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# Appeal Decision

Site visit made on 14 May 2024

**by Jonathan Edwards BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 May 2024**

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**Appeal Ref: APP/B0230/W/23/3330699**

**354 Poynters Road, Luton LU4 0TW**

- 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 Bezmir Cuni against the decision of the Council of the Borough of Luton.
  - The application Ref is 23/00325/FUL.
  - The development proposed is change of use of grass verge to hard standing and extending the vehicle crossover.
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## Decision

1. The appeal is not determined, for the reasons set out below.

## Preliminary Matter

2. The appellant has provided drawings numbered 1706-02 revision A and 1706-03 revision A. However, the evidence indicates a plan numbered 1706-02 revision B was submitted by the appellant prior to the determination of the planning application leading to this appeal. The Council has confirmed that its decision is based on this amended plan with the vehicle crossover positioned further to the west. This appeal has been considered on the same basis.

## Reasons

3. Section 79(1) of the Act allows the Secretary of State to deal with an appeal as if it had been made to him in the first instance. Section 79(6) confirms that if during the determination of an appeal the Secretary of State forms the opinion that planning permission for the development could not have been granted by the local planning authority, he may decline to determine the appeal.
4. Regulation 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the Regulations) sets out the general requirements for applications for planning permission. Under regulation 7(c)(i) a plan is required that identifies the land to which the application relates. Although not part of the Regulations, the Planning Practice Guidance (PPG) states that the application site should be edged clearly with a red line on the location plan. This red line should include all land necessary to carry out the proposed development.<sup>1</sup>
5. The plans provided show a red outline to the identified appeal property. However, the defined red line site does not include the part of the grass verge and pavement to the front of this property where the proposed hardstanding

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<sup>1</sup> Planning practice guidance, Making an application, Paragraph: 024 Reference ID: 14-024-20140306, Revision date: 06 03 2014.

and vehicular crossover would be located. Therefore, the red line does not include the land necessary to carry out the proposed development, contrary to the aforementioned provisions of the PPG.

6. Moreover, the Site Ownership Certificate on the submitted appeal form states that the appellant or their agent has given the requisite notice to everyone else apart from the appellant who was the owner of any part of the land to which the appeal relates. The only name listed under certificate B is that of the appellant. The application form also includes a completed certificate B but it states the applicant is the sole owner of the land or buildings to which this application relates.
7. I have sought comments on these matters from the main parties. No response has been received from the appellant but an officer from Luton Borough Council has advised that the grass verge is owned by Central Bedfordshire Council. It is unclear whether the appellant has served the required notice on this Council as landowner. The certificates on the application and appeal forms suggests no such notice has been served.
8. There is discretion to allow an appeal to proceed notwithstanding a failure to comply with statutory requirements. However, the apparent inaccuracies of the completed land ownership certificates as well as the fact that the red line application site excludes any part of the grass verge affected by the development raises significant concerns over whether the required notice has been served. I am concerned that proceeding with the appeal would cause injustice or prejudice to potential interested parties.
9. To conclude, I find the planning application the subject of this appeal was not validly made as the plans submitted do not include all land affected by the development within the application site as defined by a red line. As such, the correct steps to notify landowners appears not to have been undertaken. Therefore, I decline to determine the appeal.

*Jonathan Edwards*

INSPECTOR