



Appeal Decision

Site visit made on 7 September 2021 by Ifeanyi Chukwujekwu BSc MSc MIEMA
CEnv MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2021

Appeal Ref: APP/W4515/W/21/3275114

57 Cambridge Avenue, Whitley Bay, Tyne And Wear NE26 1BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made Miss Lisa Mullin against the decision of North Tyneside Metropolitan Borough Council.
 - The application Ref 21/00545/FULH, dated 15 February 2021, was approved on 30 April 2021 and planning permission was granted subject to conditions.
 - The development permitted is re-roof yard area with timber frame, not exceeding height of original walls. Make good deteriorating walls. Renovations of Bi-fold door in gable end including roof timbers to prevent water ingress. Juliette balcony with small platform not exceeding 50cm to provide fire exit, light and air including patio doors¹.
 - The condition in dispute is No 3 which states that: *Within two months of the date of this consent, details of a wall to be provided to the north-western edge of the balcony shall be submitted to and agreed in writing by the Local Planning Authority. The wall shall be finished in materials to match the existing and shall project along the north-western length of the balcony by 0.8m from the rear elevation of the property and shall be no lower than 1.7m in height from the finished floor level of the balcony. It shall be installed within one month of the date of the approval of the details and retained thereafter.*
 - The reason given for the condition is: *In the interests of the amenity of neighbouring properties having regard to policy DM6.2 of the North Tyneside Local Plan (2017).*
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Decision

1. The appeal is allowed and the planning permission Ref 21/00545/FULH for re-roof yard area with timber frame, not exceeding height of original walls. Make good deteriorating walls. Renovations of Bi-fold door in gable end including roof timbers to prevent water ingress. Juliette balcony with small platform not exceeding 50cm to provide fire exit, light and air including patio doors at 57 Cambridge Avenue, Whitley Bay, Tyne And Wear NE26 1BA granted on 30 April 2021 by North Tyneside Metropolitan Borough Council, is varied by deleting condition 3 and substituting for it the following condition: *Within two months of the date of this approval, details of a privacy screen to be provided to the north-western edge of the balcony shall be submitted to and agreed in writing by the Local Planning Authority. These details shall include details of the proposed materials and finishes. The screen shall project along the north-western length of the balcony for a distance of 0.8m from the rear elevation of the property and shall be no lower than 1.7m in height from the finished floor*

¹ Taken from Council's decision notice as is a more succinct description

level of the balcony. It shall be installed within one month of the date of the approval of the details and retained thereafter.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework. Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Background and Main Issue

4. Planning permission was granted on 30 April 2021 with a condition to provide details of a privacy screening to be installed on the north-western edge of the Juliette balcony. As worded, the condition requires the screen to be finished in material to match the existing brick wall.
5. The appellant submits that the use of brick is not feasible as bricks will not adhere to the membrane in place on the flat roof and also contends that the timber roof will not support the weight of bricks. They also contend that the screening would obscure their daylight and result in a safety and security issue.
6. The main issue in this appeal is whether the disputed condition is reasonable and necessary to mitigate the effects of the Juliette balcony with small platform upon the living conditions of residents of 61 Cambridge Avenue with regard to overlooking and privacy.

Reasons for the Recommendation

7. I observed on my visit to the site that the bi-fold door leading out to the balcony had been installed but the railing was yet to be installed. From the platform I was provided unrestricted direct views down into the rear yard area of No. 61. Without proper screening to restrict such views, this would have a significant adverse impact on the privacy of No. 61.
8. Thus, I find the condition to be necessary to mitigate the effects of the Juliette balcony with small platform upon privacy of residents of no. 61. However, the privacy wall to be installed at the edge of the balcony would sit on top of the timber roof of the yard at the appeal property which is unlikely to be unable to support the weight of brick material. Having regard to the respective appeal statements, it appears that the appellant is willing to provide a privacy screen in an alternative form, without the use of a brick wall, and that the Council did not necessarily intend the wording of the condition to be as restrictive as it appears in terms of the use of matching materials. In other words, the Council also seems amenable to an alternative form of privacy screen without the use

of brick. As such, whilst the screen is necessary, I find the condition is not reasonable in its present form, according to the test set out in paragraph 57 of the National Planning Policy Framework (NPPF).

9. The same ends could be met through a privacy screen provided in an alternative manner, details of which should be provided by the appellant and approved by the Council prior to installation.

Conclusion and Recommendation

10. For the reasons given above and having had regard to evidence before me, I recommend that the appeal should succeed, and the planning permission varied by deleting the disputed condition and substituting with the condition stated in paragraph 1 above.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

11. I have considered all the submitted evidence and the Appeal Planning Officer's report, and on that basis, I agree that the appeal should be allowed, and the planning permission varied by deleting the disputed condition 3 and substituting with the condition set out in paragraph 1 of this report.

Chris Preston

INSPECTOR