
Appeal Decision

Site visit made on 13 August 2024

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 September 2024

Appeal Ref: APP/Z5630/W/24/3341010

73 Dawson Road, Kingston Upon Thames KT1 3AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by J Jinnah and D Abdullah against the decision of the Royal Borough of Kingston Upon Thames.
- The application Ref is 23/02664/FUL.
- The development proposed is the erection of an outbuilding for a mixed use as a residential annex and for short term visitor accommodation.

Decision

1. The appeal is allowed and planning permission is granted for the erection of an outbuilding to rear of garden for use as a residential annexe at 73 Dawson Road, Kingston Upon Thames, KT1 3AU in accordance with the terms of the application, Ref 23/02664/FUL, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall not be occupied or let as a separate dwelling but shall be used only for purposes ancillary to the residential use of the dwelling known as 73 Dawson Road, Kingston Upon Thames, KT1 3AU.
 - 2) Prior to occupation and within three months of the date of this decision a Fire Safety Strategy shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation. The Fire Safety Strategy shall demonstrate how the development will achieve the highest standards of fire safety and shall include the following details:
 - 1) suitably positioned outside space for fire appliances/ an evacuation assembly point;
 - 2) Appropriate fire alarm systems;
 - 3) Passive and active fire safety measures;
 - 4) appropriate construction details to minimise the risk of fire spread;
 - 5) provision of suitable and convenient means of escape/ an evacuation strategy;

- 6) provision of suitable access and equipment for firefighting which is appropriate for the size and use of the development.

The Fire Safety Strategy shall include a statement of competence. The required Fire Safety Strategy shall reference the London Plan Guidance Fire Safety (February 2022), where applicable and a Reasonable Exception Statement (RES) shall be submitted in relation to those fire safety requirements which the applicant does not consider to be relevant.

Preliminary Matters

2. During my visit, I noted that the outbuilding had been erected in a manner consistent with the plans before me. I have therefore considered the appeal on the basis that the development has already taken place.
3. There was dispute between the main parties as to the implications of the wording of the original description of development as to the proposed use of the outbuilding. The appellant's statement clarifies that the intended use is to provide residential accommodation to family members and visitors to the main dwelling as an annexe. On this basis the appellant has agreed to an amended description; *'the erection of an outbuilding to be used as a residential annexe'* which is reflected in my decision above. The Council were provided with the opportunity to comment on this change during the appeal.

Main Issue

4. Given the foregoing, I consider that the main issue is the effect of the proposed development on the living conditions of the occupiers of 71 and 75 Dawson Road, in respect of noise and disturbance.

Reasons

5. The outbuilding is positioned at the end of the relatively long rear garden in the corner adjacent to 75 Dawson Road. The rear boundary of the appeal site adjoins a substation, and the end of 75 Dawson Road is covered by outbuildings which run adjacent to the fence line. The building is positioned away from the boundary with 71.
6. Given the small size of the annexe, and its intended use connected to activity within the main dwelling, comings and goings would be likely limited and typical within this residential area. Furthermore, the outbuilding does not sit adjacent to the open garden areas of 71 or 75 Dawson Road and is positioned at the end of the rear garden away from the rear elevation of the dwellings on Dawson Road. As a result, any limited noise generated would unlikely result in unacceptable noise and disturbance to surrounding properties.
7. For these reasons, I conclude that the development has had an acceptable effect on the living conditions of 71 and 75 Dawson Road with reference to noise and disturbance. As such, it would not conflict with Policies D3 of the London Plan 2021 or Policies CS8 and DM10 of the Council's adopted LDF Core Strategy April 2019 and the National Planning Policy Framework. These require development to protect the suburban character of the Borough and have regard to the amenities of neighbours in terms of noise and disturbance.

Conditions

8. Given that the building has already been erected, time, approved plans and materials conditions are not required.
9. A condition requiring the submission of a Fire Safety strategy is required to ensure the safety of all building users in the future. This was suggested as a pre commencement condition but given that the building has been erected, it is necessary to amend the condition to refer to prior to occupation and within three months.
10. The appellant suggests that a condition could be imposed to restrict the use of the building. This is considered reasonable to ensure the use of the outbuilding remains ancillary to the main property.
11. The Council have suggested a condition to prevent the roof of the outbuilding being used as a roof garden. This is neither reasonable nor necessary to make the development acceptable in planning terms. Given the small size and position of the outbuilding next to a substation, it is highly unlikely that the roof would be used as a roof garden or seating area.

Conclusion

12. For the reasons given above the appeal should be allowed.

V Goldberg

INSPECTOR