



Appeal Decision

Site visit made on 3 September 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2024

Appeal Ref: APP/L5810/W/24/3337560

5 - 7 Upper Ham Road, Richmond TW10 5LD

- 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 Mr Rezaei & Mr Gunam against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref is 23/2610/HOT.
 - The development proposed is described as a joint loft conversion.
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Decision

1. The appeal is invalid and therefore I am unable to determine it.

Preliminary Matters

2. Section 79(6) of the above 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.

Reasons

3. Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (the Order) sets out the general requirements for applications for planning permission. This includes the need to submit a plan which identifies the land to which the application relates¹ and any other plans, drawings and information necessary to describe the development.
4. The Planning Practice Guidance², amongst other things, provides advice on validity requirements for applications. It states that the application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development. A blue line should be drawn around any other land owned by the applicant, close to or adjoining the application site. The PPG stipulates that this is essential in order to meet national information requirements.
5. I acknowledge that the planning application and this appeal were accompanied by a site location plan. However, the submitted plan only includes No.7 Upper Ham Road within the red line boundary. All other documentation and plans associated with the application and this appeal refer to a combined development to the rear of both No. 5 and No. 7 Upper Ham Road. Therefore, the site location plan, as submitted, does not include all the land necessary to

¹ Article 7(1) (C) (ii) of the Order

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

carry out the proposed development and as a result the Council could not have granted planning permission for the proposed development.

6. It is unclear to me whether the Council was aware of this procedural failing when it determined the application. Nevertheless, I sought comments from both main parties during the appeal process. The appellant has acknowledged that the submitted site plan is incorrect, and has provided a corrected (or revised) site plan showing both the properties outlined in red.
7. However, it has been held in caselaw³ that an Inspector can only consider the merits of an application and determine the appeal if they are satisfied that a valid planning application has been made in the first instance. Whether the Council has validated the application and issued a decision letter is not determinative and the Inspector must consider and reach a view on validity themselves. If an application is invalid, the Secretary of State has no jurisdiction to determine any appeal and it must be turned away as invalid. In this case I have found that the original application did not comply with the requirements of the Order and thus it was invalid. I am unable therefore to determine the appeal and it is not necessary for me to consider the corrected site plan or the planning merits of the appeal.

Conclusion

8. For the above reasons, I conclude that planning permission could not have been granted by the local planning authority due to the procedural failings that I have identified, and I am unable to consider the planning merits of the appeal. I therefore conclude that the appeal is invalid, I decline to determine it and shall take no further action.

K Lancaster

INSPECTOR

³ Geall (Marc John) v Secretary of State for the Environment, Transport and the Regions and Lewes DC [1999] JPL 909; [1998] EGCS 183; (1999) 78 P & CR 264