
Appeal Decisions

Site visit made on 5 December 2023

by **A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC**

an Inspector appointed by the Secretary of State

Decision date: 15 December 2023

Appeal A: APP/E2530/C/23/3316508

Appeal B: APP/E2530/C/23/3316509

62 Conduit Road, Stamford, Lincolnshire PE9 1QL

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Mr Simon Ragdale and Appeal B is made by Mrs Laura Evangelista Ragdale against an enforcement notice issued by South Kesteven District Council.
- The enforcement notice was issued on 12 January 2023.
- The breach of planning control as alleged in the notice is breach of condition 2 (window glazing) of planning approval S18/1394 – the first floor windows of the games room as shown on drawing No:15/021/02P on the South and West elevations, and the southernmost window on the East elevation, are not obscure glazed to a minimum of Pilkington Privacy Level 3 or an equivalent product. Of these windows, those on the South and West elevations have openings below 1.7m from the immediate floor level.
- The requirements of the notice are:
 - 1) Remove the 1st floor window units on the South and West elevations and remove 1st floor window unit on the southernmost East elevation of the games room, and replace with window units with no opening parts less than 1.7 m from the immediate floor level;
 - 2) Fit the 1st floor windows on the South and West elevations with obscure glazing to a minimum Pilkington Privacy Level 3 or an equivalent product;
 - 3) The windows referenced in steps 1 and 2 of this Notice are to be retained as such for the lifetime of the development.
- The period for compliance with the requirements is 6 calendar months.
- The appeals are proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.

Summary of Decisions: The appeal is dismissed and the enforcement notice upheld.

The appeals on ground (c)

1. The ground of appeal is that there has not been a breach of planning control. The appellant argues that condition 2 refers erroneously to the first floor windows to the south, west and south east elevations as being obscure glazed on drawing 15021/02P approved with planning permission S18/1394 for "*Section 73 application for the removal or variation of Conditions 2 (Approved Plans), 7 (Obscure Glazing) and 8 (Obscure Glazing) of planning permission S16/0490*" and therefore the reference in the condition to the south and west elevations to be obscure glazing does not apply.
2. I have examined the relevant drawing in detail and can see that the appellant is correct in that the windows shown on the south and west elevations (on Drawing 15/021/02P) specify "*clear glazed*". However, whilst the specific wording used by the Council in condition 2 does refer to "*shown to be obscure*

glazed on drawing 15/021/02P” the remainder of the condition makes perfect sense and the Council’s intentions for this requirement as expressed in the reason for the condition are clear.

3. In addition, given the planning history of the site and the wider body of evidence before me, it seems that the appellant will be aware of the Council’s concerns about the effect of the development on the living conditions of neighbouring and adjoining properties with particular reference to privacy. He will also be clearly aware of the Council’s longstanding requirements in relation to each of the first-floor windows. The Courts have held that an Inspector has a duty to interpret a condition to give it a sensible meaning if they can and have subsequently developed a pragmatic and purposive approach to the interpretation of conditions in law. In this case, my sensible and pragmatic interpretation of condition 2 of planning permission S18/1394 is that the first floor windows on the south and west elevations and the first floor window to the south of the east elevation shall have been installed with obscure glazing and with no opening part being less than 1.7m above the floor level immediately below the centre of the opening part.
4. Since the above condition has not been complied with in full before the games room has been occupied/brought into use, there is a breach of planning control and the appeal on ground (c) cannot succeed.
5. The appellant has also presented comments relating to the condition serving no practical purpose, but that is an argument on planning merits which would be dealt with under ground (a) which has not been submitted in this case.

Formal Decision

6. The appeal is dismissed and the enforcement notice upheld.

A A Phillips

INSPECTOR