



Appeal Decision

Site visit made on 1 December 2020

by Simon Hand MA

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

Decision date: 07 December 2020

Appeal Ref: APP/L5810/C/20/3250317

Land at 34 Priory Road, Hampton, TW12 2PD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Ibi Alan against an enforcement notice issued by the Council of the London Borough of Richmond-upon-Thames.
 - The enforcement notice was issued on 4 March 2020.
 - The breach of planning control as alleged in the notice is without planning permission and within the past four years: a) the unauthorised erection of a rear garden outbuilding and four front garden outbuildings, as shown in the photographs at Appendix 1 ("the Outbuildings"). b) The unauthorised installation of a new roof increasing the height of an existing front garden store, as shown in the photographs at Appendix 2 ("the Roof").
 - The requirements of the notice are: (a) remove the Outbuildings from the Property; and (b) Remove the Roof; and (c) Remove from the Property all surplus materials and debris arising for the compliance with steps 5(a) and 5(b) above.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is allowed insofar as it relates to the erection of a rear garden building and the installation of a new roof increasing the height of an existing front garden store and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for those two developments.
2. It is directed that the enforcement notice be varied by the substitution of 6 months for 2 months as the period for compliance.
3. The appeal is dismissed and the enforcement notice is upheld for the four front garden buildings and planning permission is refused in respect of four front garden outbuildings as shown in the photographs at Appendix 1 of the notice, on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background to the Appeal

4. No 34 is a large, handsome Edwardian style villa set back from the road with a modest front garden and is assigned the status of a Building of Townscape Merit (BTM). This section of Priory Road between Percy Rd and Chestnut Avenue has a line of similar houses on the same side of the road, but opposite

are more modern bungalows. No34 is the last house fronting Priory Road in this section and adjacent to it is the back of a large house fronting Percy Road that has been converted into flats.

5. No34 houses a children's nursery and has a long rear garden that is entirely given over to the requirements of the nursery, with artificial surfaces, outdoor play equipment and a large building running down the centre of the garden housing classrooms and so on. A smaller shelter beside the large building accommodated a sandpit and the two have been linked together by the 'rear garden outbuilding' referred to in the notice.
6. The front garden is almost entirely given over to a variety of sheds that have been cobbled together to provide shelters for children, buggies and staff. Most of these buildings are covered by the 'four front garden outbuildings' referred to in the notice, while the fifth, next to the gate on the left as one enters has been re-roofed and this roof is the final element of the allegation in the notice.
7. There is a history of provision of sheds in the front garden and the appellant suggests several may have been in place for many years, although I note that they have also been re-roofed. However, there is no ground (d) appeal and the ground (c) refers only to the new roof on one of the sheds, so I shall deal with the other sheds as part of the ground (a) appeal.

The Appeal on Ground (c)

8. This relates only to the new roof. The appellant suggests it does not affect the external appearance of the building and so is not development. However, I agree with the Council that the new roof is taller than the old (I noted that it was now partly hidden by an extension to the top of the artificial hedge that screens the front of the property). Consequently, it clearly does affect the external appearance of the shed and is more than just routine maintenance. No argument has been made that it benefits from permitted development rights of any sort so it must require planning permission. The appeal on ground (c) fails.

The Appeal on Ground (a)

9. Three relevant policies have been referred to by the Council, all from their 2015 local plan. LP1 seeks to maintain and enhance the quality of the character and heritage of the Borough by good design. LP4 seeks to preserve and where possible enhance the setting of, amongst other things, BTMs. LP8 seeks to protect residential amenity, in this case in particular, the outlook of neighbours.
10. Policy LP39 is also referred to, which seeks to prevent the loss of back gardens through overdevelopment. The back garden building is very small and takes up a minimal proportion of the back garden, even in combination with the existing back garden buildings there is no sense the garden has been over developed so as to offend the policy.
11. The notice requires the removal of the offending roof from one of the front garden sheds, but there is nothing to stop the appellant from replacing it with a roof that is slightly lower. Indeed the shed itself is not affected by the notice so not to replace the roof would leave the shed open to the elements and it would quickly become an eyesore. The question is therefore whether the new roof would be more harmful than the old. In my view the difference between

them is not great. The new roof is now hardly visible above the front garden screening and when seen through the front gate just looks like a roof on a shed. I do not think anything would be improved by replacing it with one slightly lower so I shall allow this part of the appeal. The effect of this would be to preserve the shed at the front left of the garden and I shall bear this in mind when considering the impact of the rest of the sheds.

12. As noted above the rear garden is given over entirely to the nursery and the small linking building in dispute is modest in size and sits comfortably in the context of the nursery use. It is difficult to see what would be achieved by removing this building and I shall grant planning permission for it.
13. Turning to the front garden and allowing for the re-roofed shed, the four sheds referred to in the notice effectively take up all the rest of the space apart from a path to the front door and a small outdoor play area in the righthand corner beneath a tree. Due to the front garden screening views of the sheds are limited, except through the front gate, but it is still obvious from the street that the garden has been filled with sheds. This is a deeply unattractive look in front of any building, never mind a BTM.
14. The other similar villas in the road seem to be used as houses and have conventional front gardens with trees and shrubs etc. Although the Council cannot require gardens to look attractive it can control the provision of sheds and other structures to the front of houses in order to protect the local character. I accept the BTM has been restored to a high standard and presents an imposing front to the street, but the jumble of sheds seriously detracts from this. I also accept that No34 is not a house but a nursery, and the front garden area is therefore likely to take on a more utilitarian look than a typical front garden. 1 shed will remain, even if I uphold the notice, and I have no doubt that if they are carefully designed and planned others could be provided in the front garden without harming the streetscene or the setting of the BTM. However, I have been given no suggestion as to how this could be achieved and have to look at the four buildings as a whole. Taken altogether they represent a significant over-development of the front garden that harms the streetscene and the setting of the BTM. They are thus contrary to policies LP1 and 4.
15. I note the photograph of another nursery in the area with a busy front garden, but this does not show the same level of over-development as at the appeal site. Nor do I know what the status of the nursery building itself is.
16. Views of the sheds can be obtained from residents of the flats next door, and possibly from other neighbours, although the latter views would be oblique or distant. I do not think the view across the shed roofs is so harmful as to be so visually intrusive that LP8 would be engaged. I do not think there is any harm to residential amenity.
17. In conclusion therefore the appeal succeeds as far as the building in the rear garden and roof on the front shed are concerned but fails for the four remaining front garden buildings. No conditions have been suggested and none are required for the roof and rear garden building.

The Appeal on Ground (f)

18. As I am allowing the roof and rear-garden building, no alteration to the requirements is needed for those structures. No suggestions have been made as to any lesser steps for the 4 remaining garden buildings so there is nothing to consider on ground (f).

The Appeal on Ground (g)

19. I agree with the Council that accommodating the staff and children without the front garden buildings is really a matter for the appellant to consider. There are rear garden buildings and a large house available. However, given that I do believe the front garden could accommodate some further, well designed, structures, it would be reasonable to allow some more time for the appellant to agree a way forward with the council that might involve less demolition work. I shall extend the period for compliance to 6 months.

Simon Hand

Inspector