



Appeal Decision

Hearing held on 2 April 2025

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th of April 2025

Appeal Ref: APP/X3540/W/24/3356163

Freedom Farm, The Gull, Dallinghoo, Suffolk IP13 0LR

- 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 James Edmundson against the decision of East Suffolk Council.
 - The application Ref is DC/24/1696/FUL.
 - The development proposed is the construction of a new Stockmans Cottage. Single storey, three bed, single storey dwelling, accessed by new gravel drive to side of field, currently a track used by tractors. To be an 'eco' home, with a low carbon footprint.
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Decision

1. The appeal is not valid, and I shall therefore take no further action upon it.

Reasons

2. As set out in recent correspondence with the main parties, I sought clarification in my pre-hearing note on the drawings that were before the Council when it made its decision on the planning application. This is because I became aware of inconsistencies between the numbers and descriptions of drawings listed on the Council's decision notice, and the drawings submitted with the appeal by the appellant.
3. The Council responded to the pre-hearing note by providing a copy of the drawings that were before it when it made its decision, and which were subject to consultation with interested parties. The Council included a copy of an email to the appellant showing that it had sought to clarify the drawings with the appellant prior to the appeal hearing. The appellant did not respond to the pre-hearing note and therefore the subject of the drawings was an item on the agenda for the appeal hearing.
4. At the hearing I raised with the main parties an inconsistency between the Site Location Plan and the Block Plan, and I explained that the Block Plan appeared to show the proposed dwelling as situated some distance to the south of the application site. The main parties agreed at the hearing that the Site Location Plan and the Block Plan drawings were inconsistent in this regard.
5. I sought the main parties' views on whether the planning application had been validly made because of this inconsistency between the drawings. The Council responded during the hearing that it would not normally validate a planning application where such an inconsistency had been identified and that this matter could form a reason for refusing planning permission.

6. Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (the Regulations) confirms that an application for planning permission must be accompanied by 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. A plan is necessary to show the siting of the proposed dwelling within the application site.
7. Section 327A(2) of the Town and Country Planning Act 1990 (the Act) requires the local planning authority not to entertain such 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. Section 79(1) of the Act empowers the Secretary of State to deal with the application as if it had been made to them in the first instance. It follows that an Inspector is entitled to make a fresh judgement on the validity of the appeal planning application, and Section 79(6) of the Act provides that if, before or during the determination of an appeal, the Secretary of State (and therefore an Inspector appointed by them) forms the opinion that planning permission for that development could not have been granted by the local planning authority, they may decline to determine the appeal.
8. It was discussed at the hearing whether the inconsistency between the drawings could be resolved by removing either the Site Location Plan or the Block Plan from consideration under the appeal. However, to proceed to determine the appeal with only one of those drawings would either leave the appeal planning application without a plan showing the application site and all land necessary to carry out the proposed development, or without a plan showing the siting of the proposed dwelling relative to its surroundings. In both scenarios, the appeal application would fail to comply with the requirements of the Act, or any provision made under it, as to the form or manner in which the application must be made.
9. Consequently, due to the inconsistent drawings that were before the Council when it made its decision on the planning application, I have concluded that the appeal is invalid. Whilst I acknowledge that the Council determined the appeal planning application on those drawings, it does not alter my conclusion on this matter and applicants for planning permission should ensure that consistent drawings are submitted with their applications.
10. I also sought the main parties' views at the hearing on whether the inconsistency between the drawings could be resolved either through the submission of an amended Site Location Plan or Block Plan, and whether this would result in a substantial change to the appeal proposal or cause procedural unfairness by prejudicing interested parties. The Council advised that securing amended drawings would result in a substantial change to the appeal proposal. The inconsistency with the drawings would create uncertainty as to the precise location of the proposed dwelling.
11. In having regard to the judgement in *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin) the submission of amended drawings to resolve the inconsistency between the drawings would amount to a substantial change to the appeal scheme. As it would be a substantial change, such an amendment could not be considered under the current appeal.

12. For these reasons, I have no option but to conclude that the appeal is invalid, and I shall take no further action upon it. The hearing has been closed. Therefore, I am not able to progress matters or consider the planning merits of the case or the matters in dispute between the parties. It would be open to the appellant to submit a fresh planning application to the Council.

G Sylvester

INSPECTOR