



Appeal Decision

Site visit made on 5 November 2024

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/D5120/W/24/3345917

143 Blendon Road, Bexley DA5 1BT

- 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 Matthew Kirby against the decision of the Council of the London Borough of Bexley.
 - The application Ref is 23/02407/FUL.
 - The development proposed is part demolition of a rear lean to extension and garage and creation of a new dwelling and external staircase to access rear of first floor unit.
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Decision

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

Preliminary Matters

2. The application form did not include a name for the appellant. It has been confirmed that the name and company on the appeal form is the same as the appellant. I am satisfied the appellant is entitled to make the appeal.
3. Section 79(1) of the Town and Country Planning Act 1990 (the Act) allows the Secretary of State to deal with an appeal as if it had been made to him in the first instance and s79(6) confirms that if during the determination of an appeal in respect of an application for planning permission, 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. Section 65 of the Act sets out requirements with respect to giving notice of applications for planning permission and s65(5) is clear that a local planning authority shall not entertain an application for planning permission unless any requirements imposed by this section have been satisfied. The Town and Country Planning (Development Management Procedure) (England) Order 2015 (the Regulations) sets out at Article 13 the requirements for notification of landowners.
5. Article 7 of the Regulations also confirms that an application for planning permission must be accompanied by a plan which identifies the land to which the application relates. Although not part of the legislation, the Planning Practice Guidance (PPG) advises that "The application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (eg land required for access to the site

from a public highway, visibility splays, landscaping, car parking and open areas around buildings)”¹.

6. In the case of this appeal, the red line extended around the plot of 143 Blendon Road, but did not include the service road from the rear of the property to Blendon Road. The submitted plans do not show a separate access through the existing building to Blendon Road. It is my view that the land necessary to carry out the proposed development would include the land along the service road until its point of connection with the adopted highway. The submitted plans therefore do not adequately identify the land to which the application relates.
7. The Council’s officer report acknowledges that the red line does not include the service road at the rear. It also sets out that were the service road to be used for storage of the commercial bins serving the existing ground floor unit, ownership certificate B would have to be completed. There is no land use planning reason why it would be necessary to serve notice for storage of the bins, but not for use by future occupiers of the proposed dwelling. While I acknowledge the service road is an existing access and appears to serve a number of properties, this would not be a reason to deprive landowners of their right to notice of development proposals.
8. The proposal would not alter the plot of No 143 and no alterations to the service road are proposed. However, neither of these alter the fact that the service road would be necessary to carry out the proposed development. Any rights the owner and occupiers of No 143 have to use the service road would not alter the requirement to notify landowners of proposals that would involve their land.
9. There is a discretion to allow an appeal to proceed notwithstanding a failure to comply with the statutory requirements. This discretion should only be exercised following full regard to all the circumstances². In this case, notice would have to be served on the owners of the access road. The failure to carry this out has the potential to cause prejudice to those owners. Furthermore, additional consultation could give rise to further issues which may be relevant to the interested parties in this case. I could not be certain that there would not be prejudice to those parties were further representations to be made.
10. I have found that the planning application the subject of this appeal was not validly made as the plans submitted with it did not identify all the land to which it related. Consequently, the correct steps to notify landowners were not taken which could prejudice those landowners. There would also be the potential for there to be prejudice to interested parties were measures taken to address this during the appeal process. I therefore decline to determine the appeal.

Jennifer Wallace

INSPECTOR

¹ Making an application Paragraph: 024 Reference ID: 14-024-20140306 Revision date: 06 03 2014

² Maximus Networks Ltd v SSHCLG & Others [2018] EWHC 1933 (Admin)