



Appeal Decision

Site visit made on 16 January 2024

by D Cleary MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2024

Appeal Ref: APP/U4610/W/23/3329392

271 Burnaby Road, Coventry CV6 4AU

- 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 Christopher Turner against the decision of Coventry City Council.
 - The application Ref: PL/2023/0001469/HHA, dated 13 July 2023, was refused by notice dated 08 September 2023.
 - The development proposed is described as Dropped Kerb outside front of property at 271 Burnaby Road. An existing front drive was built over 10 years ago and consists of block paving.
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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 the construction of a dropped kerb to provide access to 271 Burnaby Road. The appeal application was accompanied by a location plan to indicate the site. The location plan indicates a site edged in red and a separate site edged in blue.
3. On my site visit I observed that the site edged in red on the location plan to be 295 Burnaby Road, this is not the appeal site. The property to which the appeal relates is edged in blue. As the location plan should indicate the site in a red edge it does not accurately reflect the appeal site.

Reasons

4. Article 7(1) of the Order¹ 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. Planning Practice Guidance² (the Guidance) 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; and, that the plan should include all land necessary to carry out the proposed development.
5. Section 327A of the Act³ requires the local planning authority not to entertain such an application if it fails to comply with any requirement of the Act, or any

¹ The Town and Country Planning (Development Management Procedure) (England) Order 2015

² Paragraph: 024 Reference ID: 14-024-20140306

³ The Town and Country Planning Act 1990

provision made under it, as to the form or manner in which the application must be made.

6. The red edge on the location plan identifies a materially different property to which the appeal relates. For this reason, I consider that the application considered by the Council to have been invalid and that they could not have lawfully granted planning permission.
7. I do not consider such a discrepancy to be minor. To remedy the procedural shortcomings of the submission a new location plan would be required and this would be materially different to that considered by the Council and any interested parties. Furthermore, the amended scheme would need to be publicised to give interested parties the opportunity to comment.
8. To proceed with the appeal 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.

Conclusion

9. 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.
10. 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 cannot proceed to consider the planning merits of the case. Accordingly, I decline to determine the appeal and propose to take no further action.

D Cleary

INSPECTOR