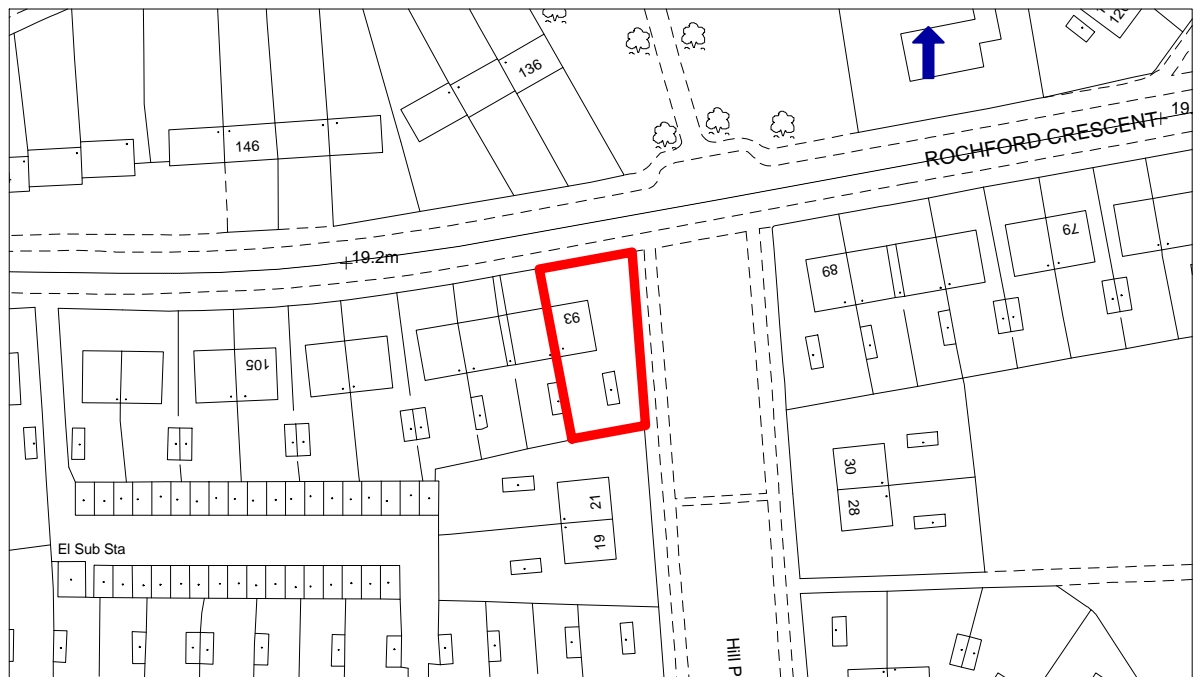


**ITEM: 03**

**Application Number:** 10/00296/FUL  
**Applicant:** Mr K Solano  
**Description of Application:** Raised decking to rear, with screen fencing, and raising of level of courtyard  
**Type of Application:** Full Application  
**Site Address:** 235 STUART ROAD PLYMOUTH  
**Ward:** Stoke  
**Valid Date of Application:** 01/04/2010  
**8/13 Week Date:** **27/05/2010**  
**Decision Category:** Member/PCC Employee  
**Case Officer :** Thomas Westrope  
**Recommendation:** Grant Conditionally  
**Click for Application Documents:** [www.plymouth.gov.uk](http://www.plymouth.gov.uk)



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## OFFICERS REPORT

### Site Description

235 Stuart Road is a terraced dwelling in the Stoke area of Plymouth. Each of the dwellings in the terrace has a rear tenement with a path to the side.

### Proposal Description

Raised decking to rear, with screen fencing, and raising of level of courtyard

### Relevant Planning History

09/01653/FUL - Rear raised timber decking and privacy fencing ~ Withdrawn

There is an existing enforcement case open with regard to part of the proposal:

10/00246/OPR - Alleged alterations to ground levels and raised path ~ Open

### Consultation Responses

No formal consultation responses were required with regard to this application

### Representations

Two letters of representation have been received with regard to this application.

One is from a Local Ward Member specifying that 'I would raise no objection to the application with the proviso that adequate screening arrangements are put in place to safeguard the privacy of the residents living in the adjoining property at no 233 Stuart Road'.

The second is from the residents at 233 Stuart Road raising a number of issues as summarised below:

- Confusion regarding the name of the applicant and that they are an employee of the Council.
- Lack of clarity and detail of the plans regarding
  - Close boarded privacy fence appearance
  - Details of construction, fixing or the methodology of the proposed wall stabilisation.
  - Omission of a tree from the plans
  - Incorrect representation of the boundary wall
  - Specification of heights on the plans
  - Incorrect identification of boundary
- Party Wall act considerations
- Loss of privacy from raised courtyard and proposed decking
- Loss of light from proposed screening
- Stability and safety of the wall due to the fence

### Analysis

#### Background

This application is before committee because the agent works for Plymouth City Council. The agent has confirmed that the applicant does not work for Plymouth City Council.

Internal works to convert the tenement into a living room have already been carried out and do not require planning permission from the Council.

External works to the tenement including insertion of new windows and doors have been completed and are considered to have the benefit of planning permission through permitted development rights.

The side courtyard area has been raised from the original level and forms part of this application before committee. This element of the proposal is therefore for retrospective permission. It is noted that applications for retrospective permission should be judged on their merits in the same way as proposed works with no bias for or against works that have been carried out prior to an application being made.

