



Appeal Decision

Site visit made on 24 February 2026

by A James BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2026

Appeal Ref: APP/B0230/W/25/3376507

Unit 9 - 241 Selbourne Road, Luton LU4 8NP

- 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 Ilyas Mohammed of Chaii Khana Ltd against the decision of Luton Borough Council.
 - The application Ref is 25/00294/FUL.
 - The development proposed is for the retention of a coffee shop.
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Decision

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

Preliminary Matters

2. In the interests of certainty, I have used the site address from the appeal form in the banner heading above. This is also used in the Council's decision notice.

Reasons

3. Article 7(1) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (the Order) 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 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. This is further reflected in the Planning Practice Guidance (PPG), 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.
4. The planning application was accompanied by a plan entitled Location Map and Block Plan (drawing number: PB-25/241SELB/10). This plan shows a red line around part of a larger building which is annotated as 241. The red line is drawn flush with the sides of the building, extending into its front forecourt. Detail relating to the appeal development is included in that plan, shown as being located within the front forecourt of No 241. However, the development lies outside the red line area shown in that plan. Therefore, the site location plan originally submitted, and considered by the Council, does not include all the land necessary to carry out the development. As a result, the Council could not have granted planning permission for the development.

5. A further plan entitled Existing Floor Plan, Elevation and Location Plan (drawing number: 2024079-PL-010¹) is before me. This indicates the development in a different location with a different red line plan. The Council, in its decision notice, stated that the submitted plans fail to provide an accurate account of the existing site location and block plan.
6. The appellant has sought to address this matter as part of the appeal process by submitting an amended Location Map and Block Plan (drawing number: PB-25/241SELB/10A). This plan encompasses No 241 and a wider area of land, including a car park and access. It also indicates the appeal development in a different location to the original plan. This plan was not considered by the Council during the course of the original planning application. I cannot be certain, therefore, if the correct consultation has been carried out, or that the correct ownership notices have been served on potential interested parties.
7. The proposed amendment of the red line area and position of the development would fundamentally change the development. This would be procedurally unfair. Moreover, the Procedural Guide to Appeals makes clear that if an appeal is made, it should not be used to evolve a scheme and sets out how it is important that what is considered by the Inspector is essentially what was considered by the local planning authority and by interested parties at the application stage.
8. An Inspector can only consider the merits of an application and determine a subsequent appeal if they are satisfied that a valid planning application was made in the first instance. Whether the Council validated and determined the application is not determinative. In this instance, the planning application did not comply with the requirements of the Order or the PPG. 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

9. 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.
10. For the reasons given above, I conclude the appeal to be invalid. The procedural shortcomings of the current submission are not readily capable of any reasonable remedy. 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.

A James

INSPECTOR

¹ Also referred to as 2024079-PL-010(02)