



Appeal Decision

Site visit made on 12 March 2024

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18.03.2024

Appeal Ref: APP/Z5630/D/24/3336279

17 Romney Road, New Malden, Kingston upon Thames KT3 5NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S K Baek against the decision of the Council of the Royal Borough of Kingston upon Thames.
 - The application Ref 23/02811/HOU, dated 13 October 2023, was refused by notice dated 11 December 2023.
 - The development proposed is described as 'retrospective application for erection of outbuilding (related to EN/16186)'.
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Decision

1. The appeal is allowed and planning permission is granted for an outbuilding at 17 Romney Road, New Malden, Kingston upon Thames KT3 5NN in accordance with the terms of the application Ref 23/02811/HOU, dated 13 October 2023, and the drawings with the Project Reference RR113 numbers: 01 Revision A, 001 Revision A, 002 Revision A, 101 Revision A, 102 Revision A and 11 Revision A.

Procedural Matters

2. The development is already in place, and I have dealt with the appeal on the basis of its retention. In the interests of clarity, and as they are not an act of development, in my formal decision I have amended the description of the scheme to omit references to its retrospective nature, and to an associated enforcement investigation.
3. Drawing no. 101 Revision A shows that the outbuilding is used as a play/family room. Despite allegations that it is used as a hairdressing/barber business, I have therefore dealt with the appeal on that basis.
4. Whilst I observed what appeared to be an extractor or air conditioning unit on the rear elevation of the outbuilding, it is not depicted on the submitted drawings. I have no details of it, nor what noise it generates. I have not therefore considered it as part of this appeal.

Main Issues

5. The main issues are the effect of the development on:
 - the character and appearance of the area; and
 - the living conditions of neighbouring occupiers, with particular regard to the outlook from 15 Romney Road ('No 15').

Reasons

Character and appearance

6. The outbuilding is located in the host property's rear garden. It is a long structure which, together with the retained part of a pre-existing outbuilding, extends along most of the shared boundary with No 15 to the rear of these two plots. However, its scale and bulk are tempered by its flat roofed form and by its relatively low height which, according to the appellant's drawings, reaches a maximum of just over 2.7 metres; and by its light grey composite cladding.
7. Given its siting, the outbuilding cannot be viewed in the streetscene. Additionally, I observed that there are outbuildings in the rear gardens of many nearby properties, including No 15. Although this one is larger than many of those, it is partially screened in some views by boundary fences, trees and landscaping. Thus, even in private vantages from nearby properties, it does not appear out of place.
8. Consequently, the outbuilding has not harmed the character and appearance of the area. On this issue, it does not therefore conflict with those parts of Policy D3 of the London Plan 2021 ('LP') and Policies CS8 and DM10 of the Kingston Core Strategy 2012 ('KCS') which require development to relate well to its surroundings, and to respond to local distinctiveness and context with regard to matters such as siting, scale, height, appearance and shape.

Living conditions

9. Whilst the outbuilding abuts a large proportion of No 15's boundary, its roof slopes gently downwards to that side. Thus, as depicted on drawing no. 102 Revision A, its elevation facing No 15 is not substantially taller than the existing boundary fence.
10. Consequently, whilst the top section of the outbuilding is visible off to one side from the rear face of No 15, and from its rear garden, I am satisfied that it has not resulted in a significant overbearing impact on those occupiers, nor caused them to suffer from a significant sense of enclosure. Additionally, given that it is not substantially taller than the fence, it has not caused a significant loss of light or overshadowing affect.
11. In reaching those conclusions, I have also considered that the outbuilding partially replaced a pre-existing, slightly taller structure. Additionally, I have had regard to the fact that, in many cases, in accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), a 2.5 metre high incidental outbuilding could be erected without the need for planning permission. This development, even if it reaches a height of 2.85 metres as claimed by a neighbour, is only slightly taller than that.
12. Summing up on this issue, the development has not impacted the adjacent occupiers' living conditions to a harmful degree. It does not therefore conflict with those parts of LP Policy D3 and KCS Policies CS8 and DM10 which require proposals to deliver an appropriate outlook, relate well to their surroundings, and to have regard to the amenities of neighbours.
13. For similar reasons, it does not conflict with paragraph 135 of the National Planning Policy Framework (December 2023) ('Framework') which seeks a high standard of amenity for all.

Conditions and Conclusion

14. Turning to the matter of conditions, as the development is already in place, the Council's suggested time limit for commencement is not relevant. With regard suggested conditions nos 1 and 3, I have referred to the approved plans in my formal decision; and those plans depict the facing materials, which I have found to be acceptable.
15. The Council's suggested condition no 4 would require the submission of a further Fire Safety Strategy prior to works above ground level. However, as the development is already in place, that timeframe cannot be complied with; and as I have not been provided with LP Policy D12, I am unable to assess such a condition against the development plan, nor properly determine whether it would meet the Framework's tests. I have not therefore imposed it.
16. Finally, the Council has suggested a condition stating that the roof of the development shall not be used as a garden or similar outdoor amenity area. However, given its gentle slope, and the lack of any convenient access to it, I consider such a use to be highly unlikely, and that condition is therefore unnecessary.
17. For the above reasons, I conclude that the development has not harmed the character and appearance of the area, nor impacted the living conditions of adjacent occupiers to a harmful degree. Consequently, having regard to all other matters raised, including representations by interested parties, the appeal is allowed.

Chris Couper

INSPECTOR