

**Planning, Transport & Sustainability Division
 Planning and Rights of Way (West) Panel 3rd May 2016
 Planning Application Report of the Planning and Development Manager**

Application address: 88 Chessel Crescent			
Proposed development: Application to increase the size of the decking area to rear, add a privacy screen and relocate the raised steps.			
Application number	16/00171/FUL	Application type	FUL
Case officer	Amber Trueman	Public speaking time	5 minutes
Last date for determination:	30/03/2016	Ward	Peartree
Reason for Panel Referral:	Request by Ward Member	Ward Councillors	Cllr Paul Lewzey Cllr Alex Houghton Cllr Eamonn Keogh
Referred to Panel by:	Cllr Alex Houghton	Reason:	Overlooking and overshadowing
Applicant: Mr & Mrs Taak		Agent: Sanders Design Services Ltd	

Recommendation Summary	Conditionally approve
-------------------------------	------------------------------

Community Infrastructure Levy Liable	Not applicable
---	-----------------------

Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012). Policies - SDP1, SDP7 and SDP9 of the City of Southampton Local Plan Review (Amended 2015) and CS13 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015).

Appendix attached			
1	Development Plan Policies	2	Relevant Planning History

Recommendation in Full

Conditionally approve

1. The site and its context

- 1.1 The application site contains a two-storey, detached dwellinghouse located on the northerly side of Chessel Crescent. The property is located in a residential area characterised by two-storey, semi-detached houses. There is both a change in levels from the higher eastern end of the road to the lower west and a drop of approximately 1.4m from the ground floor level of the application property to the general level of the rear garden.
- 1.2 The property has been extended previously to the rear at single-storey level. In addition to this, adjacent to the western garden boundary is an existing area of raised decking, which links to an area of new decking, subject of this application. The decking is level with the ground floor of the house and is accessed from patio doors in the dining room and the kitchen. There are also some centralised stairs which are used to access the garden from the decking area.

2. Proposal

- 2.1 The planning application is retrospective and seeks to regularise an additional decking area to the rear of the property. The application proposes to increase the size of the original decking area by adding a section measuring 1.2m protrusion from the rear wall, 4.9m width, and 1.2m maximum height, as well relocating the steps which provide access to the garden. The scheme also proposes the extension of the existing fence in order to function as a privacy screen equivalent to 1.8m in height when measured from the raised decking level. The fencing will then slope down gradually in line with the land level and return to the original 1.8m fence height at approximately 2.4m from the rear wall.
- 2.2 In line with Enforcement procedures, permission has been sought following the request of planning enforcement due to the height of the decking being over 0.3m, which means that it does not fall within the criteria of permitted development as specified in Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015. Notwithstanding the retrospective nature of the application, the proposal has still been considered fully, in line with the relevant local planning policies.

3. Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to this proposal are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) came into force on 27th March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

4. Relevant Planning History

- 4.1 From at least 2008 the application property benefitted from an existing raised decking area to the rear, located adjacent to the western site boundary. This decking still exists.
- 4.2 The planning history of the site includes planning permission for a single-storey side/rear extension with an extended rear decking (application 08/01804/FUL approved in 2009). This permission was not implemented. Prior to this, an earlier application for a two-storey side extension was refused for the impact on the character of the area (application reference 08/01061/FUL).
- 4.3 More recently, in 2014, planning permission was granted for a single-storey side and rear extension with raised steps to the rear (planning application reference 14/00320/FUL). This application also granted a decking area, accessed from the dining room as well as some raised steps from the double doors serving the kitchen, down to the garden. This application has been implemented, albeit the raised steps are in a different location and are sought to be regularised in this application.
- 4.4 Extracts of the previous approved plans are provided as **Appendix 2** of this report.

5. Consultation Responses and Notification Representations

- 5.1 Following the receipt of the planning application, a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners. At the time of writing the report **3** representations have been received from surrounding residents together with an objection from Councillor Houghton. The following is a summary of the points raised:

- 5.1.1 *At a height of approximately six feet or more from the ground and right up to the boundary and house wall of no. 86, the deck looks straight into several large picture windows in a reception room and kitchen.*

Response: The plans include the erection of a 1.8m privacy screen when measured from the height of the proposed decking in order to eliminate direct overlooking into the rear windows of number 86 from the decking. A condition is suggested to secure the implementation and retention thereafter of the screen.

