



Appeal Decision

Site visit made on 29 January 2025

by **Michael Evans BA MA MPhil DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th February 2025

Appeal Ref: APP/Z1775/D/24/3357740

12 Wilberforce Road, Southsea PO5 3DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Ms Minoo Sefidan against the decision of Portsmouth City Council.
- The application Ref is 24/01154/VOC.
- The application sought planning permission for the construction of a three storey front extension; addition of a second floor including the remodelling of the rear elevation (with Juliet balconies at first and second floor); new natural slate roof incorporating photovoltaic slates and a raised ridge; single storey rear extension; air source heat pump in rear garden, without complying with conditions attached to planning permission Ref 23/01201/HOU, dated 23 February 2024.
- The conditions in dispute are Nos 2 and 5 which state that:

2. Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings (all with a prefix of 1676):-

- P100 Revision D - Location and Proposed Block Plan
- P103 Revision E - Proposed Floor and Roof Plans
- P104 Revision D - Proposed East and South Elevations
- P105 Revision E - Proposed West and North Elevations
- P106 Revision D - Proposed Section
- P107 Revision D - Proposed Elevations (with adjacent properties shown)

5. The second floor window in the north elevation and all proposed glazing within the south facing elevation of the single storey rear extension hereby permitted shall be non opening (apart from the single south facing door at the eastern end of the proposed rear extension) and glazed with obscured glass in accordance with details submitted to and approved by the Local Planning Authority in writing, and shall be permanently maintained as approved.

- The reasons given for the conditions are:

2. To ensure the development is implemented in accordance with the permission granted.

5. To protect the privacy of the adjoining property and to prevent overlooking in accordance with Policy PCS23 of the Portsmouth Plan.

Preliminary matters

1. The Council's report on the application the subject of this appeal indicates that development has commenced in relation to the original permission referred to in the heading above. I saw at my site visit that this is the case. However, the matters with which this appeal is concerned that include the installation of clear glazing in

the rear extension and the erection of a freestanding fence have not been carried out.

2. During my site visit I was able to assess the effect of the proposal from the neighbouring property at 10 Wilberforce Road.

Decision

3. The appeal is allowed and planning permission is granted for the construction of a three storey front extension; addition of a second floor including the remodelling of the rear elevation (with Juliet balconies at first and second floor); new natural slate roof incorporating photovoltaic slates and a raised ridge; single storey rear extension; air source heat pump in rear garden, at 12 Wilberforce Road, Southsea PO5 3DR in accordance with the application Ref 24/01154/VOC, without compliance with condition numbers 2 and 5 previously imposed on planning permission Ref 23/01201/HOU dated 23 February 2024 and subject to the following conditions:

- 1) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings (all with a prefix of 1676):-

P100 Revision F - Location and Proposed Block Plan

P103 Revision G - Proposed Floor and Roof Plans

P104 Revision G - Proposed East and South Elevations

P105 Revision E - Proposed West and North Elevations

P106 Revision D - Proposed Section

P107 Revision D - Proposed Elevations with adjacent properties shown

P109 Revision B - Section through rear gardens of 10 and 12 Wilberforce Road

P110 Revision A - Southern and Northern Elevations of Proposed Fence

- 2) All external materials used shall be in strict accordance with those details approved under Planning Application 24/00262/DOC dated 16/5/24.
- 3) The development hereby permitted shall not be occupied/brought into use until the measures set out in Section 4.0 'Conclusions, Impacts and Mitigation' of the 12 Wilberforce Road, Southsea Preliminary Roost Assessment report (Arbtech, December 2023) have been fully implemented. Thereafter, the bat and bird nest boxes shall be permanently maintained and retained in accordance with the approved details.
- 4) The development hereby permitted shall not be occupied/brought into use until the second floor window in the north elevation has been installed so as to be non-opening and glazed with obscured glass in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The window shall thereafter be retained in accordance with the approved details.
- 5) The proposed air source heat pump (as shown on the Proposed Block Plan drawing no1676 P100 Revision F) shall not be erected until details concerning the materials, appearance and acoustic properties of the acoustic screen have been submitted to and approved in writing by the Local Planning Authority. The acoustic screen shall be installed prior to the air source heat pump being brought into use and thereafter retained in accordance with the approved details.

- 6) The development hereby permitted shall not be occupied/brought into use until details of the hard and soft landscaping have been submitted to and approved in writing by the Local planning Authority. The details shall then be implemented as approved. A scheme of landscaping shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted. The works approved shall be carried out in the first planting and seeding season following the first occupation of the development. Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) The development hereby permitted shall not be occupied/brought into use until the fence shown on drawing no1676 P110 Revision A has been erected in its entirety in accordance with the approved plan. The fence shall thereafter be retained in accordance with the approved details.

