



Appeal Decision

Site visit made on 15 August 2006

by **Susan Hesketh** BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State for
Communities and Local Government

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Date: 31 August 2006

Appeal Ref: APP/X5210/A/06/2015046
28B Leighton Road, London, NW5 2QE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Anthony Monaghan against the decision of the Council of the London Borough of Camden.
- The application Ref 2006/0636/P, dated 3 February 2006, was allowed on 10 April 2006 and planning permission was granted subject to conditions.
- The development permitted is construction of conservatory extension to existing first floor balcony at rear of flat (Class C3).
- The condition in dispute is No 3 which states that: *Notwithstanding the information submitted on drawing no. 05.3455.P2A dated Oct 2005, this permission in no way conveys consent for the proposed dining room window adjoining no. 26 Leighton Road. No window shall be installed in this elevation.*
- The reason given for the condition is: *To safeguard the privacy of adjoining occupiers at no.26 in accordance with the requirements of policies RE2 and EN19 of the London Borough of Camden Unitary Development Plan adopted 2000 and policies SD1 and SD6 of the Revised Deposit Draft as amended by the Proposed Modifications agreed by the Council's Executive on 11th January 2006.*
- **Decision: The appeal is allowed** and the planning permission Ref 2006/0636/P for the construction of a conservatory extension to existing first floor balcony at rear of flat (Class C3) granted on 10 April 2006 by the Council of the London Borough of Camden is varied by the deletion of condition no 3 and the substitution of the following condition: *before the development hereby permitted is occupied, the two bottom panes of glass in the window in the west elevation of the conservatory shall be obscure glazed and shall thereafter be permanently so retained.*

Procedural Matter

1. The Council makes no reference to the listed building or Conservation Area aspects of the application and I do not consider that consideration of the disputed condition has any material effect in these regards.

Inspector's Reasons for Decision

2. The proposed conservatory would enclose part of an existing first floor rear balcony which is currently used as an outside dining area. The application plans show two side windows and the disputed condition relates to the window which overlooks the rear garden of the adjoining property at no 26 Leighton Road. I agree with the appellant that the rear garden and rear windows of no 26 are currently overlooked from the existing terrace and that with the proposed conservatory the overlooking would be solely from a window rather than from the entire terrace. However, I also agree with the Council that the terrace is likely only to be

used for part of the year when the weather is good, whereas the proposed conservatory would be likely to be used throughout the year. The potential for overlooking would therefore be for a longer period than is currently the case. However, it seems to me that an acceptable balance could be struck by the installation of opaque glazing in the bottom two panels of the proposed window. This would protect the privacy of the neighbour's garden whilst allowing light and a restricted view out from the room.

3. On the question of light spillage from the proposed window, I agree with the appellant that when the proposed conservatory would be used during the hours of darkness, it is unlikely that the adjoining rear garden area would be in use and it would also be likely that the appellant and his neighbours would have their curtains or blinds closed at such times. I also consider that the question of light spillage is not critical in this instance in view of the glazed office building which lies to the rear of both properties which is likely to be illuminated when in use during the hours of darkness, causing light spillage into the rear of the appeal and neighbouring buildings.
4. I therefore conclude that, with the imposition of a reworded condition, that the insertion of a window in the west elevation of the proposed conservatory would not unacceptably harm the privacy of neighbours and would accord with the development plan policies for the area.

Susan Hesketh

Inspector