create noise;
- Owner said they did not need permission as only constructed to a lean to;
- Some neighbours may not know the school is being run without planning permission and they have the right to object;
- Previous owner of 9 upper floor was a man who went to work early and returned late and may not have been aware or bothered by the increased size of school;
- Grossly intrude upon the rear part of the garden allocated to us in our lease;
- Bought flat knowing it was a packaway playgroup and no objection to such an operation continuing on basis of existing consents;
- Bought the house and were not informed about the conservatory that was just about to be built;
- Loss of privacy to number 10;
- Unsightly, blights view from upper balcony;
- Worried that school will take on more pupils;
- Noise congestion at pick up time;
- Worried about when it reverts to residential use;
- Reduce value of property;
- Cars blocked;
- 24 parents/ carers congregate in small front area with buggies/ dogs which impeded access;
- Mistakes made by applicants planning consultant (wrong existing plans) lacking dimensions;
- Structure out of place;
- Visual symmetry destroyed;
- Obscure glazing would adversely impact amount of light;

- Wishes it to be removed and a smaller conservatory be installed;
- Planning not obtained before building structure;
- A precedent could be set of conservatory this size. Unacceptable.

Council response: see body of the report

5. POLICIES

5.1 Replacement Unitary Development Plan 2006

S1, S2 Sustainable Development
 SD6 Amenity for Occupiers and Neighbours
 B1 General Design Principles
 B3 Alterations and Extensions
 B7 Conservation Areas

5.2 Supplementary Planning Policies

Camden Planning Guidance 2006

Eton Conservation Area Statement

6. ASSESSMENT

6.1 The application has been assessed against the policies contained in the Unitary Development Plan (2006), the advice contained in Camden Planning Guidance (2006), and all other material planning considerations. The principle considerations material to the determination of this application are summarised as follows:

- The impact of the building on the character and appearance of the Eton Conservation Area;
- The impact on neighbour amenities

6.2 Proposal

Retention of single storey extension (conservatory) at the rear of lower ground floor nursery school.

6.3 The building measures 4.988m in depth, 5.88m in width. The conservatory is largely Aluminium framed and it has a yellow brick base.

6.4 Impact on the host building

6.5 The conservatory replaces an original much smaller conservatory which was 3.3m in depth and 3.1m in width. It is approximately 3 times as big as the existing conservatory at approximately 29.33sqm compared to 9.59sqm original.

6.6 The application site forms part of a 5 storey semi detached dwelling. The other pair of the house, number 10 Chalcot Gardens, still has the original conservatory in place. Before the new conservatory was constructed the rear of the dwelling could be read as a symmetrical pair. The rear of the dwelling now looks unbalanced.

- 6.7 The new conservatory is considered overly large and unsympathetic to its surrounding. Although aluminium framed the window and door units are extremely thick and wide. The slim line nature of the previous conservatory has not been upheld. It represents an incongruous addition to the detriment of both the character and appearance of the conservation area and the host building itself.
- 6.8 The conservatory although not full width does cover the majority of the back of the property. This width combined with the excessive depth when compared to the original conservatory and the conservatory at number 10 results in a dominant obtrusive structure within the rear garden.
- 6.9 As already mentioned the original conservatory was significantly smaller. The bay window, an original feature of the house, although partially covered by the conservatory was still wholly visible. The newly constructed conservatory now covers the majority of the bay. This is viewed as unacceptable as the bay windows as clearly illustrated on the ground floor are part of the character of the building. The fact that it is still partially visible through the glazed addition is not a sufficient argument for its loss. The bay at number 10 (part of the symmetrical pair) is visible which matches the bays on the first floor.
- 6.10 The conservatory is not visible from the front/street scene. However, it is visible from the neighbouring properties and the flats above. The flats all use the garden but each flat has its own section and there are not any boundary walls between them. The garden is very large but reads as a single entity. The conservatory therefore affects a number of the residents in the host building and is thereby viewed as unacceptable to impose such a structure on the residents of the property who use the garden.
- 6.11 The Eton Conservation Area Statement reinforces what is said above. Policy ET22 states *“Extensions and conservatories can alter the balance and harmony of a property or of a group of properties by insensitive scale, design or inappropriate materials. Some rear extensions although not widely visible, so adversely affect the architectural integrity of the building to which they are attached that the character of the Conservation Area is Prejudiced.”* It is considered that the conservatory does not comply with this policy causing detrimental harm to the conservation area. The policy goes on to say the *“extensions should be unobtrusive”* This conservatory as already mentioned is obtrusive and does not relate well to the form of the building.
- 6.12 Policy ET23 of the Eton Conservation Area Statement states *“Extensions should be in harmony with the original form of the house and historic pattern of the terrace or group of buildings”* As previously mentioned 9 and 10 Chalcot Gardens are part of a semi detached pair. Before the new conservatory was built both houses within the pair had a smaller symmetrical conservatory which reflected well on the building. This harmony has now been destroyed which is contrary to policy causing harm to the host building and the wider character and appearance of the conservation area.
- 6.13 It is acknowledged that there is a large overbearing conservatory at number 11 Chalcot Gardens. This conservatory was approved in 1973. This structure is larger and even more obtrusive than the applicant’s conservatory. However, this was approved under a different set of policies and guidance many years ago therefore cannot be used as justification for a conservatory of this size.
- 6.14 The building by reason of its detailed design, materials, width and excessive depth, is considered to relate poorly to its context and to detract from the character and appearance

of the Conservation Area. The proposal is therefore considered to be inconsistent with policies B1 and B7.

