



Appeal Decision

Site visit made on 20 November 2024

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2024

Appeal Ref: APP/C3810/D/24/3352419

4 Florida Close, Ferring, West Sussex, BN12 5PF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval to details required by a condition of a planning permission.
 - The appeal is made by Dr Dan Homolka against the decision of Arun District Council.
 - The application Ref FG/77/24/DOC sought approval of details pursuant to condition No 3 of planning permission Ref FG/179/21/HH.
 - The development proposed is the erection of a front and rear extension, loft conversion and detached garage.
 - The details for which approval is sought are: Privacy screens.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed privacy screens upon the living conditions at 5 Florida Close with regard to overlooking.

Reasons

3. Planning permission was granted for application Ref FG/179/21/HH on appeal by decision dated 21 April 2022 (Ref APP/C3810/D/22/3290748). In addition to the standard time limit condition the permission was subject to a condition requiring the development to be carried out in accordance with the plans that were permitted, and a third condition which read:

'Notwithstanding the approved drawings, prior to the use of the first floor roof area as a terrace details of privacy screens to the side and rear of the area shall be submitted to and approved by the local planning authority. The approved screens shall be installed before use of the roof area as a terrace commences and shall be maintained as such thereafter.'
4. The Inspector's reason for imposing condition No 3 is set out within paragraph 13 of their decision. It is clear that the Inspector concluded the need for extra screening beyond that shown on the application drawings in order to protect the living conditions of the occupants of 5 Florida Close.
5. At the time of my visit the permitted works were largely complete. The 1.8m high frosted glass screens to the west and east sides of the first-floor balcony,

and the 1.1m high clear glass balustrade panels to its south side, as shown on the approved plans, were in place.

6. I was able to access the balcony and observe the relationship with 5 Florida Close. I saw for myself the number of windows to the side elevation of this neighbouring property that look over the appeal site, and the existing level of mutual privacy loss that exists between both properties.
7. From a standing position towards the outside edge of the balcony, and despite the side screen, I was able to gain direct sight into a first-floor bedroom space served by the nearest window. Beyond that, a second window at first-floor level to No 5 appeared to be obscurely glazed. Two further windows to the side elevation of No 5 at first-floor level appeared to serve the same area of living space. I was able to look towards these and have some sight into part of this room but from a greater distance. I was also able to gain direct sight into a kitchen through the nearest ground floor window and into part of a living area from a second ground floor window.
8. From my observations, the reason for the Inspector's imposition of condition No 3 was clear to me. By extending the opaque screens around the south-eastern corner of the balcony across part of the rear terrace, the distance between the window openings at No 5 and the open section of the balcony would be increased. As such, the condition is reasonable and necessary to protect the neighbour's living conditions. In addition, its purpose explicitly and unambiguously seeks further details to be submitted for approval in order to enable a precise assessment to be made over the efficacy of the proposed additional screening that is required. When taken with the clear timeframe for the privacy screens to be installed, the condition is clearly enforceable. It therefore satisfies the tests for the use of conditions as set out in the National Planning Policy Framework and Planning Practice Guidance.
9. The details submitted as part of the current appeal were a repeat of those approved and which were required to be implemented by condition No 2 of the planning permission. They did not propose any additional screening that would wrap-around the south-eastern corner across the rear of the balcony. The requirements necessary to discharge condition No 3 have not been satisfied.
10. Without the submission of details that can be agreed to provide measures to prevent undue overlooking to the side windows of the neighbouring house at No 5, the works that have been undertaken fail to accord with Policy D DM4 of the Arun Local Plan 2011-2031 (adopted July 2018) as far as it requires development to prevent adverse overlooking to neighbouring properties.
11. The appellant has suggested a condition that would require the first glazed panel on the return along the south elevation to be raised to 1.8m high and that both it, and the second panel, which would remain at 1.1m, be obscurely glazed. The imposition of a further condition would not satisfy the requirements of condition No 3. Neither, based on my observations, would the degree of screening proposed by this suggested compromise offer the protection necessary to safeguard the living conditions of the adjoining neighbours.
12. I note the Council has suggested that a length of 1.8m high opaque panels equivalent to three of the existing 1.1m high clear glass panels would achieve

an acceptable level of screening. I agree. The appellant's suggested compromise would not.

13. I have noted the appellant's submissions relating to the background of the property's purchase but this does not alter the need to safeguard the neighbour's living conditions in compliance with the development plan. Other balconies in the area and their respective degrees of screen balustrade are not relevant to the specific circumstances or context of this case.

Conclusion

14. For the reasons given, the appeal fails. My decision does not preclude the appellant from submitting details as further options to the Council for their consideration in order to satisfy condition No 3. A right of appeal would apply in the event of any such proposals being rejected.

John D Allan

INSPECTOR