

GUIDANCE NOTES

Subject: Changes to the External Appearance of Property

1. Changes in External Appearance

The purpose of this guidance note is to assist owners of houses at Port Solent who may be considering building extensions or making changes to the external appearance of their house, by setting out the policy and factors taken into account by the Board of POSOL when they exercise its responsibility to implement the following covenant.

SCHEDULE IV para 2(a) or para 2.1, depending on the version of the Deed of Transfer: *"Not at any time to erect or suffer to be erected any buildings walls or fences or other structures (save for any existing screen walls or fences and future replacements thereof) or to grow or permit to grow any hedge on the open area."*

SCHEDULE IV para 2(b) or para 2.2 states: *"Without prejudice to para 2(a), or 2.1, of this schedule not without the prior written consent of the Company (POSOL) to make or suffer to be made any alteration or addition to the external appearance of the premises or to erect or suffer to be erected any additional buildings walls fences or other structures of any nature whatsoever on the premises".*

The residential units were designed as a whole in terraces with differences in storey height, materials, road layout, car parking arrangements, landscaping and basin size and shape - all to create a visually harmonious but consistent appearance. Consideration was given by the developers to optimising privacy for the houses around the marina basins but allowing an open aspect to be enjoyed by all.

The POSOL directors' view is that the majority of residents enjoy Port Solent for these very qualities and do not want the character or value of their property to be jeopardised by unmanaged development.

To assist the directors (owners of properties themselves) in making decisions on requests for changes to external appearance, advice is taken from interested volunteer residents - the Covenants Working Group. Any resident is welcome to join the working group. An independent architect is retained as the Board's expert advisor. Final decisions, however, are made only by the elected directors of POSOL.

2. General Advice

Start by asking Countrywide Property Management for advice. They will quickly send you an application form and guidance notes. Countrywide administers the covenants application procedure, and you are strongly advised to refer your proposal to Countrywide before applying for Planning or Building Regulations Approval.

3. Frequently Proposed Changes

The most frequent applications for change of appearance received by POSOL for approval are the following:

Two Storey Loft Conversions

These have proved to be very popular, inspired originally by the development on Bryher Island. POSOL will in all probability approve these applications provided 'Velux' or similar roof lights are used. POSOL would not approve the use of dormers as there is no precedent for these in the original design concept except in a very small number of cases. Conversions that make use of existing dormers will of course be considered.

Three Storey Loft Conversions

These also will in all probability be approved by POSOL but care has to be taken that the aspect from higher windows does not invade other residents' privacy. It is preferred if gable-end windows are avoided altogether and are replaced by a roof light or are replicated in the neighbouring house to preserve symmetry. Applicants should also note that some of the houses are constructed with higher roofs, which can obviate the need for a dormer to provide staircase headroom. There are other examples on the estate where the dormer has proved to be unnecessary because the staircase to the new fourth floor has been located in the existing third floor small bedroom.

Ground Floor Extensions under Balconies

POSOL is firmly of the view that where these are proposed for houses on waterfronts they interrupt the visual unity of the terrace and interfere with neighbours' privacy by encouraging external individual recreational space at a further distance. The basins are open recreational and visual spaces with all the homes designed with their living accommodation to take advantage of the views and the overall marina ambience. Any proposal to extend the ground floor area under balconies that are adjacent to the waterside will be given especially careful consideration and approval is not guaranteed. However, POSOL will in all probability approve applications where the house is facing on to a rear, fenced, garden on the grounds that they are not seen and provided that they do not impinge on their neighbour's privacy.

Conservatories

Applications are generally received for houses away from the waterfront locations with sheltered secluded gardens. As above, POSOL generally would in all probability approve such an application. Where the proposal affects the waterside elevation, the same considerations as for extensions under balconies apply.

Decking

An advice note has already been issued. In essence it is considered that the deck should not project, at ground floor level, further than the external wing walls in order that the privacy of the immediate neighbours is protected. In addition it should be noted that the wooden deck generates noise under foot which can cause nuisance.