6.15 Amenity

- 6.16 The conservatory encroaches onto the amenity of the neighbouring basement floor flat at number 10 Chalcot Gardens. The excessive width and depth has allowed views into habitable rooms at the next door property. Retaining privacy is particularly important for these properties that don't have boundary fences which would otherwise offer some degree of protection from neighbouring properties. This loss of privacy could also constitute a reason for refusal.
- 6.17 The upper ground floor flat at No.9 is also affected by the conservatory. The large construction extends in and outwards from under their narrow balcony. Although there is no loss of outlook caused by the addition due to the nature of the structure being mainly glass, at night when lit up it has an adverse affect on their amenities.
- 6.18 The erection of the conservatory will result in a loss to the amenity of the local neighbours. This will be mainly in the form of loss of privacy and light pollution. This is contrary to Policy SD6.

6.19 Other issues

- 6.20 There are concerns that the playgroup is currently using floor space which is classed as residential (C3) as only the rear part of the flat was given permission for D1 use. The school has apparently been using the whole of the basement floor as a D1 use for over 10 years.
- 6.21 The objections directly relating to the whole ground floor being used as a school cannot be considered as part of the application. This is because this allegation is currently being investigated under Enforcement reference EN09/0021.
- 6.22 There has also been a lot of controversy around the submission of a wrong set of existing plans which were misleading at the beginning of the application process. The existing plans showed that the conservatory was the same size as the proposed/ constructed conservatory. (Although there is an indication in the design and access statement that, the previous conservatory was built to smaller proportions). However, it was pointed out by adjoining neighbours and occupiers that this was not the case. A new set of existing plans were then submitted with the correct dimensions on. This application has been assessed using the correct set of existing plans. The agent acknowledged the mistake.
- 6.23 It has been suggested by the agent that the side of the conservatory closest to number 10 could be obscured glazed. Although this could an option it is felt that because the conservatory is close to the boundary of no. 10 and the nearest window serves a habitable room, the loss of light and outlook would be too great to be a feasible option.
- 6.24 The agents have suggested a personal permission for the conservatory. They suggest that once the school use ends the Conservatory would be removed. The Council's opinion is that the school could remain in operation for many years with the bulk and design of the extension having a negative impact on the character and appearance of the conservation area.

- 6.25 The acquisition of the freehold by the ground floor flat at no.9 is also being brought by the agents as a reason for objection of certain objecting parties. The ownership of the freehold is not a factor that can be taken into account in reaching a decision on this application.
- 6.27 The objections concerning noise and congestion caused by the school are also factors that cannot be taken into account in reaching a decision on this application.

7. **CONCLUSION**

- 7.1 The proposed conservatory, by reason of its width, excessive depth, appearance and detailed design is not considered to be either of a high standard of design or respect the character and appearance of the Conservation Area. The proposal is considered to be contrary to Policies B1, B3 and B7 of the London Borough of Camden Replacement UDP 2006, Camden Planning Guidance and the Eton Conservation Area Statement and accordingly refusal is recommended.
- 7.2 The proposed conservatory, by reason of its width and depth is considered to encroach on the amenity of the occupiers of the basement flat of no. 10 Chalcot Gardens in terms of loss of privacy and outlook and at the upper ground floor level of no. 9 in terms of light pollution contrary to Policy SD6 of the London Borough of Camden Replacement UDP 2006 and accordingly refusal is recommended.

8. **Recommendation:**

- 8.1 Refuse permission to retain the building and that the Head of Legal Services be instructed to issue an **Enforcement Notice** under Section 172 of the Town and Country Planning Act 1990 as amended, and officers be authorised in the event of non-compliance, to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.
- 8.2 **The Notice shall allege the following breach of planning control:** erection of a single storey extension (conservatory) located to the rear of the property.
- 8.3 The Notice shall require that within a period of 6 months of the Notice taking effect the single storey extension to rear of the property shall be completely and permanently removed.
- 8.4 **REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE.**

1. The proposed conservatory, by reason of its width, depth, appearance and detailed design is not considered to be either of a high standard of design or to respect the character and appearance of the Conservation Area. The proposal is considered to be contrary to Policies B1, B3 and B7 of the London Borough of Camden Replacement UDP 2006, Camden Planning Guidance and Eton Conservation Area Statement.
2. The proposed conservatory, by reason of its width and depth is considered to encroach on the amenity of the occupiers of the basement flat of no. 10 Chalcot Gardens in terms of loss of privacy and outlook and at the upper ground floor level of no. 9 in terms of light pollution contrary to Policy SD6 of the London Borough of Camden UDP 2006.

The single storey extension to the rear of the property has been erected within the last four years and it is therefore expedient to pursue enforcement action.

9. LEGAL COMMENTS

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