



Appeal Decision

Site visit made on 23 July 2019

by E Symmons BSc (Hons), MSc

an Inspector appointed by the Secretary of State

Decision date: 14 August 2019

Appeal Ref: APP/L5810/W/19/3221815

2A Longford Close, Hampton Hill TW12 1AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Liam Newbury against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 18/3655/VRC, dated 8 November 2018, was refused by notice dated 22 January 2019.
 - The application sought planning permission for an extension to the side of the existing building, that will become a new 2 bedroom family dwelling without complying with conditions attached to planning permission Ref 15/0182/FUL, dated 8 April 2015.
 - The condition in dispute is ref GD02A which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) no external alterations or extensions shall be carried out to the building(s) hereby approved.*
 - The reason given for the condition is: *To safeguard the amenities of the occupiers of adjoining property and the area generally.*
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Decision

1. The appeal is allowed and permission is granted for an extension to the side of the existing building, that will become a new 2 bedroom family dwelling at 2A Longford Close, Hampton Hill TW12 1AB in accordance with application reference 18/3655/VRC without compliance with condition GD02A previously imposed on planning permission 15/0182/FUL dated 8 April 2015 but subject to the conditions as detailed in the schedule at the end of this decision. Condition GD02A is varied and replaced with an amended version.

Background and Main Issues

2. Construction of the appeal property was granted planning permission with a condition prohibiting external alterations or extensions. The Planning Practice Guidance¹ (PPG) states that the use of conditions to restrict future use of permitted development rights may not pass the test of reasonableness or necessity. If used, they should make specific reference to relevant provisions of the Town and Country (General Permitted Development) Order 2015 (GDPO).
3. The appellant applied to the Council to have this condition removed. In the Council's Officer Report no concern was raised regarding potential alteration to the roof under the GDPO. However, concern was raised regarding the impact of

¹ Paragraph: 017 Reference ID: 21a-017-20190723. Revision date: 23 07 2019.

a possible rear extension. The appellant has requested that should I concur with this view that I vary the condition accordingly.

4. The main issues are the effect of removing or varying the condition on:
 - the living conditions of occupiers of neighbouring properties, and
 - the character and appearance of the area.

Reasons

Potential roof alterations

5. The appeal property is a recently constructed side extension to 2 Longford Close to form an independent two bedroom dwelling at the end of a short terrace of properties. The extension blends well with the original properties having a complementary design and materials. To the rear there is a ground floor extension which was constructed as part of the original newbuild.
6. The roof of the appeal property mirrors the style and form of the host terrace in height and outline. Construction of the appeal dwelling has in effect, moved the end of the short terrace closer to properties on Uxbridge Road. However, it is separated from Uxbridge Road by a parking area and gardens with trees and shrubs. The roof is therefore not substantially more prominent than the roof of the original host property.
7. Should condition GD02A be removed there would be potential to extend the roof within the limits of the GDPO. From my assessment of the evidence there is nothing before me to demonstrate that any additions or alterations to the roof carried out under the GDPO would be likely to be of a scale that would damage the character and appearance of the host building or the wider streetscape. Neither is there evidence to support the view that removal of this restriction would harm the living conditions of occupiers of neighbouring properties.
8. Removal of this part of the condition would not conflict with Policies LP 1 or LP 8 of the Local Plan which together and amongst other matters seek that development respects and enhances local character and protects the living conditions of occupiers of neighbouring properties. There is therefore no substantive reason to support retention of this part of the disputed condition and I do not consider that it would pass the test of reasonableness.

Potential rear extensions

9. In the absence of condition GD02A, the property could be further extended to the rear under current GDPO rights. Views to the rear of the appeal property are obscured by the fence along Longford Close and vegetation within the gardens of Uxbridge Road. A rear extension would not be particularly visible and would not significantly affect the character and appearance of the area.
10. With respect to the living conditions of occupiers of neighbouring properties on Uxbridge Road, due to their distance from the rear of the appeal property, these dwellings would be unlikely to be affected by a single storey rear extension. However, the adjacent garden at 2 Longford Close (No 2) is relatively narrow having been reduced in size to accommodate construction of the appeal property. The appeal property has an existing rear extension approved within the original planning permission. Should this be extended

within the limits of the GDPO it could have an overbearing effect upon the adjacent garden at No 2. This would be compounded by the fact that the property at No 4 has an existing extension which is currently being extended beyond the rear elevation of No 2. An extension on either side would enclose the rear ground floor of No 2 on both sides. This would have an overbearing effect upon the property significantly reducing outlook and so harming occupiers' living conditions. It would not accord with the Council's Supplementary Planning Document² (SPD) which seeks that extensions do not result in an unacceptable sense of enclosure or appear overbearing.

