

Appeal Decision

Site visit made on 26 October 2024

by **D Cramond** BSc MRTPI

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

Decision date: 07 November 2024

Appeal Ref: APP/L5810/D/24/3349256 **6 Cleves Way, Hampton, TW12 2PL**

- 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 and Mrs Philip Byrne and Alice Opie against the decision of the London Borough of Richmond upon Thames.
 - The application Reference is 23/2933/VRC.
 - The application sought planning permission for a porch, two-storey side addition and single storey rear extension without complying with a condition attached to planning permission Ref 21/2774/HOT.
 - The condition in dispute is U0111654 which states that: The development hereby permitted shall be carried out in accordance with the following approved drawings, where applicable- 024-SBA-XX-XX-DR-A-00001, 024-SBA-XX-XX-DR-A-00002, 024-SBA-XX-XX-DR-A-14001, 024-SBA-XX-XX-DR-A-15001 - received 5 August 2021. 024-SBA-XX-XX-DR-A-04001 REV P1, 024-SBA-XX-XX-DR-A-07004 REV P1 - received 17 September 2021. 024-SBA-XX-XX-DR-A-05001 REV P1 - received 12 October 2021.
 - The reason given for the condition is: To accord with the terms of the application, for the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is allowed and the planning permission Ref 21/2774/HOT, for a porch, two-storey side addition and single storey rear extension at 6 Cleves Way, Hampton, TW12 2P granted on 15 October 2021 by the London Borough of Richmond upon Thames, varied by amending condition U0111654 to read:

The development hereby permitted shall be carried out in accordance with the following drawings and documents, where applicable: A-06-00 REV 02 - received by the Council 24 November 2023, Planning Statement REV 02 dated 9 December 2023, A-03-01 REV 05 and A-03-00 REV 04 - received by the Council 19 December 2023.

Preliminary Matter

2. The Appellants are seeking a variation to the approved scheme via the use of revised plans. In summary the Appellants set out that the proposal is to include slight relocation of doors/windows due to internal layout changes (including wider front door with a sidelight, new side window, removal of roof rooflight, addition of an extra 'step' to the kitchen window, installation of two smaller rooflights in the rear extension instead of the bigger one approved), addition of a storage for bins and cycles at the front, removal of the built-in planters (in front and rear), exposed brickwork to have standard stretcher bond instead of horizontal and vertical stack.
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Main Issue

3. The main issue is the principle of the proposal and its effect on residential and visual amenity.

Reasons

4. The appeal property is a two-storey semi-detached house with a front garden which is a little deeper than an average car's length. The dwelling is similar to many others found locally and the area is of established residential character and pleasing appearance. The proposal is as described above.
5. On the question of amenity; the Council's Planning Report considers both residential and visual effects and concludes that the scheme would be acceptable on these fronts. For the same reasons I would agree that on both aspects the proposed changes would be benign.
6. Adopted Policies LP1 and LP8 of the Local Plan (2018) are relevant in that the former seeks to protect local character and ensure design quality and the latter aims to protect residential amenity. These policies are largely, respectively, reflected in the Regulation 19 revised emerging Local Plan at Policy numbers 28 and 46. I conclude that the appeal scheme would not run contrary to these policies.
7. On the matter of principle, the reason for the refusing the appeal scheme; the Council's point is that the proposed refuse and bike storage extension, by reason of such development not forming part of the original permission reference: 21/2774/HOT, falls outside of what can be pursued under a Section 73 Application of the Town and Country Planning Act 1990.
8. I appreciate that S73 cannot be used to vary the description of the development. However, in practice not every development description includes to the nth degree all that lies within the works, generally the principal elements are identified. To my mind this must leave a degree of flexibility open to the decision maker on the matter of revised drawings. Hypothetically, as the bin and cycle storage would be such a minor element of the overall development there is no indisputable evidence that they would have been included in any original description of development. Similarly, I am not persuaded that the inclusions of these minor incidental structures on the revised drawings as now sought should be read as a change to the application description. I am satisfied that section 73 of the Act is an appropriate mechanism for submission of the proposal; the overall application description would not have to change for a proposal of this nature and modest scale.
9. I would also add that in my opinion the storage structure would not run contrary to the policies I cite in paragraph 6 above. I do note that similar front garden development has been allowed locally by the Council; visual and residential amenity were not deemed problematic.

Other matters

10. I confirm that policies in the National Planning Policy Framework have been considered and the adopted development plan policies which I cite mirror relevant objectives within that document.
11. I noted that the development had commenced. Therefore, other than the standard commencement requirement and the detail of the condition in dispute

the planning conditions on Planning Permission Ref 21/2774/HOT remain fully valid and applicable. These are:

- BD14A Materials to match existing;
- U0111656 Fire Safety; and
- U0111655 Restriction on use of roof.

Overall conclusion

12. For the reasons given above I conclude that the appeal proposal would be acceptable in principle and on residential and visual amenity grounds. Accordingly, the appeal is allowed.

D Cramond

INSPECTOR