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Response to Planning application from Hertfordshire County Council (T and CP GDP Order 2015)

Director of Planning
Broxbourne Borough Council
Bishop's College
Churchgate
Cheshunt
Hertfordshire
EN8 9XQ

District ref: 07/19/0200/F
HCC ref: BR/53/2019
HCC received: 23 August 2021
Area manager: Matthew Armstrong
Case officer: Matthew Armstrong

Location

Fairmead90 Cuffley HillGoffs OakEN7 5EX

Application type

Full Application

Proposal

AMENDED PROPOSAL

Erection of 58 dwellings (17no. 2 bed , 14no. 3 bed, 22no. 4 bed, 1no. 5 bed) with associated infrastructure

Decision

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following conditions:

- 1) Before commencement of the development, additional access plans must be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which:
 - i) Acknowledge junction protection measures may be needed at the new access;
 - ii) Show the detailed engineering designs and construction of the new access to the development site from Cuffley Hill and associated highway works (including but not limited to pedestrian dropped kerbs and tactile paving either side, and reinstatement of the footway / closure of the existing access points at both ends of the service road) as shown indicatively on drawing number drawing number 17904-00-012 Rev D (Markides Technical Note 1, 18/7/2019).

These works shall be constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction, and completed before first occupation of the development.

Reason: To ensure that the approved planning drawings match up with the final s278 drawings (in particular, the possible need for junction protection measures at the access, which will be formally established at the s278 stage), and to ensure the provision of a safe and suitable access arrangement, in the interest of the free, safe and sustainable flow of all highway users.

2) Before occupation of the development, additional plans must be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the detailed engineering designs and construction of improvements to the two closest bus stops along Cuffley Hill, to include:

- i) Relocation of both bus stop cages onto the running lane of the Cuffley Hill carriageway, and reinstatement of the footway / grass verge as applicable in the existing laybys;
- ii) Raised Kassel kerbing at both bus stops;
- iii) Shelters at both bus stops.

This work shall be fully completed to the satisfaction of the Local Planning Authority before first occupation.

Reason: So that all users (including disabled users) of the development have the option of using bus transport, to ensure the site is accessible as possible for all people, without discrimination to any persons, and in compliance with paragraphs 110 and 112 of the NPPF, and LTP4 policies 1, 6 and 9.

3) Before occupation of the development, additional plans must be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the detailed design and construction of a new pedestrian crossing point along Cuffley Hill e.g. in the form of pedestrian dropped kerbs / tactile paving and central pedestrian island. Before first occupation of any part of the development, this work shall be fully completed to the satisfaction of the Local Planning Authority.

Reason: So that all residents and visitors of the development can safely and conveniently cross and access the bus stop on the opposite side of the road to the development, to ensure the site is accessible as possible for all people, without discrimination to any persons, and in compliance with paragraphs 110 and 112 of the NPPF, and LTP4 policy 1, 6 and 9.

4) Before occupation of the development, additional plans must be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the detailed design and construction of pedestrian dropped kerbs and tactile paving at the following junctions:

- i) Robinson Avenue / Cuffley Hill;
- ii) The Meadway / Cuffley Hill.

Before first occupation of any part of the development, this work shall be fully completed to the satisfaction of the Local Planning Authority.

Reason: So that all users of the development can conveniently, safely and sustainably access the nearest schools, shops, rail station, and other key facilities/amenities, in compliance with paragraphs 110 and 112 of the NPPF, and policy 1 of HCC's LTP4, and in the interest of sustainable travel for all users.

5) Before commencement of the development, revised plans must be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show:

- i) Pedestrian dropped kerbs and tactile paving on either side of all junctions within the site which have footways at the bellmouth;
- ii) Footways extended beyond the incline of raised tables within the site, where the main spine road routes into shared surface roads.

Reason: In the interests of sustainable travel, to ensure that all users of the site (in particular those with wheelchairs, buggies and sight impairments) are safely and conveniently accommodated within the site, in accordance with paragraphs 108 and 110 of the NPPF, and policy 1 of HCC's LTP4.

6) Before the development hereby approved is first occupied, all on site vehicular areas shall be accessible, surfaced and marked in a manner to the Local Planning Authority's approval so as to ensure satisfactory parking of vehicles outside highway limits. Arrangements shall be made for

surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

Reason: In order to minimise danger, obstruction, and inconvenience to users of the highway and of the premises.

7) At least two months before first occupation, a revised Travel Plan Statement shall be submitted and approved in writing by the Local Planning Authority in consultation with the Highway Authority. This shall consist of a written agreement with the County Council setting out a scheme to encourage, regulate, and promote sustainable travel measures for owners, occupiers, and visitors to the development in accordance with the provisions of the County Council's 'Travel Plan Guidance for Business and Residential Development'. The Plan shall be implemented in full thereafter.

Reason: To promote sustainable travel measures to the development, in accordance with paragraphs 110 and 112 of the NPPF and HCC's LTP4 policies 1, 3, 5, 6, 7, 8, 9, 10.

