



Appeal Decision

Site visit made on 22 October 2025 by K Hole BA (Hons)

Decision by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2026

Appeal Ref: APP/K3605/D/25/3370780

27 The Roundway, Claygate, Esher, Surrey KT10 0DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Mark McGinniss against the decision of Elmbridge Borough Council.
 - The application Ref is 2025/0062.
 - The development proposed is 'to install 2 dropped kerb stones and reduce / remove area of grass / tarmac area of pavement'.
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Decision

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

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Reasons for the Recommendation

3. The Town and Country Planning (Development Management Procedure) (England) Order 2015 (the DMPO) sets out general requirements for applications for planning permission. Article 13(1) of the DMPO stipulates that an applicant for planning permission must give requisite notice of the application to any person, other than the applicant, who on the prescribed date is an owner of the land to which the application relates. Article 14 of the DMPO requires where an application for planning permission is made, the applicant must certify that the relevant requirements of Article 13 have been satisfied.
4. Furthermore, the Planning Practice Guidance¹ advises that the planning system entitles anyone to apply for permission to develop any plot of land, irrespective of ownership. However, an applicant is required to notify owners of the land, and they must sign a certificate confirming the ownership of the land to which the application relates and that the relevant notices have been served.
5. Part of the appeal site relates to the public footway and grass verge outside the domestic curtilage of 27 The Roundway. Where an application site includes land in other ownership, Section 66 of the Act confirms that a local planning authority shall not entertain any application for planning permission unless it is accompanied by a certificate stating that requisite notice has been served. Whilst the Council proceeded to determine the application, the Council's report confirms that there were discrepancies on the certificate provided and that it was not clear whether the

¹ 'Making an application', Paragraph 027, Reference ID: 14-027-20140306

appropriate ownership certificate had been served on the relevant landowner with the planning application.

6. On submission of the appeal, the appellant has confirmed that they had not notified the relevant landowner of the appeal but that they understood they needed to do so. Despite requesting confirmation from the appellant as to whether notice has since been served on the landowner, I have not been provided with a response or indeed any evidence that these requirements have yet been complied with. In the absence of such evidence, I cannot be satisfied that requisite notice has been served on interested landowners. In the circumstances, proceeding to determine the appeal would have the potential to cause unlawful procedural unfairness to the landowner and a determination on the merits of the case would incur a risk of serious prejudice to interested parties.

Conclusion and Recommendation

7. 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.
8. For the reasons given above, I conclude the appeal to be invalid. Having received no evidence from the appellant to demonstrate that the relevant notices have been served, I am not in a position to proceed to consider the planning merits of the case. Accordingly, the recommendation is to decline to determine the appeal and to take no further action.

K Hole

APPEAL PLANNING OFFICER

Inspector's Decision

9. I have considered all the submitted evidence and my representative's report and on that basis I decline to determine the appeal and propose to take no further action.

M Russell

INSPECTOR