Carport gates

Provided that the gates are constructed of wrought iron, painted black and are vertically hinged, the Board will normally approve this form of development unless it affects the provision of car parking within the property. There are many good examples around the estate.

Conversion or reduction of Carports to form storage or liveable space. POSOL has adopted a policy on car parking in general which is attached as an addendum to this advice note. The basic principle is that POSOL will not approve changes in the use or layout of carports or land adjacent to the driveway that results in the loss of car parking space.

Car Parking

Allocation of car parking per house was calculated on the strict planning guidelines as they were then enforced in 1986 when the site was designed. The Directors are not minded to give approval for any other use of carports, by applications to create total internal enclosed spaces. The directors are also anxious to protect the landscaped areas and will not give approval to increase car parking spaces by elimination of landscaping.

4. Frequently Asked Questions

I own my house; it's freehold, so why do I have to ask permission to change it?

When you signed the tripartite contract to purchase your house you agreed to be bound by the Covenants contained in that contract. Your solicitor should have brought these to your attention. POSOL has a legal duty of care to uphold these covenants to protect all shareholders who bought their houses with the comfort of the protection which these covenants provide.

I've got Planning Approval to change my house so why do I need POSOL's approval?

Portsmouth City Council Planning Department bases its judgements on specific planning criteria such as whether the land is zoned for commercial, industrial or housing use. Town planning policies change from time to time. Planners disregard the covenants as these are normally outside their direct control and may also be

unknown to them. In signing your purchase documents you agreed to accept the POSOL covenants which are **in addition to** the local planning requirements.

I don't need Planning Approval, I've checked with Portsmouth City Council and I have Building Control approval. Do I still need to contact POSOL?

If the proposed work involves any change in the external appearance of the property, for example roof lights, POSOL's approval is required as you agreed when you signed the tripartite contract.

POSOL has refused my application but all my neighbours think it's a great idea. Isn't that good enough for POSOL?

Neighbours mainly want to be agreeable and their judgement can be affected by their relationship with you. Although the views of neighbours are important and it is courteous to consult with them, they were not parties to the tripartite contract that you signed and POSOL's approval is still required.

Have I any right of appeal if my application by POSOL is refused?

The transfer documents give no right of appeal or right to arbitration. If you are not content with a POSOL refusal then you can appeal to a panel that POSOL will convene for the purpose. This panel will comprise the Chairman of the Board of Directors, and two other people. At least one person on this panel will be independent of the Board, and will be nominated by the Royal Institute of British Architects.

If after your appeal has been heard you are still not satisfied you may apply to the Courts to have the decision over-ruled on the grounds of its unreasonableness. Note that the entire application procedure from the preliminary application form onwards is designed as an aid to constructive dialogue as the Board has every wish to be as reasonable as possible.

If POSOL rejects my application what happens if I go ahead anyway?

POSOL has the legal power to serve you with an injunction to prevent you proceeding, or requiring you to reinstate the property to its former condition if you have commenced work. At a future date when you come to sell your property POSOL's approval is required as the Land Registry will not transfer the property to the new owners without POSOL's agreement. Under current legislation you are also obliged to tell any prospective purchaser about any disputes that affect your property, and this may affect the prospects for sale or the value.

... & finally

Shareholders will appreciate that it has taken several years to develop a coherent policy. Unapproved developments have taken place in the past, which have alerted the directors to the need for vigilance to preserve the integrity of the site. In issuing this new policy and the associated guidance and procedures the Board wishes to draw a line under the past. Each new application for development that affects the external appearance of a property will be considered on its merits in accordance with this policy. Previous precedents will not bind the Board. Accepting however that not

all shareholders will agree with the policy and procedure as outlined above the directors will always be willing to meet and discuss any submitted proposals.

Approved by the Board of Directors on 19 August 2005

Chris March, Company Secretary