



Appeal Decision

Site visit made on 16 February 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 7 June 2024

Appeal Ref: APP/X1355/W/23/3332312

Dog And Gun Inn, Auton Stile, Bearpark, Durham DH7 7DB

- The appeal is made under section 78 of the Town Country Planning Act 1990 against the failure of the local planning authority to give notice within the prescribed period of a decision on an application for planning permission following the failure of the applicant to submit further information, plans, drawings or other evidence required by a direction made by the local planning authority under section 62 of the Town and Country Planning Act 1990 and Regulation 4 of the Town and Country Planning (Applications) Regulations 1988.
 - The appeal is made by Mr Arya Samadi of EON Luxfolio Limited against Durham County Council.
 - The application Ref DM/23/01664/FPA is dated 7 June 2023.
 - The development proposed is change of use of existing building from public house (sui generis) to form workspace (Use E) and bar/restaurant/café/retail (Use E) and associated external alterations.
 - The information alleged by the Council to be necessary is 'scaled existing and proposed elevational drawings, not photographs'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed changes to the building had been undertaken at the time of my site visit, including internal changes involving the subdivision of the ground floor of the building to create the individual workspaces, as well as a café and retail space with attached kitchen. Outside this facility, and providing access to it, was an area of timber decking. Adjoining this was a timber fence and gate that had been constructed along the boundary with the pavement.

Procedural Matters

3. The Council did not validate the planning application because it considers that elevation plans of the proposed development, drawn to an appropriate metric scale (1:100 or 1:50) should have been included. Instead photographs of the elevations were submitted. Further correspondence from the Council stated that existing elevation drawings, as well as proposed elevation drawings should be provided.
4. Article 7 (3) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) provides the general requirements for the submission of applications for planning permission. It advises, amongst other things, that it should include a plan which identifies the land to which the application relates; any other plans, drawings and information necessary to

describe the development which is the subject of the application; and that any plans or drawings that are required to be provided must be drawn to an identified scale, and in the case of plans, must show the direction of North.

5. There is no dispute that a plan that identifies the land to which the application relates has been submitted. A site/block plan and plans showing the ground floor existing layout and ground floor proposed layout, have also been submitted, all of which are to scale. However, there are no existing or proposed elevation drawings of the boundary fence and the decking.
6. Where there is a validation dispute between the Council and an appellant, Article 12 (3) of the DMPO enables the appellant to send a notice to the Council setting out which particulars or evidence they consider are not required, their reasons for holding that view, and requesting the Council to waive the requirement.
7. The appellant served notice on the Council on 23 October 2023 stating that they believed that there was enough documentation to validate the application, citing other cases where photographs only had been accepted, and that the validation letter had failed to mention the requirement for existing elevation drawings. The Council's response on 25 October 2023 stated that it continues to require the requested plans.
8. Whilst I accept that photographs of the fencing and decking have been provided, detailed information as regards the height and dimensions of those structures is missing. Moreover, I cannot be certain, based on the submitted documentation, that what is shown in the photographs is what is being applied for. It is important that any planning application makes clear what development is being sought; that is the underlying purpose behind the national and local validation requirements. In this case, the lack of existing and proposed elevations means that those minimum requirements have not been met. That the Council may have accepted different levels of information for applications elsewhere does not alter my conclusion that the appeal should be dismissed on the basis that the application was not valid as made.

M J Francis

INSPECTOR