



Appeal Decision

Site visit made on 3 February 2023

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th February 2023

Appeal Ref: APP/Z1775/D/22/3291864

111 Prince Albert Road, Southsea, PO4 9HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Fausto Tito Remuzgo Jimenez against the decision of Portsmouth City Council.
 - The application Ref. 20/00616/PLAREG, dated 2 August 2019, was refused by notice dated 6 December 2021.
 - The development proposed is retrospective application for the construction of a single storey rear/side extension.
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Decision

1. The appeal is allowed and planning permission is granted for retrospective application for the construction of a single storey rear/side extension at 111 Prince Albert Road, Southsea, PO4 9HT, in accordance with the terms of the application, Ref. 20/00616/PLAREG, dated 2 August 2019 and subject to the following conditions:
 - 1) Notwithstanding the details shown on the submitted General Layout drawing No. 19-62-3C, within 3 months of the grant of this planning permission a revised General Layout drawing showing the floor layout and elevations of the single storey rear/side extension as built on the application site shall be submitted to and approved in writing by the Local Planning Authority.
 - 2) The two side (north facing) windows hereby permitted shall be obscure glazed and include white infill panels over the whole extent of the glazing to each window, and no part of the windows that are less than 1.7 metres above the floor of the room in which they are installed shall be capable of being opened. The windows shall be retained as such thereafter.

Main Issue

2. The main issue is the impact of the proposed development on the living conditions of the neighbouring occupiers at 113 Prince Albert Road.

Reasons

3. The proposed single storey side/rear extension has already been built and planning permission is, therefore, sought retrospectively for its retention. The Appellant indicates that the proposed extension replaced a similar extension and as such they had assumed that planning permission was not required. The proposed extension is sited between the rear two storey outrigger to the host property and the two storey outrigger to 113 Prince Albert Road (No.113). The

proposal has a flat roof and extends up to the rear wall of the host's outrigger, albeit the submitted plans show the extension being set back marginally from the rear wall which appears to be an error. The common boundary wall with No.113 is approximately 1.8 metres high and the plans indicate that the proposal extends approximately 1.16 metres above this wall.

4. The main part of the proposed extension is used as a bathroom, with one window facing towards No.113. This window is obscure glazed and the Appellant has also installed white infill panels to the glazing, which, combined, preclude any views into or out of the window. The top half of the window is openable and whilst the lock was broken and fixed shut at the time of my site visit, this part of the window is broadly above eye level. For these reasons, I am satisfied, subject to a condition to control the obscure glazing and its opening, that there would be no harmful overlooking from this window.
5. The above findings also apply to the storeroom window, which is obscure glazed and fixed shut and where the Appellant is again in agreement to install white infill panels. Even so, this window serves a very small store, which can only be accessed from the rear garden via a separate door and is not habitable floorspace. For these reasons, I am again satisfied, subject to an appropriate condition, that there would be no harmful overlooking from this window.
6. The Appellant has provided marketing documents, plans and photographs which demonstrate that an extension and lean-to previously existed, for a number of years, in the same area now occupied by the proposed extension. This would appear to have been a similar flat roofed extension with lean-to which accommodated a shower, toilet and basin and a separate storage area, with large glazed panels (windows) on the boundary with No.113, but with the extension set back from the rear wall of the outrigger. This pre-existing extension/lean-to is a consideration to which I attach significant weight.
7. Based on the above and evidence before me, whilst the proposed extension is not a complete like for like replacement, the increase length of the proposal compared to the previous extension and lean-to is, in my view, modest. The evidence would also appear to indicate that the height of the proposed extension is broadly similar to the previous extension/lean-to. The proposal incorporates a similar flat roof which, as I observed on site, minimises its scale and thus its impact on No.113, where there remains a gap between the proposal and the outrigger to No.113. Whilst the proposed extension would be visible above the common boundary (wall), this would appear to be similar to the visibility of the previous extension. Within this context, I am satisfied that the proposed extension would not have a significantly greater impact on the living conditions of No.113 than the pre-existing extension/lean-to.
8. I accept that the increase in length of the proposal compared to the previous extension would have an impact on the outlook and light to No.113, but the level of impact would not be significant and certainly not sufficient to justify the refusal of planning permission. The main rear windows to No.113 including those on the outrigger and its rear private amenity space would still receive an acceptable level of sunlight and daylight, as well as benefiting from a good outlook over its rear garden.
9. Both parties have referred to examples of other infill extensions and appeal decisions, but in neither instance have I been provided with any copies of the decisions referred to or the relevant plans or the full planning background to

these cases. There is, therefore, no substantive evidence to indicate whether any of these examples/decisions are comparable or relevant to the proposal that is before me. Furthermore, the well-established principle is that all applications must be considered on their merits having regard to the individual circumstances of the case and their local context. The latter is the approach I have adopted here in determining this appeal. Consequently, none of the examples/decisions referred to affect my overall findings.

10. Accordingly, I find that the appeal proposal does not result in any significant harm to the living conditions of No.113 and would comply in this respect with policy PCS23 of The Portsmouth Plan (Portsmouth Core Strategy) (January 2012) and paragraph 130 f) of the National Planning Policy Framework (July 2021). These seek to ensure, amongst other requirements, that the living conditions of adjoining occupiers are not adversely affected by development.

Conditions

11. The Council has suggested conditions which I have considered against the advice in the Framework and the Planning Practice Guidance chapter on the use of planning conditions. Given the apparent error on the submitted plans I have reworded the suggested plans condition to require, within 3 months of the date of this decision, the submission for approval of a revised plan showing the extension as built on site. This would regularise the position and provide clarity as to the basis for granting permission. I also consider that a condition to secure obscure glazing and the non-opening of parts of the permitted windows is necessary and reasonable, in order to protect the living conditions of the neighbouring occupiers at No.113. However, I have reworded this to reflect the findings set out above and include the provision of white infill panels.

Conclusions

12. For the reasons given above and having taken all the matters raised into account, I conclude that the appeal should be allowed.

G Roberts

INSPECTOR