



Appeal Decision

Site visit made on 25 March 2025

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th June 2025

Appeal Ref: APP/Z5630/W/24/3352226

Onslow House, 1 Crummock Chase, Surbiton, Kingston Upon Thames KT6 4NR

- 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 Roger Kilby of Fleetwood Developments Ltd against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 24/00968/FUL.
 - The development proposed is the conversion of existing ancillary office space Use Class E (B1) on the first floor into a three bedroom flat (C3).
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Decision

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

Reasons

2. If before or during the determination of an appeal in respect of an application for planning permission to develop land, the Secretary of State forms the opinion that planning permission for that development could not have been granted by the local planning authority, then Section 79 (6) of the Town and Country Planning Act 1990 – as amended (the Act), affords them the ability to decline to determine the appeal or to proceed with the determination.
3. Article 7 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 – as amended (the Order), requires an application for planning permission to be accompanied by a plan which identifies the land to which the application relates. This requirement is further reflected in the Government's Planning Practice Guidance¹ which states that the application site should be edged clearly with a red line on the location plan, and which advises that this area should include all land necessary to carry out the proposed development. It further guides that, any other land under the control of the appellant should be outlined in blue.
4. On the application form it was indicated that every unit in this proposal – i.e. the flat, would have dedicated internal and external space for dry recycling, food waste, and residual waste. On this form, it was also indicated that the proposed development would not add or remove any parking spaces. Nevertheless, within the planning, design & access statement that accompanied the application it was stated that the cycle storage to the rear of the building would be expanded to provide storage for a further 2 cycles, and that refuse bins would be provided at ground-floor level as shown on drawing no. 11549-101E. This plan was submitted as part of the application and is titled proposed ground floor plan.

¹ Planning Practice Guidance paragraphs: 024 Reference ID: 14-024-20140306 – revised 06 03 2014

5. Although a site location plan was provided as part of the application, the cycle and refuse storage areas identified on drawing no. 11549-101E are not outlined in either red or blue on this plan. Consequently, and because the land that would be required for the provision of the proposed cycle parking and refuse storage is not included on the site location plan as part of the application site, the application did not meet the requirements of Article 7 (1) of the Order.
6. I have considered whether any parties would be prejudiced if the appeal were to be determined on the basis of the submitted details. While accepting that the appellant owns the freehold to both the appeal site and the land that is proposed to provide cycle parking and refuse storage, the Official copies of register of title show that there are also several leases on the property which have over seven years to run. Despite this, Certificate A was completed on the application form. That being the case, I cannot conclude that all other owners of the land to which the application related, were notified of the submission of the application as required by section 65 of the Act.
7. Amending the location plan, to include within the red-edged area, the land that would be used for the proposed bicycle and refuse storage areas, would not result in a fundamental change to the application scheme. However, to remedy the procedural shortcomings, new drawings and updated certification would be required. The revised scheme would then have to be publicised more generally, with interested parties given the opportunity to comment. The main parties would then need to be afforded time to respond to any representations received. To continue otherwise would be procedurally unfair, and prejudicial to those with an interest or a potential interest in the scheme.
8. Nevertheless, I have no reason to proceed other than in accordance with Government Guidance² which states that the appeal timetable will not be paused to permit further consultation. This is to ensure the effective and efficient administration of appeals.
9. Unlike in this appeal, the previously dismissed appeal scheme - ref APP/Z5630/W/22/3304009 included the under-croft parking area – which was also proposed to be used for bicycle and refuse storage purposes, in the land outlined in red on the location plan. Furthermore, and even if a ‘Grampian style’ condition could be applied to secure the bicycle and refuse storage provision indicated on drawing no. 11549-101E, these considerations do not lead me away from my previous findings.

Conclusion

10. For the reasons given, I conclude the appeal to be invalid. The procedural shortcomings of the current submission are not capable of reasonable remedy. I am therefore not in a position to proceed to consider the planning merits of the case. Accordingly, I decline to determine the appeal and propose to take no further action.

V Simpson

INSPECTOR

² Gov.uk Procedural Guide: Planning Appeals – England – updated 16 April 2025 – section 16.4