11. Removal of condition GD02A to allow rear extensions to the appeal property under the GDPO would be likely to harm the living conditions of occupiers of the neighbouring property. This would conflict with Policy LP1 of the Local Plan³ which amongst other matters seeks that development is of high design quality and is compatible with other uses. It would also conflict with Policy LP8 of the Local Plan which relates to protection of the living conditions of other properties. In these circumstances retention of this restriction would be reasonable and in accordance with the PPG.

Conditions

12. The guidance in the PPG makes clear that decision notices for the grant of planning permission under section 73 of the Act should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. I have some information before me about the status of the conditions imposed on the original planning permission. On 24 June 2019 condition U82033 was varied by Decision Notice Ref 19/0842/VRC and a new decision notice issued with revised conditions which reflect the progress of the development. The original wording of the conditions within consent 15/0182/FUL, dated 8 April 2015 has therefore been altered. I shall use this most recent version as the basis for the conditions within this decision and impose all those that I consider relevant. If some have already been discharged, that is a matter which can be addressed by the parties.
13. For the avoidance of doubt and in the interests of certainty a condition specifying plans has been included. Conditions 2, 4, 6 and 7 refer to the environmental sustainability of the development; condition 3 ensures suitable storage of waste to secure the living conditions of occupiers; condition 5 requires compliance with Lifetime Homes standards; conditions 8, 9 and 10 safeguard the appearance of the area. Condition 11 replaces condition GD02A of the original consent restricting permitted development rights for rear extensions only. The condition also incorporates the Council's original condition U82031 with respect to restriction of roof terraces or balconies. This is required to safeguard the privacy of occupiers of neighbouring properties due to the proximity of the adjacent gardens and the potential effect a roof terrace or balcony would have on occupiers' privacy due to overlooking.

Conclusions

14. I have no evidence before me to conclude that alteration to the roof within the limits of the GDPO would affect the character or appearance of the area or the

² London Borough of Richmond Supplementary Planning Document. House extensions and external alterations. May 2015.

³ London Borough of Richmond upon Thames Local Plan, Adopted July 2018.

living conditions of occupiers of neighbouring properties. However, regarding rear extensions, retention of this restriction can be justified. Consequently, the disputed condition is unnecessarily restrictive and fails the test of reasonableness as set out in the PPG and paragraph 55 of the Framework⁴. Condition GD20A is therefore varied to retain the restriction of permitted development rights upon external extensions, but remove the restriction upon roof alterations.

15. For the reasons stated above the appeal is allowed.

E Symmons
INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans and documents, where applicable.
 - LC/01 Received 19 January 2015.
 - LC/02 Received 10 March 2015.
 - LC/03 Received 10 March 2015.
 - LC/04 Received 10 March 2015.
 - LC/05 Received 19 January 2015.
 - Rear Garden Plan Received 13 March 2015.
 - LC/15 Received 11 March 2019.
 - LC/16 Received 11 March 2019.
- 2) The design, siting and orientation of the solar photovoltaic panels proposed to reduce the carbon emissions shall be carried out in accordance with the details approved under reference 15/0182/DD01 dated 30.07.2015. The solar photovoltaic panels shall be implemented and thereafter managed and maintained in accordance with the approved details.
- 3) The dustbin enclosure must be provided in accordance with detailed drawings approved under reference 15/0182/DD01 dated 30.07.2015.
- 4) Recycling facilities shall be provided in accordance with detailed drawings approved under reference 15/0182/DD01 dated 30.07.2015.
- 5) The dwellings hereby approved shall not be constructed/adapted other than to Lifetime Homes standards as shown on the approved plans and/or as described in the Design and Access Statement & shall thereafter be maintained to those standards.
- 6) The dwelling hereby approved shall achieve a Code Level 3; in accordance with the terms of the application & requirements of the Code for Sustainable Homes: Technical Guide (or such national measure of sustainability for house design that replaces that scheme).
- 7) All new hard surfacing shall be of a porous or permeable material or provision made for a sustainable urban drainage system and shall be constructed and laid out in accordance with details set out in drawing LC/16 received 11.03.2019.

⁴ February 2019.

- 8) Hard and soft landscaping works shall be carried out in accordance with the approved details under reference 15/0182/DD01 dated 30.07.2015.
- 9) The external surfaces of the buildings (including fenestration) and all areas of hard surfacing, where applicable, shall not be constructed other than in materials to match the existing and in accordance with details approved under reference 15/0182/DD01 dated 30.07.2015.
- 10) The boundary treatment shall be carried out in accordance with the details approved under reference 15/0182/DD01 dated 30.07.2015 and drawing LC/16 received 11.03.2019.
- 11) Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Statutory Instrument revoking, re-enacting or amending that Order), no rear extensions, other than those expressly authorised by this permission shall be constructed. Additionally, no part(s) of the roof of the buildings hereby approved shall be used as a balcony or terrace, nor shall any access be formed thereto.

END OF SCHEDULE