

**ITEM: 02**

**Application Number:** 10/00405/FUL  
**Applicant:** Mr David Legg  
**Description of Application:** Retention of rear conservatory and timber decking  
**Type of Application:** Full Application  
**Site Address:** 86 UNDERLANE PLYMPTON PLYMOUTH  
**Ward:** Plympton Erle  
**Valid Date of Application:** 19/03/2010  
**8/13 Week Date:** **14/05/2010**  
**Decision Category:** Member/PCC Employee  
**Case Officer :** Stuart Anderson  
**Recommendation:** Grant Conditionally  
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## OFFICERS REPORT

### Site Description

86 Underlane is a semi-detached house in the Plympton area of the city.

### Proposal Description

The retention of a rear conservatory and timber decking. The rear conservatory has a depth of 4.9m, a width of 4.2m, and a height of 2.9m. It has replaced a previous conservatory that was not as deep. The decking starts beside the conservatory and drops down to a lower tier; it is enclosed by fencing and balustrading.

### Relevant Planning History

EN/08/00748/OPR – Building works (open enforcement case file)

94/00872/FUL - Erection of private motor garage (granted)

### Consultation Responses

None.

### Representations

One letter of representation has been received, from the occupier of the adjoining property to the east, 84 Underlane. The objection is on the grounds of loss of light to the garden and downstairs bedroom.

### Analysis

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

The relevant policies are CS34 of the Core Strategy, and Supplementary Planning Guidance 'Development Guidelines'. The main issue in the case is the impact on the adjoining property, 84 Underlane. The other residential properties that surround this site are not considered to be affected to any material extent.

With regard to the impact on the privacy of number 84, it is noted that the extent of the upper tier of the decking is not large enough to be used as a sitting-out area. It appears to be mainly for providing a means of access into and out of the conservatory. The garden and rear rooms of number 84 can only be seen if leaning over the fence which encloses the decking. Further to this, it is evident that the height of the decking above natural ground level is not significant. The lower tier of the decking is also not significantly raised. Therefore, it is considered that the decking has a minimal impact on the privacy of number 84.

For the conservatory, in order to ensure that the privacy of number 84 is protected, a condition is recommended to prevent windows from being installed in the side (east) elevation of the conservatory in future without planning permission. Any windows in this side elevation would overlook number 84's garden and lower ground-floor bedroom window, so it is important that they are prevented.

With regard to the impact on the amount of light reaching number 84, it is noted that there is a habitable room (a bedroom) at lower ground level at 84, which is the same floor level as the conservatory subject of this application. The conservatory has solid side walls as opposed to glazed side walls, which makes the issue of light to this bedroom need careful consideration, particularly as the "45 degree" guidance is breached. The window of number 84's lower ground floor bedroom is north-facing, so it is already limited in the amount of natural light it receives. The conservatory is a single-storey structure with a roof that is hipped to reduce height on the boundary. There was previously a conservatory here, albeit with less depth. Having regard to these matters, it is considered that the conservatory now constructed is not so harmful to light entering number 84's lower ground-floor bedroom as to warrant refusal.

#### **Equalities & Diversities issues**

None.

#### **Section 106 Obligations**

None.

#### **Conclusions**

The proposal is recommended for approval.

#### **Recommendation**

In respect of the application dated **19/03/2010** and the submitted drawings, **01, 02, 03, 04, 05, 06**, it is recommended to: **Grant Conditionally**

#### **Conditions**

##### **RESTRICTION ON SIDE WINDOWS**

(1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order or the 1995 Order with or without modification), no window shall at any time be placed in the east-facing elevation of the conservatory hereby permitted (i.e. the side elevation which faces 84 Underlane) unless, upon application, planning permission is granted for the development concerned.

Reason:

In order to protect the privacy of the neighbouring property, in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

**Statement of Reasons for Approval and Relevant Policies**

Having regard to the main planning considerations, which in this case are considered to be: impact on neighbouring amenity, the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed development is acceptable and complies with (a) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy, and (b) relevant Government Policy Statements and Government Circulars, as follows:

CS34 - Planning Application Consideration

SPD1 - Development Guidelines