



Appeal Decision

Site visit made on 29 November 2024

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 2nd December 2024

Appeal Ref: APP/A1530/W/24/3341828

6 Gunfleet Close, West Mersea, Essex CO5 8LE

- 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 by Sharon Bull against the decision of Colchester Borough Council.
 - The application Ref 240053, dated 11 January 2024, was approved on 22 March 2024 and planning permission was granted subject to conditions.
 - The development permitted is the addition of a first floor balcony to the north elevation.
 - The condition in dispute is No 5, which states: *"Prior to first use, an obscure glazed screen/balustrade shall be erected on the east elevation of the balcony hereby permitted. The screen shall be obscure glazed to a minimum of level 4 on the Pilkington scale. The obscure glazing shall be to a height of 1.8 metres as measured from the finished floor level of the balcony. The glazed screen shall not thereafter be altered in any way without the prior written approval of the local planning authority"*.
 - The reason given for the condition is: *"To protect residential amenity"*.
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Decision

1. The appeal is allowed, and planning permission is granted for the addition of a first floor balcony to the north elevation at 6 Gunfleet Close, West Mersea, Essex CO5 8LE, in accordance with the application Ref 240053 dated 11 January 2024, without compliance with condition No 5 previously imposed on planning permission Ref 240053 dated 22 March 2024, and subject to the following conditions:
 - 1) The development hereby permitted shall be commenced not later than on 7 February 2027.
 - 2) The development shall be carried out in accordance with the following approved plans: MS01, MS02 and Block Plan.
 - 3) The development shall be constructed of the materials specified in the application and approved plans.
 - 4) No construction works shall take place outside the following times: 08.00 – 17.00 on Mondays to Fridays, and 08.00 – 13.00 on Saturdays. No construction work shall take place on Sundays or Bank Holidays.

Preliminary matter

2. The application form states: *"FYI our drawing also indicates the location of our proposed ground floor kitchen/diner extension which does not require planning approval as it is within the permitted size..."*. The officer's report makes it clear that the Council has dealt with the application on the basis that permission is sought only for the proposed balcony. For the avoidance of doubt, I have considered the appeal on the same basis.

Reasons

3. No 6 Gunfleet Close is a four-bedroom detached house, with gardens to the side and rear. The rear garden, facing east, measures about 20m wide by just over 10m deep. Behind is No 10 Brickhouse Close, which also has a garden of similar dimensions. To the north is agricultural land.
4. The proposed development would add a balcony at first floor level, on the north-facing side elevation. As shown in the submitted plans, the balcony would have a glazed surround, to both its northern and eastern sides, to a height of 1.1m. The disputed Condition No 5 requires that one of these glass panels, on the east, rear-facing elevation, be increased to 1.8m, and be formed of obscure rather than transparent glazing.
5. From the new balcony, there would be the potential for elevated views towards the rear of No 10 Brickhouse Close. However, even from the very edge of the balcony, the distance to the closest point on No 10's rear garden boundary would be around 14m, and the distance to the nearest windows in that property would be about 24m. In suburban residential areas such as this, it is not unusual for some degree of mutual overlooking to be tolerated, and distances of this magnitude are normally regarded as sufficient to preserve a reasonable level of privacy. There seems no reason why this should not be so in the present case. There is no suggestion that any local standards or design guidelines would be breached.
6. In addition, in this case the shared boundary is also enclosed not only by a 1.8m close-boarded fence, but also by a row of trees and bushes of significantly greater height, including some evergreen species. Despite some minor gaps, I saw on my visit that this vegetation is capable of providing a good level of year-round screening. This reinforces my view that the distance from the property boundary is adequate.
7. And in any event, the appeal property as currently configured has three first floor windows facing to the rear. These include two bedrooms and a landing window. One of these bedrooms is currently being used as a home workstation and is therefore likely to receive a good deal of use. The balcony now proposed would be nearly 4m further from the rear boundary than any of these existing windows, and would have a more restricted field of view, due to its recessed position. Furthermore, the main focus of the views from the balcony would be likely to be towards the attractive open countryside to the north. In these circumstances, the provision of the new balcony would not be likely to add materially to the potential for overlooking that already exists.
8. For these reasons, I conclude that the provision of the proposed balcony would have no significant adverse effects on the privacy of the occupants of No 10 Brickhouse Close. It therefore follows that Condition 5 of the planning permission granted by the Council is unnecessary, and should be deleted. Accordingly, this appeal is now allowed. The other conditions attached to the original permission have not been challenged, and are hereby re-imposed, subject to some minor editing where appropriate, as set out above.

J Felgate

INSPECTOR