The decking and screening have not yet been erected and form a part of the proposal before committee today.

The application has been amended from the previously withdrawn scheme to include the raising of the courtyard path, to reduce the size of the decking and to clarify the proposed screening arrangements.

#### Report

This application turns upon Policies CS02 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and advice contained with the Development Guidelines Supplementary Planning Document.

#### Visual Amenity

It is considered that the proposals are sympathetic in form, detailing and materials to the existing property and do not detract from the character and appearance of the area. The proposal is not on a prominent frontage or location and the proposal is not located in a Conservation Area or in the vicinity of a Listed Building. It is recommended that a condition be imposed on the grant of any planning permission to require samples of the material to be used in the fence screening to be submitted for written approval by the Local Planning Authority prior to the .

#### Raised Courtyard

The courtyard path has been raised by 400 millimetres at the southern end. An increase of 300 millimetres can be carried out under permitted development.

It is considered that there will be no significant loss of privacy to adjacent properties. Additional overlooking into 237 Stuart Road is obscured by the applicant's existing tenement. Having regard to the allowance under the permitted development regulations and due to the fact that 233 Stuart Road is elevated above the applicant property, it is not considered that there will be a significantly detrimental loss of privacy.

It is considered that there will be no significant loss of outlook or sunlight/daylight to adjacent properties. It is considered that this element of the proposal does not require additional screening to protect the privacy of neighbours and as a result there is considered to be no significant detriment with regard to outlook, sunlight/daylight to adjacent properties.

#### Decking & Screening

The decking is 1.4 metres above existing groundlevel and projects by 1.5 metres from the rear of the existing tenement. The lower level of decking is 350 millimetres above ground level. The proposed screening is 2.55 metres above ground level on the boundary between 233 Stuart Road and 2.35 metres above ground level on the boundary between 237 Stuart Road.

It is considered that there will be no significant loss of privacy (subject to the provision of the proposed screening by condition) to adjacent properties. The proposed screening is considered to sufficiently mitigate against the loss of privacy that would be created by the provision of a raised decking area. There is an existing level of inter-visibility between the dwellings. The detriment to 233 Stuart Road will be less than that experienced by 237 Stuart Road due to the location of the proposed decking at 2.5 metres away from that boundary.

It is recommended that a condition be included to require the screening to be erected and to ensure that it is retained and maintained in the future.

It is considered that there will be no significant loss of outlook or sunlight/daylight to adjacent properties. All of the neighbouring dwellings' windows are located at a sufficient height and distance from the proposal so as to avoid detriment in this respect.

Impact to the outlook and daylight of neighbouring gardens is considered to be acceptable. It is possible to erect a boundary fence or wall up to 2 metres above ground level under permitted development rights. The proposed screening will be approximately 0.55 metres above that allowed by permitted development on the boundary with 233 Stuart Road. This proposed boundary height is not considered to be significantly detrimental.

In addition the proposals are considered to satisfy all of the other criteria of Policy CS34 of the Core Strategy. The proposal is considered to include a sufficient level of detail to be able to assess the impacts that would result from the development. There is no proposed loss of trees in association with this application and the omission of the tree on the boundary with 233 Stuart Road is not considered to impact the consideration of this application.

#### Non-Material Considerations

It is recommended to include a condition with regard to the party wall act with regard to any grant of planning permission.

The stabilisation works noted in the application are not considered to require planning permission but are understood to include removal of vegetation from the wall and replacement and re-pointing of stonework where necessary.

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.

### **Equalities & Diversities issues**

There do not appear to be any further Equalities and Diversities issues that require consideration with regard to this application

### **Section 106 Obligations**

None

### **Conclusions**

This application is recommended for conditional approval

### **Recommendation**

In respect of the application dated **01/04/2010** and the submitted drawings, **235/SR/01, 235/SR/02, 235/SR/03 Rev C, 235/SR/04 Rev E, 235/SR/05 Rev C, 235/SR/06 Rev B, 235/SR/07 Rev D, 235/SR/08 Rev A, 235/SR/09 Rev A, 235/SR/10 Rev C** , it is recommended to: **Grant Conditionally**

### **Conditions**

DEVELOPMENT TO COMMENCE WITHIN 3 YEARS

(1) The development hereby permitted shall be begun before the expiration of three years beginning from the date of this permission.

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

### **SCREENING**

(2) Notwithstanding the submitted details, the decking hereby approved shall not be erected until samples of the materials for the screening has been submitted to and approved in writing by the Local Planning Authority. The works shall conform to the approved details and shall be completed before the decking hereby approved is first brought into use. The screening shall then be retained and maintained unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To ensure that the details of the development are in keeping with the standards of the vicinity and protect the amenity of neighbouring dwellings in

accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

**INFORMATIVE: PROPERTY RIGHTS**

(1) Applicants are advised that this grant of planning permission does not over-ride private property rights or their obligations under the Party Wall etc. Act 1996.

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

Having regard to the main planning considerations, which in this case are considered to be: neighbouring amenity and impact to the streetscene, 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, (b) non-superseded site allocations, annex relating to definition of shopping centre boundaries and frontages and annex relating to greenscape schedule of the City of Plymouth Local Plan First Deposit (1995-2011) 2001, and (c) relevant Government Policy Statements and Government Circulars, as follows:

CS34 - Planning Application Consideration

CS02 - Design

SPD1 - Development Guidelines