



Appeal Decision

Site visit made on 24 July 2025

by R Lawrence BSc (Hons), PGDip (TP), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 AUGUST 2025

Appeal Ref: APP/K3605/W/25/3360346

Warehouse, Thames Street, Weybridge, Surrey KT13 8JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Nick Jones against the decision of Elmbridge Borough Council.
 - The application Ref 2024/2574 sought approval of details pursuant to condition No 1 of a planning permission APP/K3605/C/23/3328934 and APP/K3605/C/23/3328935, granted on 18 March 2024.
 - The application was refused by notice dated 7 February 2025.
 - The development proposed was the raising of the height of the wall on the northern flank of the first-floor rear projection and the installation of an external plant.
 - The details for which approval is sought are details of an acoustic enclosure and night-time set back feature.
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Decision

1. The appeal is allowed and the acoustic enclosure and night-time set back feature details submitted pursuant to condition No 1 attached to planning permission allowed at appeal Refs APP/K3605/C/23/3328934 and APP/K3605/C/23/3328935 granted on 18 March 2024 in accordance with the application dated 14 October 2024 and the details submitted with it are approved.

Applications for costs

2. An application for a full award of costs has been made by Mr Nick Jones against Elmbridge Borough Council. That application is the subject of a separate decision.

Background and Reasons

3. This appeal arises from the Council's refusal to approve details submitted pursuant to Condition No. 1 of the planning permission granted on appeal under references APP/K3605/C/23/3328934 and APP/K3605/C/23/3328935.

4. Condition No 1 of that permission required:

"The details of an acoustic enclosure as detailed in the Noise Impact Assessment by DAA Group dated 4 September 2023 shall be submitted to the Local Planning Authority for approval in writing within 3 months of this appeal decision. The approved noise mitigation scheme shall be carried out in accordance with the approved details within 3 months of approval and shall be maintained as such at all times."

5. The purpose of this condition was to safeguard the living conditions of neighbouring occupiers.

6. The details subject to this appeal were submitted to the Council on 14 October 2024 under application Ref. 2024/2574. This was the second application seeking to discharge Condition No. 1. An earlier application (Ref. 2024/1105), submitted on 29 April 2024, was refused on 24 June 2024.
7. The submitted details, including an acoustic enclosure and a night-time setback feature, have been deemed acceptable by the Council in mitigating potential adverse impacts on nearby residents. The accompanying Noise Impact Assessment confirms that the acoustic enclosure would achieve a 13dB reduction in noise levels. Collectively, these mitigation measures satisfy the requirements of BS 4142:2014 +A1:2019. This conclusion is supported by the Council's Environmental Health Officer, and no technical evidence has been presented to challenge this assessment.
8. The Council maintains that the condition should be interpreted as requiring a single submission that simultaneously satisfies both the timing and substantive mitigation requirements. The appellant disputes this interpretation. I acknowledge that this is a matter of legal interpretation and could ultimately be a matter for the courts to decide. However, for the purposes of this appeal, I must consider whether the submitted details are capable of discharging the condition.
9. In my view, the wording of the condition does not expressly prohibit a scenario in which an initial submission is made within the specified timeframe but is later found to be inadequate, followed by a revised submission that satisfactorily provides the necessary mitigation. This interpretation allows for a more pragmatic and proportionate approach.
10. In this instance, the two-stage process—consisting of a timely initial submission and a later, technically acceptable proposal—collectively fulfils both aspects of the condition.
11. Given that the noise mitigation details now under consideration are acceptable, and that the initial submission was made within the prescribed timeframe, I am satisfied that the requirements of Condition No. 1 have been met in full.

Other matters

12. The appellant contends that new information has recently come to light indicating that the appeal site may have acquired lawful residential status under Class P of the Town and Country Planning (General Permitted Development) (England) Order (as amended) as of 31 March 2022. However, it remains unclear whether this status can be applied retrospectively, or whether it has been formally substantiated through the issuance of a Certificate of Lawful Development or equivalent supporting evidence.
13. In any case, this appeal is concerned solely with whether or not the details submitted pursuant to a condition are sufficient to discharge its requirements. In this context, and in light of my findings above, there is no need for me to consider the existence of a potential fall-back position any further. I have therefore assessed the appeal strictly on its individual merits.

Conclusion

14. For the reasons given above, the appeal is allowed.

R Lawrence

INSPECTOR