



Appeal Decision

Site visit made on 6 January 2026 by T Morris BA (Hons) MSc

Decision by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2026

Appeal Ref: APP/W2465/W/25/3374825

21 Kirby Road, Leicester LE3 6BD

- 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 Mr Ricky Shah against the decision of Leicester City Council.
 - The application Ref is 20250808.
 - The development proposed is a change of use from 6-bed HMO (Class C4) to a 7-bed HMO (Sui Generis), retention of rear dormer, associated outdoor amenity area with landscaping and cycle parking provision
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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 proposed development is for the change of use to a seven-bedroom house in multiple occupation, as well as the retention of rear dormer, associated outdoor amenity area with landscaping and cycle parking provision.
4. Article 7(1) of the Order¹ requires, amongst other things, that an application for planning permission must be accompanied by a plan which identifies the land to which the application relates. Section 327A of the Act² 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. This is further reflected in the Guidance³ which states that such a plan should ensure that the exact location of the application site is clear, that the application site should be edged clearly with a red line on the location plan and advises how this area should include all land necessary to carry out the proposed development.
5. The Council's decision notice refers to the absence of accurate and sufficient information in order to determine whether the proposal would provide satisfactory living conditions for future occupiers. It's officer report states that the 4.8m internal width of the first floor is wider than the site's width of 4.4m, as indicated by the

¹ Town and Country Planning (Development Management Procedure) (England) Order 2015

² Town and Country Planning Act 1990

³ Planning Practice Guidance – Making an Application Paragraph: 024 Reference ID: 14-024-20140306

site's red line boundary on the Location Plan. The officer report also states that the width of the rear dormer measures 4.5m externally. This also exceeds the 4.4m width of the site as indicated by the Location Plan.

6. The appellant states that these issues are due to minor drafting discrepancies. However, they also state that the upper floor has a greater width on plan as it includes the overhang across the alleyway. This indicates that the proposed development does in fact include land which falls outside of the red-line boundary on the Location Plan, specifically that which is on the upper floors of the building. This is contrary to the aforementioned Order, Act and Guidance.
7. Furthermore, the appellant has submitted revised plans with the appeal to address the Council's concerns, to include the external alleyway at the ground floor. While the revised Location Plan has the same drawing number and date as the original one, its red-line boundary is clearly different, given that it appears to include the external alleyway at the ground floor. This is supported by paragraph 5.14 of the appellant's full statement of case which confirms that the external alleyway at the ground floor is included on the revised plans.
8. To be valid, a materially different application site to that considered by the Council would need to be formulated and then progressed. It may also be necessary to serve notifications of ownership and undertake consultation that were not originally undertaken. To proceed otherwise with the revised Location Plan would be both inappropriate and incur a risk of prejudice to any interested parties, something which the Act, the Order and the Guidance all seek to avoid.
9. In summary, based on the evidence before me, the proposed development is on land which is not included in the site's original red-line boundary. It would also be inappropriate to proceed with the appeal based on the site's revised red-line boundary. Consequently, the appeal cannot be determined in its current form.

Conclusion and Recommendation

10. 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.
11. For the reasons given above, I conclude the appeal to be invalid. Therefore, I am not in a position to progress matters or to proceed to consider the planning merits of the case. Accordingly, I recommend that no further action is taken on the appeal.

T Morris

APPEAL PLANNING OFFICER

Inspector's Decision

12. 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.

A M Nilsson

INSPECTOR