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Highways and Transportation

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Date: 8 October 2024

Our Ref:

Application - MBC/23/504068/OU

Location - Land East Of Albion Road And North Of Copper Lane Marden Kent TN12 9EG

Proposal - Outline application with some matters reserved (access only sought) for the removal of 2 former agricultural sheds and erection of up to 117no. dwellings and associated infrastructure including partial footways on Albion Road.

Introduction

Kent County Council (*KCC*) Highways note that subsequent to the refusal of planning application 23/504068/OUT an appeal against refusal has been lodged by the applicant. Review of the decision notice confirms that the Local Planning Authority (*LPA*), Maidstone Borough Council (*MBC*) included two highway based reasons for refusal (*reasons 3 and 4*).

Subsequent to the refusal of planning permission the applicant has been engaging with KCC Highways to address this authority's specific concerns, as set out in the consultation response of 23rd October 2023. This has resulted in the applicant submitting a Transport Assessment Addendum (TAA), in advance of the forthcoming enquiry.

I have the following highway comments to make in respect of it:

IMPORTANT NOTE: This response should be read in conjunction with the consultation response of 23rd October 2023

Discussion

Refusal Reason 3

Due to the absence of safe pedestrian and cycle access on Albion Road to access the services within the village of Marden, the residents are likely to be reliant on the private motor vehicle to travel for access to day-to-day needs. This would be contrary to the aims of sustainable development as set out in Policies SS1, SP17, SP23 and DM1 of the Maidstone Borough Local Plan, policy In2 of the Marden Neighbourhood Plan, the National Planning Policy Framework and the objectives of Active Travel England to secure good walking, wheeling and cycling infrastructure.

The applicant has revised their pedestrian access strategy, proposing to provide a new pedestrian link along the site frontage, rather than solely relying on a connection with Public Right of Way (*PROW*) KM821 which is unlit, overgrown and lacks natural surveillance. KCC Highways consider the revised access strategy to be appropriate given how it would provide a direct and obvious link to Marden village centre.

To facilitate the provision of this link the applicant is seeking to provide a priority working arrangement which would involve narrowing the carriageway for a reasonable distance. KCC Highway's understanding is that whilst an alternative arrangement is achievable that would allow the provision of a footway, without any carriageway narrowing, the applicant is unwilling to bring this forward, due to concerns about the need for a non-standard construction and the impact on the adjacent trees.

Importantly, the applicant has provided a stage 1 Road Safety Audit (RSA) and supporting designer's response for all proposed highway works. In all instances the auditor's recommendations have been accepted and incorporated into the final design proposals.

Additionally, the applicant has demonstrated that adequate levels of visibility can be achieved on approach to and between the give way markings. This has significance as it ensures highway users, including cyclists, have suitable levels of visibility to any stationary or oncoming vehicles.

In conclusion, whilst it is disappointing that the appellant is unwilling to bring forward a more straight forward solution, the acceptability of the proposed pedestrian access strategy has been demonstrated in technical terms. On this basis KCC Highways now consider that safe pedestrian access can be achieved. It is KCC Highway's expectation that the highway works are secured by an appropriately worded condition via a S278 agreement with this authority and delivered in advance of any occupations, in the interests of highway safety.

Refusal Reason 4

The proposed access arrangement shows that refuse freighters are not able to safely access or egress from the site without overrunning adjacent traffic lanes. The Transport Assessment is deficient in that is no Road Safety Audit, there is inadequate raw data for traffic survey, visibility plays need recalculation and trip generation data needs sensitivity testing. The development is contrary to the NPPF which requires safe and suitable access to be achieved for all users and to policies DM1 and DM21 of the Maidstone Borough Local Plan 2017 and policy In3 of the Marden Neighbourhood Plan.

To reduce the extent of overrunning by refuse freighters the appellant has amended the primary site access to include additional widening. Although refuse freighters will still have to overrun adjacent traffic lanes to some degree, given their infrequent nature the design of the primary site access is acceptable.

In accordance with this authority's response of 23rd October 2023 the appellant has sought to demonstrate the suitability of the proposed emergency access onto Copper Lane. Additional information provided includes a traffic survey to determine driven speeds along Cooper Lane.

The results of this survey have been used to determine the necessary visibility sight lines, with a drawing (*drawing number: ITB15098-GA-057 titled 'Proposed Pedestrian/Cycle/Emergency on Copper Lane*) provided which demonstrates that they can be achieved in land within the control of the appellant, or existing highway boundary.

Lastly, the appellant has now provided all the traffic survey data that underpinned the conclusions of the original Transport Assessment (TA). This has allowed KCC Highways to validate the findings of the TA, including in relation to the suitability of the visibility sight lines from the primary site access and impact on nearby junctions.

To reflect the fact that construction of the development may be delayed the appellant has also provided revised capacity assessments for a future year of 2029. The results of these assessments support the conclusions of the TA.

Summary and Recommendation

Having reviewed the TAA the appellant has addressed this authority's previous concerns in a satisfactory manner. Therefore, KCC Highways do not consider that either of the highway based reasons for refusal represent sustainable grounds for objection.

Should the inspector be minded to grant planning permission it is recommended that the following conditions are imposed upon any decision notice:

-No occupation of the development shall be allowed until the highway works as shown on drawing number: ITB15098-GA-060 Rev E titled 'Proposed Albion Road All Purpose Access and Footway' are constructed.

-Submission of a Construction Management Plan before the commencement of any development on site to include the following:

- (a) Routing of construction and delivery vehicles to / from site.
- (b) Parking and turning areas for construction and delivery vehicles and site personnel, which may require supporting vehicle tracking/swept paths.
- (c) Timing of deliveries, avoiding network and school peaks where possible.
- (d) Provision of wheel washing facilities.
- (e) Measures to prevent the discharge of surface water onto the highway.
- (f) Temporary traffic management / signage.

-Provision of measures to prevent the discharge of surface water onto the highway.

-All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing a 7kw output) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:

<https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

-Use of a bound surface for the first 5 metres of the access from the edge of the highway.

-Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.

-Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 1.05 metres above carriageway level within the splays, or 0.6 metres where a footway crosses the access, prior to the use of the site commencing.

It is important to note that Local Planning Authority (LPA) permission does not convey any approval to carry out works on or affecting the public highway.

Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because LPA planning permission has been granted.

For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture or landscape assets such as grass, shrubs and trees, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

Across the county there are pieces of land next to private homes and gardens and near the highway that do not look like roads or pavements but are actually part of the public highway.

Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.

Kent County Council has now introduced a pre-application advice service in addition to a full formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. Further details are available on our website below:

<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>.

This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process. Further details on this are available on our website below:

<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/apply-for-a-dropped-kerb/dropped-kerb-contractor-information>

Once planning approval for any development has been granted by the LPA, it is the responsibility of the applicant to ensure that before development commences, all necessary highway approvals and consents have been obtained, and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority.

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Further guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website:

<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181.

Yours faithfully

Director of Highways & Transportation

*This is a statutory technical response on behalf of KCC as Highway Authority. If you wish to make representations in relation to highways matters associated with the planning application under consideration, please make these directly to the Planning Authority.