



Appeal Decision

Site visit made on 30 July 2024

by H Lock BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2024

Appeal Ref: APP/D3505/D/24/3338151

Rivendell, Stonham Road, Mickfield, Stowmarket, Suffolk, IP14 5LR

- 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 Hayley Skinner against the decision of Mid Suffolk District Council.
 - The application Ref is DC/23/04775.
 - The development proposed is erection of a home studio/workshop.
-

Decision

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

Procedural Matters

2. The original proposal was submitted as a 'Householder Application' and was described on the application form as "a home-studio/cartlodge/workshop building to be situated within the front garden of the homeowners' plot". This was subsequently changed with the appellant's agreement to the description in the banner heading above but remained a Householder Application.
3. A 'Householder Application' is defined in Article 2(1) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) as:

(a) an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse, or

(b) an application for any consent, agreement or approval required by or under a planning permission, development order or local development order in relation to such development,

but does not include an application for change of use or an application to change the number of dwellings in a building.
4. Although the Council determined the Householder Application, in its officer report (under 'Principle of Development') it notes that "the area in which the building is proposed to be sited, is not within a residential use in planning terms and therefore, would need a full change of use application in order to put the workshop in this position".

5. Notwithstanding that the land is owned by the appellant, from my observations at the appeal site visit, I consider that the area where the proposed building would be sited is distinct from the front garden of Rivendell. Separated from the front driveways and gardens of this row of properties by a private access drive, it has the appearance of, and functions as, part of a landscaped amenity area.
6. It is not the role of an Inspector dealing solely with an application for householder development to conduct an exercise as to lawful operations (such as would normally be formally determined by a lawful development certificate application). However, on the basis of the evidence before me and my assessment on the ground, the proposal would be located outside of the front garden to the property and does not appear to be within its curtilage. 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. Section 79(1) of the Town and Country Planning Act 1990 (Determination of Appeals) allows the Secretary of State (SoS) to deal with the application "...as if it had been made to him in the first instance" and section 79(6) allows the SoS to decline to determine the appeal if it is found during its determination that "planning permission for that development...could not have been granted by the local planning authority".
8. I do not consider that measures to remedy these procedural shortcomings would be minor and could not be resolved in this appeal. Furthermore, as part of the appeal a revised plan was submitted showing a reduction in the floor area of the appeal building and an area for two parking spaces. These changes are significant and are matters upon which the Council and third parties should have had the opportunity to comment. To proceed with the appeal would incur a risk of serious prejudice to interested parties.

Conclusion

9. For the reasons given above, I find the appeal to be invalid. This procedural matter is not readily capable of being remedied as part of this submission. I am therefore not in a position to progress matters and cannot consider the planning merits of the proposal. Accordingly, I decline to proceed with the determination of the appeal.

H Lock

INSPECTOR