



Appeal Decision

Site visit undertaken on 29 March 2025

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 April 2025

Appeal Ref: APP/N1540/W/24/3353240

85 Northbrooks, Harlow, Essex CM19 4DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Petru Gigerciuc against the decision of Harlow Council.
- The application reference is HW/FUL/24/00265.
- The development is described as on the Application Form as 'Proposed change of use of land adjacent to site address from public to private for extension of garden and drive.'

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO2015) together with the National Planning Practice Guidance (NPPG) sets out what is required in a planning application in order to make a determination of that application. Article 7-(1)(b) states that an application for planning permission must – *"include the particulars specified or referred to in the [application] form"*; and DMPO2015 Article 7-(1)(c) states that an application of planning permission must be accompanied by (ii) *"any other plans, drawings and information necessary to describe the development which is the subject of the application."*
3. Furthermore the NPPG 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 (eg land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings).¹"*
4. The description of the development as highlighted on the Application Form is a change of use from public land to be incorporated into the garden of the existing dwelling. In order to show the land subject to the planning application, a location plan² is submitted, however the plan only shows the red line boundary going around the existing property boundaries of the dwelling rather than the land which is being applied for. This plan then conflicts with an Existing/Proposed Block Plan³ submitted which shows the proposed area of public open space that is to be incorporated into the land of the private dwelling.

¹ Paragraph: 024 Reference ID: 14-024-20140306 Revision date: 06 03 2014

² Location Plan Ref: TQRQM24190012812405, Dated 08 Jul 2024

³ Drawing Ref: GIG.JUL.24A

5. As a result of this conflict and my interpretation of the DMPO2015 and the NPPG, it is therefore unclear what is actually being applied for given that the red line plan does not incorporate land for which planning consent is sought. Such a discrepancy should have meant that the original application was invalid as it was unable to be determined. It is also not possible to request an amended red line plan as part of the appeal, as the red line plan is an essential component which sets the parameters of the decision and would need to be consulted again. The acceptance of such as an amendment to this appeal in my opinion would not be made in line with the 'Wheatcroft Principles'⁴ as the acceptance of such would deprive those who should have been consulted on the changed development of the opportunity of such consultation.
6. Taking the above into account, and in conclusion of this matter, the information presented within the application has a significant conflict and would therefore not be adequate to describe the development which is the subject of the application in accordance with the DMPO2015 and the NPPG. On the basis of the information provided the application is not valid and I am therefore unable to make a determination as to the planning merits of the proposed scheme.

Conclusion

7. For these reasons, and having considered all matters raised in evidence and from what I saw during my site visit, the appeal should not continue and I am unable to consider the planning merits of the scheme. I conclude that the appeal is not valid and on this basis should be dismissed⁵.

J Somers

INSPECTOR

⁴ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

⁵ Section 79(6) of the Town and Country Planning Act 1990