



Appeal Decision

Site visit made on 21 January 2025

by **N Bowden BA(Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 February 2025

Appeal Ref: APP/J1535/W/24/3352234

Naviete Nursery, Nursery Road, Nazeing, Waltham Abbey, Essex EN9 2JQ

- 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 Jonathan Ho against the decision of Epping Forest District Council.
 - The application Ref is EPF/0230/24.
 - The development proposed is Main house - No change, Outbuilding A - No changes of use, internal renovation of existing kitchen, bathroom and workspace, replacement of damaged windows and doors. Outbuilding B - The workshop hasn't been used as workshop for few years and it stood in bad condition, walls and roof half collapsed. The proposed renovation aims to bring the building to good condition within same footprint as before, only with 1.5m extension to the rear of the garden as indicated on plans. The proposed pitched roof is to match Existing Building B and other surrounding properties. The renovation of the old workshops has no impact on the neighbouring properties, no window oversight.
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Decision

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

Reasons

2. Regulation 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (the Order) requires that an application for planning permission be accompanied by plans, drawings and information necessary to describe the development which is the subject of the application. Section 327A of the Town and Country Planning Act 1990 (as amended) (the Act) requires the local planning authority not to entertain 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.
3. The application submitted to the Council comprised a plan identifying the land together with existing and proposed floor plans of 'building B'. No elevations of the building were provided and I find these are fundamental in the determination of the application. Notably plan 1021-PAD-003 included reference 'loft space added for storage, only accessible by ladder' but what this referred to is unclear.
4. The appeal documents included additional plans which altered the extent of the appeal site, including removing 'building B' from the application site itself. These plans also provided some elevations of buildings on the site. At my site visit, it was apparent that these elevations did not reflect what had been constructed which included a first-floor extension to 'building B'. The Council has not commented on these additional plans and no consultation was carried out upon them. The plans are not an accurate representation of the works that had been completed, remain unclear as to what is proposed and exclude 'building B' from the application site. I

am unable to accept these plans due to the change of the application site and lack of consultation upon these revisions. Accordingly, I find that I can only consider the appeal against those plans and details which were submitted as part of the planning application.

5. It has been held in caselaw¹ 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.
6. In this, case I have found that the original application did not comply with the requirements of the Order and thus it was invalid. This is because the plans inferred the construction of a first-floor extension to 'building B' but there were no elevations to show this and the description of development was not clear. I cannot consider amendments to the appeal as these change the extent of the application site, do not accurately show or describe the development that has occurred and alter the application site. As a result, they amount to a substantial difference and fundamental change to the nature of the appeal.²
7. In essence, the extent of remediation required to make the appeal valid exceeds that which is prescribed under the Act and the Order and goes well beyond that which is nominated in the Procedural Guide³. I am therefore unable to determine the appeal and it is not necessary for me to explore the planning merits of the appeal further.

Conclusion

8. Section 79(1) of the Act allows the Secretary of State to deal with an appeal as if it had been made to him in the first instance. 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.
9. 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 consider the planning merits of the case. Accordingly, I must decline to determine the appeal and propose to take no further action.

N Bowden

INSPECTOR

¹ 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

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37] and Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

³ Procedural Guide: Planning appeals – England – paragraphs 16.1 – 16.4