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## Appeal Decision

Site visit made on 25 April 2022

**by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27<sup>th</sup> June 2022**

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**Appeal Ref: APP/L5810/W/21/3281309**

**41 Hounslow Road, TWICKENHAM, TW2 7BZ**

- 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 P Tanna against the decision of Richmond Upon Thames London Borough Council.
  - The application Ref 21/0718/VRC, dated 1 March 2021, was refused by notice dated 9 July 2021.
  - The application ref: 13/0888/VRC sought what was described as “planning permission for variation of condition U38246 (Approved drawings) of planning permission 10/3640/FUL dated 07/03/2011 to allow for the retention of decking, installation of solar panels on single storey rear extension, amended internal layout, new porch, increase in height of single storey rear extension and a refuse storage area in front garden”. This application is for this previously approved development, but without complying with a condition attached to planning permission Ref 13/0888/VRC, dated 10 September 2013
  - The condition in dispute is U61863 which states that: The outbuilding indicated on drawing 115 Rev P3 (annotated Flat 2 Storage Garden Shed) shall not be used other than for storage purposes ancillary to and in conjunction with the approved two-bed flat located on the first floor and the second floor and shall not be used as a separate self-contained dwelling.
  - The reason given for the condition is: To protect the amenity of occupiers and locality in general.
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### Decision

1. The appeal is allowed and planning permission is granted for the development described as “the retention of decking, installation of solar panels on single storey rear extension, amended internal layout, new porch, increase in height of single storey rear extension and a refuse storage area in front garden,” without complying with condition U61863 attached to planning permission Ref 13/0888/VRC, dated 10 September 2013, at 41 Hounslow Road, TWICKENHAM, TW2 7BZ, in accordance with the terms of the application Ref 21/0718/VRC, dated 1 March 2021, but otherwise subject to the following conditions:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans and documents, where applicable:

Appeal Document Appendix D Dwg No. 600 P1 received 18/02/2022, 101 P2 received 01/03/2021, 101 Rev P2 OS Plan, 103 Rev P3 (Approved Plans 10/3640/FUL), 104 Rev P2 (Approved Elevations and Section 10/3640/FUL), 105 Rev P3 (Approved Block Plan 10/3640/FUL), 111 Rev P3 (As Built Plan), 112 Rev P4 (As Built Elevations), 115 Rev P3

(Proposed Landscape Plan; Zip Car Agreement; Landscape Maintenance Plan Rev A.

- 2) The outbuilding indicated on Appeal Document Appendix D Dwg No. 600 P1 received 18/02/2022 shall not be used other than for storage purposes and home office working ancillary to and in conjunction with the approved two-bed flat located on the first floor and the second floor and shall not be used as a separate self-contained dwelling.
- 3) No new external finishes (including fenestration), including works of making good, shall be carried out other than in materials to match the existing, unless otherwise stated on the approved plans.
- 4) The photovoltaic panels shown on the drawings permitted under application ref. 13/0888/VRC shall not be installed other than in accordance with approved details and shall thereafter be maintained as such unless otherwise agreed in writing by the Local Planning Authority.
- 5) No refuse or waste material of any description shall be left or stored anywhere on the site other than within a building or refuse enclosure.
- 6) None of the flats hereby approved should be occupied until the boundary treatment shown on Drawing 115 Rev: P3 has been erected along the boundaries of the site to the satisfaction of the local planning authority and to a minimum height of 1.8 metres above patio level.
- 7) None of the flats hereby approved should be occupied until the refuse and recycling enclosure has been provided in accordance with Drawing 115 Rev: P3. The enclosure shall thereafter be maintained as such unless otherwise agreed in writing by the Local Planning Authority.
- 8) The roof of the building shall not be used for any purpose other than as a means of escape in emergency or for maintenance of the building.
- 9) The dwelling(s) hereby approved shall achieve BREEAM Domestic Refurbishment Rating very good in accordance with the terms of the application & the requirements of the BREEAM Guide (or such national measure of sustainability for house design that replaces that scheme).
- 10) None of the flats hereby approved shall be occupied until the hard and soft landscaping has been provided in accordance with Drawing 115 Rev P3.
- 11) None of the flats hereby approved shall be occupied until the cycle parking facilities have been provided in accordance with Drawing 115 Rev P3 and 112 Rev P4. The facilities shall thereafter be maintained as such unless otherwise agreed in writing by the Local Planning Authority.

