



Appeal Decision

Site visit made on 5 September 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2024

Appeal Ref: APP/W1525/W/24/3337748

1 Joseph Clibbon Drive, Springfield, Chelmsford, Essex CM1 6AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Matt Sotayo against the decision of Chelmsford City Council.
 - The application Ref 20/01519/DOC/1 sought approval of details pursuant to condition No 5 of planning permission Ref 20/01519/FUL, granted on 7 December 2020.
 - The application was refused by notice dated 6 December 2023.
 - The development proposed is two storey rear extension, with balcony/terrace on roof to be accessed through addition of door on second floor. Addition of window to first floor.
 - The details for which approval is sought is condition No 5, which is set out as follows:
During the construction of the development hereby permitted privacy screens shall be installed along the north edge of the second floor terrace, details and materials of which shall have been previously submitted to and approved in writing by the local planning authority prior to their installation. The installed privacy screens shall be permanently retained thereafter.
 - The reason given for the condition is:
In the interests of protecting the living environment of occupiers of neighbouring dwellings in accordance with Policy DM29 of the Chelmsford Local Plan.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the submitted details address the requirements of condition No 5.

Reasons

3. In determining this appeal, I am only able to consider whether the requirements of condition No 5 have been addressed. I am not able to reconsider the planning permission or discuss the merits of the condition.
4. Condition No 5 firstly requires details and materials of the privacy screens to be installed along the north edge of the second-floor terrace to be submitted to the local planning authority for approval. The condition only permits the installation of the privacy screens once written approval is granted.
5. During my visit, I observed that privacy screens had been installed around the entire perimeter of the terrace to a taller height than shown on the plans approved under the planning permission.

6. The submitted plans show proposed changes to the screening currently installed, particularly to the west elevation. However, the proposed arrangement clearly includes additional screening to parts of the terrace's perimeter not specified by the condition. Therefore, the submitted details do not address the requirements of the condition.
7. Furthermore, the submitted details illustrate that the screening to the northern edge of the terrace would remain in its current, as-built state. As such, further conflict with the condition arises from the screening being installed before the written approval of the local planning authority was obtained.
8. Procedurally, if I were to allow flexibility regarding the condition's requirements, this would effectively modify the condition. Separate legislation and a separate application process exists for this under Section 73 of the Town and Country Planning Act 1990.
9. The reason given for the condition was to safeguard the amenities of the occupiers of the neighbouring properties. While no compelling evidence has been provided to suggest that the proposed arrangement would fail to achieve this, it does not overcome the fundamental failure to address the requirements of the condition.
10. Given my findings above, the submitted details do not address the requirements of condition No 5. I therefore have no option other than to dismiss the appeal.

Conclusion

11. For the reasons given above, I conclude that the appeal should be dismissed.

P Storey

INSPECTOR