

**ROGERS**

# To be valid or not to be valid, that is the question



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Regular readers who make planning applications will be aware of the rise over recent years of the "validation police". Many local planning authorities now employ junior validation clerks whose job is to vet all applications for compliance with the rules that specify what they must include. These rules were originally set out as a basic national list (including illustrative drawings, ownership certificate(s), design and access statement, usually a fire statement) plus a completed application form, the correct fee, and any other items that may be set out in a local list.

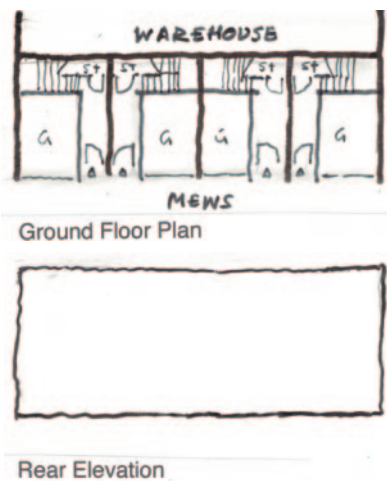
It is this last requirement that has often caused problems and allows the validation clerk to refuse the acceptance of an application (thus in theory relieving the overworked planning department by delaying submission), often speciously or for very pedantic and disproportionate reasons. In addition, the local lists that authorities rely on are frequently wrongly applied: they must be fully adopted and reviewed every two years to remain legitimate.

Here are the top ten reasons for non-validation that I have come across over the years. All are real and I can provide evidence for this if required.\*

- 1 Every adjoining owner must be notified: required when applying for internal alterations to a penthouse flat above a mansion block which had 72 apartments - certificates were demanded for all owners of the other flats in the block.
- 2 Provide detailed drawings showing internal walls, etc: required when the buildings shown on the plans were to be demolished as part of the application.
- 3 Provide a Flood Risk Assessment: required when the application was for a dormer roof extension in Ealing.

*The reasonable man adapts himself to the world: the unreasonable one persists in trying to adapt the world to himself. Therefore all progress depends on the unreasonable man.*  
 – George Bernard Shaw, 1903

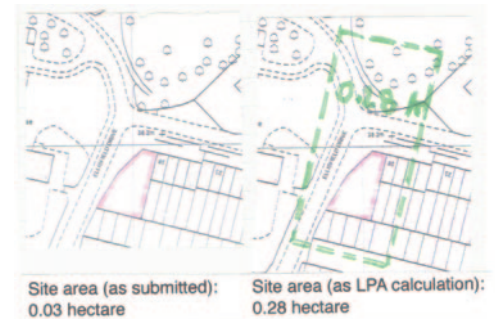
- 4 Provide detailed elevations: required for a simple Change of Use application.
- 5 Submit four paper copies of the drawings: required following a planning portal online application. The legislation states that authorities cannot insist on drawings being provided on paper when the application is made online (or, if the application is made with drawings on paper, that they are also submitted online).
- 6 Show the nearest public road: required when the application included alterations to a house on a private road beside a golf course.
- 7 Provide a rear elevation: required for a small development where the proposed mews houses



(with flat roofs) backed onto an existing warehouse.

- 8 Site must be outlined in red: required when the planning portal online application included a site plan with the site edged in red - but the local planning authority stated that they did not have access to a colour printer! (Similar to the demand that Other land in the applicant's ownership must be edged in blue: nowhere does the legislation require this: it simply has to be shown clearly, usually using a different colour - but not necessarily blue).
- 9 Remove the words "Do not scale" from all drawings and/or Add a scale bar (sometimes both can be cited) or Show written dimensions: required

- even when the drawings were submitted as paper copies and clearly to scale. (Similar to Add a north point - which has been required even when the only drawings submitted were elevations).
- 10 Provide the correct application fee: required when a (senior) planning officer miscalculated the



site area and demanded a fee three times what was required.

Faced with what you believe are spurious or unjustified reasons for refusing to validate an application, there are several ways to proceed. You can of course agree to provide the information / make the changes required even though you do not agree (provided that this can be done - it's not unknown for validation demands to be made that are impossible to satisfy). Or you can negotiate with the validation clerk (or case officer) to have the validation demand removed/amended.

Or, if your client has the time, you can wait for the determination period to expire (usually 8 weeks) and then go to appeal based on the "non-determination" refusal: if the appeal inspector does agree that the application was valid, they can go ahead and determine it. This has the advantage that it by-passes a difficult planning authority and achieves a decision that may not include unreasonable LPA conditions. ■

\* All except one - which is the made up one? [Answer below]

*Answer: Number six - there is no specific requirement for a planning application to be related to a public road. In planning terms a highway has simply to accommodate the passing and re-passing of vehicles, so can be a private or unadopted road.*