## **Preliminary Matters**

2. The appeal site has a planning history which includes appeals. Firstly, there was an appeal in respect to a refused application for planning permission to use the outbuilding as a single dwelling house and an enforcement notice to cease the use of the outbuilding as an independent unit of residential accommodation (refs APP/L5810/C/16/3155515 and APP/L5810/W/16/3147167). Both appeals were dismissed in January 2017.

3. Subsequently there was appeal reference APP/L5810/W/17/3177256, which sought to remove the word 'storage' from the disputed condition (U61863) to allow for a wider ancillary use of the outbuilding. The appeal was dismissed.
4. This appeal also relates to condition U61863, but not to remove the reference to storage but to also include an additional reference to a home office. This would therefore widen the potential use of the garden shed building, but not to the extent as considered with the 2017 appeal.
5. Paragraph 56 of the National Planning Policy Framework states that planning conditions should only be imposed when they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

### **Main Issue**

6. The main issue is whether the additional reference to 'home office' in this condition is reasonable, particularly in regard to the interests of the living conditions of occupiers of neighbouring properties, having particular regard to matters of noise and disturbance.

### **Reasons**

7. As set out in the 2017 appeal decision, there was concern that the wider use of the shed for ancillary residential use, beyond simply storage, would result in harm to the living conditions of neighbours, especially through noise and disturbance.
8. In this case, the appellant still requires the shed to be used for storage, though it is not clear as to how much of the shed would be used for this. However, rather than propose any use that would be ancillary to residential, as was effectively the case with the previous appeal, the appellant also wants the shed to be used as a home office. It could be that the shed would be used almost entirely as a home office if this appeal were allowed, which I have taken into consideration.
9. If the shed was to be used as a home office, I have no substantive evidence that this would result in an inadequate level of storage for the appellant in the associated flat. In any case, if needed for storage this use could continue.
10. If the proposal was used as a home office, this would likely result in more trips from the flat to the shed at the end of the garden. However, considering the nature of home offices and their use, it is unlikely that such trips would be particularly regular or result in issues of noise and disturbance on this basis. Furthermore, being a home office and effectively a place where occupants could work, it is unlikely that this use would result in activities from the shed that would result in significant disturbance to neighbours in their gardens or houses, over and above typical residential garden activities.
11. Being an existing building of only single storey height, use of the shed as a home office would not result in views that would significantly impinge on neighbours' privacy, over and above existing levels.
12. I acknowledge the difficulties that the Council might encounter from an enforcement perspective. However, it should be possible to determine whether

an outbuilding is used other than for storage or as a home office. As such, I give this issue limited weight.

13. On this basis, a condition limiting the use of the garden shed building to storage and/or home office would not result in noise and disturbance to any significant degree and so would be in general accordance with policy LP8 of the Local Plan. This policy seeks to ensure there is no harm to the reasonable enjoyment of the use of buildings, gardens and other spaces, due to noise and disturbance for example.

### **Other Matters**

14. I acknowledge comments received that the shed has been previously let out as a separate unit, but I do not have detailed evidence of this. I am aware that proposals to use it as a separate dwelling were refused. I have considered this appeal based on the shed being an ancillary storage building currently.

### **Conditions**

15. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.
16. It is not clear which of these conditions have been fully discharged and so it is prudent to reimpose the conditions in full (other than the 3 year time limit condition as the development has been implemented), which I have therefore done. It is now for the appellant and Council to discuss the way forward for these conditions following this appeal being allowed.
17. I note that the condition relating to boundary fencing has been raised by the appellant, particularly in regard to the 1.8m height minimum. However, I do not have full details of this matter and so have reimposed the condition as it was originally on the 2013 decision notice.
18. The appellant has also raised the issue of the new additional condition requiring a fire safety statement. Some information has been submitted with the appeal, however it is my understanding that applications for planning permission will be exempt from the requirement to submit a fire statement where the application is under section 73 (to develop land without compliance with a condition). As such, this condition has not been imposed.

### **Conclusion**

19. For the reasons given I conclude that the appeal should succeed.

*Mr S Rennie*

INSPECTOR