- 5.1.2 *The decking causes a severe breach of privacy looking down into the neighbouring garden and patio.*

Response: The privacy screen will eliminate any direct overlooking of the most private and useable area of the neighbouring garden. It is accepted that, given the change in levels in the area, some additional views of the neighbouring garden would be achieved. These views are filtered by existing boundary vegetation. However, this is no different from the over-looking that would occur from windows in the rear elevation of the property, which is a typical situation within an urban environment. Furthermore, the privacy screening will reduce over-looking from the kitchen windows within the application property, meaning the proposal will have a neutral effect on privacy when compared with the existing situation.

- 5.1.3 *The [previous] plans have been flouted in a very blatant manner. It seems to be a case of 'we will build it anyway and will then put in retrospective plans with slight*

amendments to what we've actually been stopped from building.' It is not up to everyone else to compromise and sort out.

Response: Where breaches of planning control occur, the first step in the process is for a planning application to be submitted, so that the Planning Authority can assess whether or not the breach is otherwise acceptable in planning terms. A breach in planning control in itself is not reason to resist a planning application but rather the works must be assessed against the policies and guidance in the same way as any other development proposal.

- 5.1.4 *The works subject of this application represent a deliberate act to enhance the property, penalising the neighbours by infringing their privacy even more. Flouting planning laws should not be rewarded.*

Response: The application will be judged in accordance with the local planning policies as per a prospective planning application.

- 5.1.5 *The screening is overbearing in nature and would give a sense of enclosure to the neighbouring property and garden. It would have a harmful impact on outlook from two much-used rooms in the neighbouring property.*

Response: Given the change in levels, the proposed screening would be approximately 3 metres in height from the natural ground level. However, it would protrude under one metre further to the rear than the single-storey extension to the rear of no. 86. As such, the screening complies with the guidance set out in Council's adopted Residential Design Guide Supplementary Planning Document, with regards to the impact on outlook from habitable room windows. Given the limited projection of the privacy screening the effect on outlook from either the neighbouring house or garden is not harmful in planning terms.

- 5.1.6 *The screening would result in a total loss of view, loss of light and a feeling of being 'boxed in' from all ground floor rooms of no. 86.*

Response: The loss of a view is not a material planning consideration. However, the loss of light is thought to be insignificant considering the north facing orientation of the gardens and the modest projection and height of the privacy screen is not thought to present unacceptable enclosure given the large and spacious gardens of the neighbouring properties.

- 5.1.7 *For no. 90 any extension to the height of the boundary fencing would mean it was higher than the roof of my side extension and would drastically affect the light in my rooms.'*

Response: As the proposal is only considering the eastern section of the decking, there is thought to be very little impact to the neighbours both to the west and to the north of the site.

- 5.1.8 *A high decking will overlook the gardens to the rear, there will be no walls around blocking their noise when have their large parties.*

Response: Again, the proposal is only considering the eastern section of the decking and there is thought to be very little impact to the neighbours to the north, given the separation involved. In addition, the noise created from gatherings at

the property is not a consideration as is dealt with under separate legislation to planning.

6. Planning Consideration Key Issues

6.1 The key issues for consideration in the determination of this planning application are:

6.2 Effect on the Character of the Area

6.2.1 As aforementioned, planning permission was granted in 2014 for a single-storey side and rear extension at the property. The plans included raised steps to the rear of the extension, adjacent to the boundary with the property at 86 Chessel Crescent. Whilst the extension was constructed in accordance with the approved plans, the existing decking to the rear of the property was extended to provide a 1.2 metre deep area of raised deck immediately adjacent to the boundary. This needs planning permission by virtue of it being more than 300mm in height. As such, the eastern section of the decking which measures 1.2m protrusion from the rear wall, 4.9m width, and 1.2m height must be judged but the western side of the decking is excluded from consideration.

