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## Appeal Decision

Inquiry scheduled to start on 3 May 2022

**by Peter Rose BA MRTPI DMS MCMi**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 May 2022**

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**Appeal Ref: APP/K2230/W/21/3274192**

**Land north of Harvel Road, Meopham, Gravesend DA13 0RN**

- 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 G. Sullivan against the decision of Gravesham Borough Council.
  - The application Ref: 20201049, dated 7 October 2020, was refused by notice dated 22 April 2021.
  - The development proposed is change of use of land for the siting of one mobile home, and one touring caravan.
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### Decision

1. I decline to determine the appeal and propose to take no further action.

### Background

2. The appeal relates to development which has already started, and an Inquiry was scheduled to commence on 3 May 2022.
3. At a Case Management Conference held on 11 November 2021, previous Council concerns were indicated regarding factual aspects of the development which had taken place. Following further investigations, the agent for the appellant advised that his client's area of occupation is not consistent with the land as set out in the appeal documents. He also advised that part of the previously defined appeal site is also subject to a further ownership interest.
4. Both the Council and the agent consider the application and appeal to be invalid. The agent is no longer representing the appellant and, whilst attempts have been made by the Planning Inspectorate to seek the views of the appellant, no response has been forthcoming.

### Reasons

5. It is not disputed that the area of land already developed extends significantly beyond the red line area of the application site, and nor that some land within the red line area is not owned solely by the appellant.
6. These discrepancies are not minor. The site as developed is materially different from the red line area as proposed. Notice has not been served on those other interests in the land currently occupied beyond the red line area as required by

the Order<sup>1</sup> and section 65 of the Act. Notice has also not been served on the additional interests identified within the red line area.

7. Article 7(1) of the Order advises, amongst other things, that an application for planning permission must be accompanied by a plan which identifies the land to which the application relates. Section 327A of the Act requires the local planning authority not to entertain such an application if it fails to comply with any requirement of the Act, or any provision made under it, as to the form or manner in which the application must be made. This is further reflected in the Guidance which states that such a plan should ensure that the exact location of the application site is clear, that the application site should be edged clearly with a red line on the location plan, and advises how this area should include all land necessary to carry out the proposed development.<sup>2</sup>
8. Additionally, there is significant wider public interest in the application and appeal from local parties, and the proposal has been publicised inadvertently on the basis of information now found to be substantively incorrect.
9. To remedy the procedural shortcomings of the submission, new drawings would be required, formal notices would need to be served on all owners affected, and the revised scheme would need to be publicised more generally. The opportunity would need to be given for interested parties to respond, and then for parties to comment on any representations received.
10. In short, to be valid, a materially different proposal to that before me would need to be formulated and then progressed. To proceed otherwise would be both inappropriate and incur a risk of serious prejudice to interested parties, something which the Act, the Order and the Guidance all seek to avoid.
11. The extent of remediation required would go well beyond the terms of relevant case law.<sup>3</sup> More generally, the Procedural Guide<sup>4</sup> advises that if an appeal is made the appeal process should not be used to evolve a scheme, and explains how it is important that what is considered by the Inspector is essentially what was considered by the local planning authority and on which interested people's views were sought.

## Conclusion

12. Section 79(6) of the Act provides that if, before or during the determination of an appeal, the Secretary of State forms the opinion that planning permission for that development could not have been granted by the local planning authority, he may decline to determine the appeal.
13. For the reasons given above, I conclude the appeal to be invalid. The procedural shortcomings of the current submission are not readily capable of any reasonable remedy. I am therefore not in a position to progress matters and so proceed to consider the planning merits of the case. Accordingly, I decline to determine the appeal and propose to take no further action.

*Peter Rose*  
INSPECTOR

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<sup>1</sup> Town and Country Planning (Development Management Procedure) (England) Order 2015

<sup>2</sup> Planning Practice Guidance paragraph: 024 Reference ID: 14-024-20140306

<sup>3</sup> See paragraphs M.2.2, M.2.3 and M.2.4 of the Procedural Guide: Planning appeals – England 12 April 2022

<sup>4</sup> Paragraph M.2.1