



Appeal Decision

Site visit made on 2 August 2023

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2023

Appeal Ref: APP/P1940/D/23/3321068

44 Sandy Lodge Road, Moor Park, Rickmansworth, WD3 1LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 Mr A Mohammed against the decision of Three Rivers District Council.
 - The application Ref 23/0191/FUL, dated 1 February 2023, was refused by notice dated 24 April 2023.
 - The application sought planning permission for 'Part Retrospective: Proposed two storey and single storey rear extensions with accommodation within the roof served by front dormer windows and internal alterations, single storey front infill extension, addition of first floor Juliet balcony, ground floor window, addition of accessible first floor balcony, and alterations to balustrading to rear and alterations to roof form of existing single storey flat roofed extension without complying with a condition attached to planning permission Ref 22/1120/RSP, dated 21 December 2022.'
 - The condition in dispute is No 2 which states that: *Notwithstanding the proposed reference to the erection of a obscurely glazed 1.7m privacy screen to the flank of the first floor balcony as shown on drawing number 23219-10 Rev G, within 2 months from the date of this permission a solid rendered wall to match the external appearance of the dwellinghouse shall be erected up to the eaves height of the adjacent gabled roof for the depth of the first floor balcony along the eastern flank. Once erected, the solid wall shall be permanently maintained as such thereafter in terms of appearance, design and height.*
 - The reason given for the condition is: *To safeguard the residential amenity of neighbouring occupiers in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies (adopted July 2013).*
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Decision

1. The appeal is allowed and planning permission is granted for two storey and single storey rear extensions with accommodation within the roof served by front dormer windows and internal alterations, single storey front infill extension, addition of first floor Juliet balcony, ground floor window, addition of accessible first floor balcony, and alterations to balustrading to rear and alterations to roof form of existing single storey flat roofed extension at 44 Sandy Lodge Road, Moor Park, Rickmansworth, WD3 1LJ in accordance with the application Ref 23/0191/FUL dated 1 February 2023, without compliance with condition number 2 previously imposed on planning permission Ref 22/1120/RSP dated 21 December 2022 and subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be maintained in accordance with the following approved plans: 23219-B-01 REV A; 23219-11 REV A; 23219-12 REV A; 23219-01 REV A; 23219-02 REV A; 23219-03 REV A; 23219-04 REV A; 23219-05 REV A; 23219-06 REV B; 23219-07 REV B; 23219-08 REV B; 23219-09 REV B; 23219-10 REV G.
- 3) Notwithstanding the proposed reference to the erection of an obscurely glazed 1.7m privacy screen to the eastern flank of the first floor balcony as shown on drawing number 23219-10 Rev G, within two months from the date of this permission, an obscure privacy screen at a minimum obscurity level 5 shall be erected in accordance with the approved details and at a height of 1.8m (including retaining wall) from the surface of the first-floor rear balcony for the depth of the balcony as shown on approved plan 23219-B-01 REV A. Once erected, the minimum level 5 obscure privacy screen shall be permanently maintained thereafter in terms of its siting, depth, height and obscurity level.

Reasons

2. The main issue in this appeal is whether the existing condition is reasonable and necessary in the interests of the living conditions with regard to the privacy of the neighbouring occupiers at 46 Sandy Lodge Road and whether the proposed variation to the condition is reasonable and necessary in that respect.
3. No 44 is a large detached dwelling sited within a large plot on a road of similarly sized dwellings and plots. It has been previously extended, most recently under permission ref 19/1345/FUL. A first floor rear balcony has been constructed that did not form part of that permission and the appellant applied for permission to remedy this under ref 22/1120/RSP. As built, the balcony extends along half of the dwelling at first floor level and is accessed from two of the bedrooms. It has a clear glazed screen across its width, with a high solid wall on its western flank and a lower solid wall on its eastern flank. Amended plans submitted with application ref 22/1120/RSP proposed an obscure glazed screen with an additional height of 0.6m on top of the existing solid wall (total height of 1.8m) for the full depth of the balcony. Contrary to its officer's recommendation that a condition for the proposed screen would be acceptable, the Council imposed a condition that required a much higher solid rendered wall to the eaves height of the roof.
4. The appellant's reasons for seeking the variation of that condition are that he considers that it fails to meet the tests set out in the National Planning Policy Framework, as amplified in the Planning Practice Guidance (PPG), that it is not necessary as the reason given for the condition would be met at least equally as well - and in the opinion of the appellant better - by the proposed obscure glazed screening and that it is not reasonable as it serves no planning purpose. The proposed variation is for a frameless, obscure glazed screen with a minimum privacy level 5 which would be attached to the top of the existing wall, with an overall height of 1.8m.
5. The development plan includes policies CP1 and CP12 in the Council's Core Strategy (2011) and policy DM1 and Appendix 2 in its Development Management Policies document (2013). Together, these seek to ensure that development is of a high quality that protects residential amenities and takes into account the need for adequate privacy. The Framework has a similar

objective. Appendix 2 also says that development should not incorporate balconies which overlook neighbouring properties to any degree.

6. At my site visit, I noted that the principal, forward-facing view from the balcony is across the large and very private rear garden of the appeal dwelling. The rear elevation of the neighbouring property at no 46 is set back several metres from that of the appeal dwelling and I noted that it is only possible to see that dwelling when looking to the eastern side of the balcony. Even then only three windows were visible at all at no 46. Those were at first floor level in the rear elevation, the nearest of which is a shallow bay window. Even when standing at the far eastern edge of the balcony it was not possible to see into those windows as a result of the distance between the dwellings and because any views would be at an oblique angle. The only direct view would be of the narrow window in the side of the bay which, at the time of my visit, was screened from view by a deciduous tree which appeared to be in the garden of no 46. Even during winter months and if that tree were removed, the narrow width of the window and the distance would not enable clear views into that room. The very high evergreen hedge along the side boundary and other planting within the garden of no 46 provides very good, all year round screening of that garden from the balcony.
7. The Council has failed to demonstrate how the proposal would result in any actual overlooking. Given its height and the level of obscurity, I am satisfied that the proposed variation would provide an acceptable level of privacy for the occupiers of no 46. Whilst it is clear that any perception of overlooking has been exaggerated, given the relationship between the balcony and the bay window of no 46 there remains a need for some degree of screening. The height and level of obscurity of the proposed variation would achieve that satisfactorily and would overcome any perception of overlooking.
8. The PPG makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As it is unclear to me to what extent the original development has been completed, the commencement condition remains relevant. The condition for compliance with the plans imposed on the original planning permission also remains relevant and I have added the additional submitted plan. The Council has suggested some minor changes to the appellant's proposed variation of the condition for the balcony screen and as there is no need for further details of the obscurity level and they refer to the additional submitted plan, those are acceptable.

Conclusion

9. I conclude, for the reasons given above, that the existing condition is neither reasonable or necessary. The proposed variation is both reasonable and necessary and would not result in harm to the privacy and living conditions of the occupiers of no 46. It would accord with the development plan policies referred to earlier and with the Framework. The appeal should be allowed.

Sarah Colebourne

Inspector