6.2.2 The property has a relatively large garden which comfortably accommodates the modest development and it is considered that negligible harm will be caused to the amenity of the occupants as a result. The development is also situated to the rear of the property and is not visible from the highway or from any public vantage points. As such, there is thought to be a minimal impact to the character of the area as a result of the scheme however, the main issue of neighbouring amenity must be judged.

6.3 Residential Amenity

6.3.1 Given the situation of the new area of decking in relation to the site and the neighbouring properties, the primary issue in respect to residential amenity is the impact of the development on the neighbour's property at number 86 Chessel Crescent.

6.3.2 In relation to privacy, as the decking is set at a raised level, a privacy screen has been incorporated into the scheme. This would measure 1.8m from the level of the decking to prevent any direct over-looking into the neighbouring property and a condition has been recommended to ensure the retention of this for as long as the decking is in situ. However, it should be acknowledged that there will always be some mutual overlooking towards the bottom of each neighbours properties, and this is not expected to be completely eradicated. As noted, the new screening would result in a reduction of over-looking from the rear-facing kitchen window and so over-all the development is considered to have a neutral impact on the privacy of the neighbouring residents.

6.3.2 Additionally, due to the height of the proposed screening on the boundary, the possibility of overshadowing from the screening has to be considered. As the depth will be limited to cover the raised decking before returning to the existing fence level, the impact to sunlight and daylight into the neighbouring property is thought to be negligible. Similarly, due to the north facing orientation of the gardens there will be no significant overshadowing caused and as such it is

deemed acceptable in this respect.

6.3.3 In respect of outlook, the Council's Residential Design Guide (2006) provides general guidance for the design of new extensions and additions, in terms of the '45 degree code'. The proposed screening would comply with this test for outlook from neighbouring windows and is therefore judged to be appropriate. In addition to this, the Design Guide also advises that when assessing the impact of development sited onto a garden boundary, where the neighbouring garden enjoys outlook in a number of directions (other than the developed land), the consideration will be less imperative. In this case, the neighbouring property benefits from 3 large windows to the rear of the property, and thus has outlook from multiple windows in a number of directions. As such, the impact to the rear living room of the neighbouring property, through the proximity of the privacy screening to the most western window, though already deemed to be negligible, is further diminished.

6.3.4 Furthermore, as noted above, since the privacy screening would project less than one metre from the ground floor building line of the neighbouring property it is considered that it will not have a harmful impact in this respect. It is also important to note that the current proposal is very similar to the planning permission granted in 2008 (reference 08/01804/FUL), the block plan of which is included in **Appendix 2**. This previous planning permission also included decking directly adjacent to the boundary with no. 86 Chessel Crescent, albeit privacy screening was not secured by the planning permission. Whilst this permission has expired, it was assessed in terms of the same Local Plan policies and Residential Design Guidance that are applicable today. As such, the previous permission has weight in the consideration of this application.

7. **Summary**

Upon reflection, the scheme is deemed acceptable from the point of view that significant harm shall not be caused to neighbouring amenity. In addition the site is considered large enough to deal with the proposal and the design is sympathetic to the character of the property and the local area. Consideration has also been made to limit the impact of the raised decking upon neighbouring residents by incorporating a privacy screen which is judged to be acceptable to target this.

8. **Conclusion**

In conclusion, the proposal is thought to have an acceptable level of impact and is therefore recommended for conditional approval.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 4(f), 6(a)

AT for 03/05/16 PROW Panel

PLANNING CONDITIONS

01. Full Permission Timing Condition (Performance)

The development hereby permitted shall begin no later than three years from the date on which this planning permission was granted.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

02. Privacy Screening (Performance Condition)

Within 3 months of the date of this consent, the timber privacy screen shall be erected to the eastern side of the decking, in accordance with the plans hereby approved. The erected screen shall thereafter be retained and as long as the decking is in situ.

Reason: To protect the amenities and privacy of the occupiers of the neighbouring property at 86 Chessel Crescent.

03. Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.