



Appeal Decision

Site visit made on 1 December 2021

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th January 2022

Appeal Ref: APP/Z1775/W/21/3275142

39 Camarthen Avenue, Portsmouth PO6 2AG

- 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 Mr Mark Lubbock against the decision of Portsmouth City Council.
 - The application Ref 20/00633/HOU, dated 11 June 2020, was approved on 14 April 2021 and planning permission was granted subject to conditions.
 - The development permitted is construction of single storey rear extension and raised decking (amended description).
 - The conditions in dispute are Nos 3 and 4 which state that:
 - (Condition 3) *'Prior to first use of the decking hereby permitted, the northern and southern privacy screens shall be constructed in accordance with approved plans: MT/1547/2 Rev A. The privacy screens shall measure 1.8m above the approved decking, and shall be obscure glazed (to a minimum of Pilkington Level 3, or equivalent), and thereafter permanently retained as such for the lifetime of the development'.*
 - (Condition 4) *'The 1 no. window located at high level on the southern elevation of the single storey rear extension hereby permitted shall be obscure glazed (to a minimum of Pilkington Level 3, or equivalent). Any opening lights shall require the written agreement of the Local Planning Authority'.*
 - The reasons given for the conditions are:
 - (Condition 3) *'In the interests of safeguarding the neighbouring amenities in accordance with Policy PCS23 of the Portsmouth Plan'.*
 - (Condition 4) *'To protect the privacy of the occupants of the adjoining residential properties in accordance with Policy PCS23 of the Portsmouth Plan'.*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The Council granted planning permission for the erection of a single storey rear extension with a decking area. The decision is subject to a number of conditions, which notably require the high level window to the southern elevation of the addition to remain obscure glazed and privacy screens to be installed to the northern and southern sides of the decking.
3. The main issue is whether the conditions in dispute are necessary to protect the living conditions of the occupiers of nos 37 and 41 Carmarthen Avenue, with particular regard to privacy.

Reasons

4. The appeal site comprises a semi-detached property fronting Carmarthen Avenue, which is characterised by its steep northern incline. By reason of the changes in level in the area, no 37 Carmarthen Avenue (no 37) sits on lower grounds than the appeal property. The side boundary between the two properties is relatively low, and allows for some limited overlooking.
5. At the time of my site visit, the extension and decking area had been constructed. If it was fitted with clear glass, the high level window situated to the southern elevation of the extension would, due to its position, lead to a loss of privacy for the occupiers of no 37, which would be harmful to their enjoyment of their rear garden area. The extension is otherwise served by large windows, and light levels remain satisfactory despite the high level opening being obscure glazed.
6. A privacy screen has been constructed to the northern side of the decking area, which preserves the privacy of the occupiers of no 41 Carmarthen Avenue. Although overlooking of gardens is often unavoidable in suburban settings, the elevated position of the decking area would enable clear views into the garden of no 37 above the intervening boundary fence. In the absence of privacy screen to the southern side of the decking, the development would lead to harmful overlooking for the occupiers of this neighbouring property, and have a detrimental effect on their enjoyment of their private outdoor space. Whilst it is noted that there was no objection from these neighbouring residents, this is not determinative, given that I must consider the effect of the development on the living conditions of both existing and future occupiers.
7. For these reasons, the disputed conditions are considered necessary to protect the living conditions of the occupiers of nos 37 and 41, with particular regard to privacy. They are required to ensure that the appeal scheme fully complies with Policy PCS23 of the Portsmouth Plan – Portsmouth's Core Strategy which, amongst other things, requires new development to protect amenity and provide a good standard of living environment for neighbouring and local occupiers as well as future residents and users of the development.

Conclusion

8. For the reasons detailed above, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR