



Appeal Decision

Site visit made on 4 July 2024

by B J Sims BSc (Hons) CEng MICE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2024

Appeal Ref: APP/A1530/D/23/3334922

25 Cherrywood Drive, Colchester, CO3 4LU.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Polley against the decision of Colchester City Council.
 - The application Ref is 231829.
 - The development proposed is the installation of two windows on the west side wall of the property.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of two windows on the west side wall of the property at 25 Cherrywood Drive, Colchester, CO3 4LU, in accordance with the terms of the application, Ref 231829, 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 materials and construction of the windows hereby permitted shall match or complement the windows in the existing building.
 - 3) At no time shall any part of the glazed areas of the windows hereby permitted be above the level of the top of the adjacent boundary wall with No 18 Cherrywood Drive.

Main Issue

2. The main issue is whether the proposed windows would be likely to give rise to unacceptable overlooking from the appeal property towards the rear of the adjacent dwelling at No 18 Cherrywood Drive, resulting in a loss of privacy there.

Reasons

3. The original plan is of poor quality and fails to make clear the precise position and height of the proposed windows and the Council justifiably refused the application for the sole reason that it was extremely likely, on the evidence available, that the proposed windows would cause unacceptable overlooking. It was also noted that windows in the gable end of this bungalow would amount to an incongruous addition to the property.

4. If the windows were set at the same height as others in the bungalow, I would agree that the potential for overlooking above the height of the intervening boundary wall would warrant dismissing this appeal.
5. Only at the appeal stage did the Appellant make clear, by way of additional drawings, that no part of the glazed area of the windows would be above the stated 1.575m height of the boundary wall.
6. Notwithstanding that the windows might appear incongruous in the gable end of No25, they would be little visible from public viewpoints and I agree with the Council that this concern fails to justify rejecting the proposal.
7. As for the main issue of overlooking, I consider that the boundary wall is of sufficiently permanent construction that no unacceptable overlooking would take place from the proposed windows, provided their glazed areas were kept permanently at or below the height of the wall.
8. I consider that this could be ensured by the imposition of the precise and enforceable condition set out above. Although this condition has not been suggested by either party, I am satisfied that it would meet the sole reason of the Council for refusing the original application.
9. With that condition in place, together with a requirement that the materials and construction of the windows would match those existing in the other elevations of the bungalow, the development would comply with the relevant Policies DM13 and DM15 of the adopted Colchester Borough Local Plan regarding residential alterations, design and amenity, and thus with the development plan as a whole. I therefore conclude that this appeal should be allowed subject to the conditions set out above.

B J Sims

INSPECTOR