Background and main Issue

4. The Appellant seeks to put clear glazed bi-fold doors in the side of the single storey rear extension in the elevation that faces towards the boundary with the neighbouring dwelling at 10 Wilberforce Road. There is also fencing proposed along the full length of this boundary. The main issue in this appeal is the effect on the living conditions of the occupiers of the adjacent property with regard to overlooking and whether the fencing would appear overbearing.

Reasons

5. The appeal concerns a detached dwelling where the new boundary fence would extend along the southern side of the site from the main rear wall to the garage at the end. It would be set inside the existing boundary wall and be taller than it. The adjacent property is at a lower level than the host dwelling and the wall would not be sufficient in itself to ensure adequate privacy at no 10.
6. However, the submitted plans indicate that the new boundary treatment would be at a minimum height of 1.85m above the finished floor level of the extension and ground level along the boundary. This would ensure that any views towards no 10 would tend to be upwards towards the sky and the brickwork at the side of the adjacent dwelling rather than down into the garden. This angle of view from the appeal site both from the extension and outside would prevent any undue loss of privacy. The stepped fence would also take account of the changes in ground levels from steps along the path to the side of the extension, ensuring a good level of privacy for the full length.
7. This would be the case despite the height of the clear glazing and the proximity of the addition to the boundary and adjacent dwelling. Other properties would be more distant and their occupiers would not experience any significant loss of privacy for the same reason.
8. The additional height of the fence rising above the boundary wall would be less towards each end, with much of it being seen against the backdrop of the extension. In any case, the overall height of the fence would be insufficient to result in such an oppressive or unpleasant sense of enclosure that it would appear overbearing. Given reasonable domestic activity at the appeal site, there would be no undue noise and disturbance as a result of the proposal.

9. The relationship of the fence to the rear extension and adjacent property is clearly shown on the submitted drawings which are to scale and I am not persuaded that they fail to adequately show the proposal. I also note that the Council has raised no concerns in this respect. A condition is necessary to require the fence to be erected prior to the occupation of the development. It should also be retained thereafter to address the concern that the fence might be removed. This is justified in order to protect the privacy of the neighbouring occupiers and I am satisfied that it would be enforceable.
10. In these circumstances it is concluded that the living conditions of the occupiers of 10 Wilberforce Road would not be harmed. Consequently, there would be no conflict with Portsmouth Plan Policy PCS23, which, among other things, intends that new development should protect amenity and provide a good standard of living environment for neighbouring and local occupiers, as well as future residents of the development.
11. There would be no conflict with the National Planning Policy Framework where it is indicated that decisions should satisfy a number of considerations. These include that the proposed development should create a high standard of amenity for existing users, which would be satisfied for the reasons given.
12. The site is located within the Castle Road Conservation Area. The resultant appearance of the extended dwelling from the street has previously been approved. In any event, matters such as the design and materials seem to me to appropriately pay reference to the property being built significantly more recently than surrounding dwellings. The boundary wall would not be lost and is not easily seen from any public viewpoints anyway. The new fence and bi-fold doors would also not be readily seen from the public realm. Consequently, the significance of the Conservation Area would not be diminished with its character and appearance being preserved.
13. I note the concerns raised by some residents about unauthorised development but I must consider this appeal on the basis of the plans that are before me. The privacy implications of the possible temporary removal of the new fence to enable maintenance of the original boundary wall would not justify rejecting the appeal. This is especially so given that such instances would be likely to be fairly infrequent even if such work could not be carried out from no 10. Given the acceptability of the new fence and clear glazed patio windows having regard to the precise circumstances of this case there would be no undue precedent set.
14. Taking account of all other matters raised, it is therefore decided that the appeal succeeds and, in consequence, a new planning permission is created. In reaching this decision I have taken into account the objections raised by local residents.
15. In deciding on conditions I have had regard to the original permission and those suggested by the Council in this case. Because of the above findings the condition requiring the side glazing in the rear extension facing no 10 to be obscured and non-opening is not needed.
16. In addition to that referred to above concerning fencing, a condition specifying the approved plans is necessary to provide certainty. Facing materials and hard and soft landscaping need to be controlled to protect the appearance of the

Conservation Area. The second floor window in the north elevation should have restricted opening and be glazed with obscured glass to prevent an undue loss of privacy to adjacent residents. An acoustic screen to the heat pump is needed to protect adjoining occupiers from undue noise levels. Measures concerning bats and birds are justified in the interest of nature conservation.

M Evans

INSPECTOR