

<b>LDC Report</b>		<b>03/11/2006</b>
<b>Officer</b>		<b>Application Number</b>
Grant Leggett		2006/4177/P
<b>Application Address</b>		<b>Drawing Numbers</b>
10 Chalcot Road London NW1 8LH		Site Location Plan 002; Drawing No. 020 Rev C; 030 rev C; 743 PL REV P2; 001 Rev D; 01 Photo Sheet
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>Authorised Officer Signature</b>
<b>Proposal</b>		
Application for Certificate of Lawful Existing Development for the erection of a first floor rear extension and mansard roof extension with second floor roof terrace.		
<b>Recommendation</b> : Refuse.		
<b>Assessment</b>		
<p>A certificate of lawful existing development is sought for extensions and alterations to the dwellinghouse, including a first floor rear extension and roof terrace and a mansard roof extension.</p> <p>Planning permission was granted on 11/06/2004 (ref 2004/1518/P) for the mansard roof extension, and therefore this extension is considered to be lawful.</p> <p>The description of development on the permission reads:</p> <p><i>Change of use including works of conversion into a single family dwelling including erection of a mansard roof and a first floor rear extension, with second floor roof terrace.</i></p> <p>This represents a typographical error. The original application sought permission for the roof extension as well as the first floor rear extension and roof terrace. However the officer considered the first floor extension and roof terrace would be harmful to the character and appearance of the conservation area and to the residential amenity of neighbours. The officer requested the first floor extension and terrace be deleted from the development and the applicant's agent agreed, deleting them in revised drawings received by the Council and subsequently forming the approved drawings under the planning permission.</p> <p>However the description of development was not changed on the decision notice. The extensions and terrace were therefore built in accordance with the description of development but without regard to the approved drawings. The applicant's grounds for why this LDC application should be granted are that the description of development permits the extensions.</p> <p>There is no question that the extensions breach the permitted development rights expressed in Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995. The relevant matter is therefore whether the description of development on the notice or the approved drawings take precedence.</p> <p>The approved drawings are considered to take precedence over the partially accurate development description. The decision notice requires that the approved development be carried out in accordance with the drawings and documents submitted with the application. Therefore the development has breached the planning permission as it does not comply with the associated documents.</p> <p>As the development breaches the GPDO, and if the planning authority were to accept that the development is lawful as it complies with the erroneous description of development and grant the LDC then it could be acting ultra vires (beyond its power).</p>		

Essentially the applicant does not have planning permission for the development that has been undertaken. Because there was a clear understanding (between the developer via his agent) that the original application was unacceptable and an amended application was accepted and approved, the developer cannot claim that he had planning permission for more than the mansard roof.

Further, a planning permission cannot be issued which is inconsistent in terms of the (accurate and intended) description of development and the approved drawings. Therefore, as the development has been implemented and is not in accordance with the approved drawings, then the development does not constitute implementation of the aforementioned planning permission.

#### **Recommendation**

The application should be **refused**.

#### **Disclaimer**

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