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## Appeal Decisions

Site visit made on 15 July 2025 by E Street BSc (Hons) MSc

### Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2025

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#### Appeal Ref: APP/Z5630/W/25/3363836

#### 4 - 6 High Street, Kingston Upon Thames KT1 1EY

- 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 Rosa's Thai against the decision of Royal Borough of Kingston Upon Thames.
  - The application Ref is 24/02632/FUL.
  - The development proposed is described as "new delivery collection window, decoration and signage to existing shopfront".
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#### Decision

1. The appeal is dismissed.

#### Appeal Procedure & Preliminary Matter

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.
3. The description of development does not refer to the retrospective nature of the proposal, but it is sufficiently clear from the parties' cases and my site visit that this is the case. I have considered the appeal accordingly. For clarity, this appeal concerns the installation of the delivery window. The signage is subject of a separate appeal under the advertisement regulations.

#### Main Issue

4. The main issue is the effect of the development on the safe use of the highway with specific regard to the free flow of pedestrians.

#### Reasons for the Recommendation

5. Rosa's Thai is located on the High Street adjacent to a partially pedestrianised shopping area and market square. A busy single carriageway route is to the front with vehicles including buses and lorries passing by. There are two bus stops in close proximity to the restaurant on each side of the road. Double yellow lines are located on both the High Street and Bath Passage. The footpath passes in front of the restaurant and is relatively narrow but is mostly unencumbered besides the bus stop.
6. At the time of my site visit, which was during the afternoon, the restaurant appeared to be open but quiet. The delivery collection window was not in use but clearly in place and there did not appear to be any delivery operatives in the local vicinity waiting to collect any orders. The appellant has stated that the busier times of the

delivery part of the business is during the evenings and weekends with their number of orders exceeding 300 in one week with a maximum of 24 orders in any one hour. Resultantly, there is a likely cross over of riders with a maximum of 4 occurring during a peak hour. Due to the nature of the delivery collection window, it is likely that the delivery riders would be waiting for a period of time to collect the order at times when other people maybe passing the restaurant's frontage.

7. In terms of width, the pathway in some instances meets the Transport for London Pedestrian Comfort Guidance. I am however not convinced based on the evidence provided that, whilst pedestrians and other users of the pathway may be able to pass in short lengths, this doesn't take into consideration should there be a delivery operative with a bicycle or other vehicle in the way.
8. Both main parties have provided their own photographic evidence of the pathway with the delivery hatch in place. However, it must be noted that the photographs were taken at different times of the day, week and month. With the Council's photos being shown at the appellant's identified busy time period. They show that delivery drivers have been parking on the pavement with pedestrians being pushed onto the carriageway. I appreciate that they are snapshots.
9. I am however concerned that even just a small number of delivery operatives congregating in front of the delivery hatch with or without their vehicles would cause an obstruction in the footway, resultantly hindering the free flow of pedestrians taking into account its width and the surrounding parking restrictions. Moreover, as the zebra crossings are not directly in the front of the restaurant, to avoid any obstacles such as delivery riders, pedestrians would have to anticipate their move in advance which may not be possible for people such as parents with prams/pushchairs and those with mobility needs.
10. The appellant has acknowledged that the policy set by the business is for delivery riders to wait outside and would be no different to the previous situation prior to the delivery hatch being installed. Whilst they may have been able to do this in the past or in other locations and it cannot be controlled, in this circumstance, I am posed with the possibility and just because it may have happened in the past, it doesn't make the harm I have found here acceptable. I am also not sufficiently convinced that the imposition of a condition to restrict the number of delivery drivers at one time would be reasonable or practically enforceable.
11. With this and the above in mind, the appeal scheme conflicts with Policy T2 of the London Plan 2021 in compromising the safe use of the highway for pedestrians. Together, and amongst other things, this policy seeks to ensure that new development will be satisfactory in terms of highway safety and not hindering the free flow of pedestrian movement.

### **Other Matters**

12. The Council is satisfied that there would be no harm to the setting of the Conservation Area by virtue of the overall design and surrounding shop frontages. With this and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in mind, I have no reason to disagree with their conclusions.
13. I am aware that the appellant has submitted revised plans to reflect the changes on site which currently do not correlate with the plans considered by the Council, with specific regard to the method of opening for the window. I appreciate the Council's

case in such that schemes cannot be amended during the appeal process with which I agree. The principle of the appeal nonetheless focusses on the addition of the new window hatch and its operation, and this wouldn't change by virtue of the amended plans. The outcome of the appeal would not have therefore changed should I have accepted any amendments of the type advanced.

### **Conclusion and Recommendation**

14. For the reasons given above, the appeal scheme would not comply with the development plan, and I have been given no other compelling reason, taking into account other material considerations advanced, to deviate therefrom. I therefore recommend that the appeal should be dismissed.

*E Street*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

15. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

*John Morrison*

INSPECTOR