8) Before commencement of the development, a 'Construction Traffic Management Plan' shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The 'Construction Traffic Management Plan' must set out:

- the phasing of construction and proposed construction programme.
- the methods for accessing the site, including wider construction vehicle routing.
- the numbers of daily construction vehicles including details of their sizes, at each phase of the development.
- the hours of operation and construction vehicle movements.
- details of any highway works necessary to enable construction to take place.
- details of construction vehicle parking, turning and loading/unloading arrangements clear of the public highway.
- details of any hoardings.
- details of how the safety of existing public highway users and existing public right of way users will be maintained.
- management of traffic to reduce congestion.
- control of dirt and dust on the public highway, including details of the location and methods to wash construction vehicle wheels.
- the provision for addressing any abnormal wear and tear to the highway.
- the details of consultation with local businesses or neighbours.
- the details of any other Construction Sites in the local area.
- waste management proposals.

Reason: To minimise the impact of the construction process on the on local environment and local highway network.

HIGHWAY INFORMATIVES:

The Highway Authority recommends inclusion of the following Advisory Notes (ANs) to ensure that any works as part of this development are carried out in accordance with the provisions of the Highways Act 1980 and other relevant processes.

AN1) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence.

Further information is available via the website

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

AN2) Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

AN3) Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

AN4) Construction standards for works within the highway. The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

AN5) Estate Road Adoption: The applicant is advised that Hertfordshire County Council as Highway Authority no longer adopts new highway as maintainable at the public expense unless a wider public benefit can be demonstrated. However, all internal roads should be built to adoptable standards. The developer should put in place a permanent arrangement for long term maintenance, and at the entrance of any such residential estates, a road name plate should indicate that it is a private road to inform purchasers of their future maintenance liabilities. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

AN6) Section 106 Agreement: Planning permission granted subject to the completion of a Section 106 Agreement between the applicant, Broxbourne Borough Council, and Hertfordshire County Council to secure a financial contribution, index linked by SPONS to July 2006, based on the following dwelling breakdown:

- Each 1-bed dwelling = £625;
- Each 2-bed dwelling = £750;
- Each 3-bed dwelling = £1125;
- Each 4/4+ bed dwelling = £1500.

When applying the mix of development proposed in this case, a headline figure of £103,500 is calculated (this includes indexation up to November 2019). The contribution can be pooled towards the proposed signalisation scheme of the Newgatestreet Road / Goffs Lane junction, as outlined in Broxbourne's Transport Strategy 2017. However, the LPA may consider a reduction to this headline figure is appropriate on the basis that the 'strand 1' works outlined in conditions 2, 3 and 4 above are

all delivered by the developer (given they each have a wider public benefit). If the developer provides estimated costings for these works then the deduction can be applied.

COMMENTS:

The applicant has submitted revised plans. In a highways context there is no real difference from the previous submission, and as such reference should be made to our previous comments sent 14/4/2020, all of which remain applicable (copy below).

Essentially, the development scheme as submitted currently falls fundamentally short in a sustainable travel /accessibility context as the applicant is not proposing any off-site highway works in this respect. National and Local policy requires the needs of pedestrians, cyclists, and public transport users to be placed before the those of the private motorcar.

However, the LPA's previous advice to the Highway Authority in this case was to set out all its requirements by condition, which are outlined above.

The Highway Authority's previous consultation response objected to the proposed development on a number of grounds. The developer met with the Highway Authority and LPA on 13/9/2020 to discuss these matters. Revised plans (November 2019) and a revised Travel Plan (November 2019) have since been submitted. Each outstanding issue is considered in turn below.

1) Lack of tracking diagrams at the proposed access, including supermarket delivery vans and refuse vehicles:

The developer agreed at the meeting to provide tracking diagrams to/from all directions at the access point, but to date these have not been received (note, the November 2019 includes internal tracking but not at the access). Much of the wording of condition 1 above is a standard condition which ensures detailed s278 plans are submitted in a timely fashion, and this process would usually include the need for tracking diagrams. Without seeing these in advance of the s278, there is a risk (albeit small) the access design will need to be changed at a later stage, which could prove problematic with respect to any permitted plans. The LPA will need to take a view whether the additional tracking diagrams requested should be forthcoming now, or can be considered through the s278 process.

2) Double yellow lines are needed along the initial stretch of the service road by the new access point, but these are not included:

This issue was discussed at the meeting of 13/9/2020, with the developer maintaining that no yellow lining is necessary to facilitate access arrangements. The Highway Authority sent an e-mail to the transport consultant on 18/9/2020 clarifying the way forward in this respect. This explained that the new junction would, as standard, be subject to a road safety audit as part of the s278 process. If this audit identifies the need for junction protection on safety grounds then our Implementation team would not be in a position to give technical approval to any plans that do not include them.

A stage 1 Road Safety Audit is not considered to be an essential requirement for this planning stage, however, given the concerns raised about the junction with regards to lack of parking protection measures currently shown, the e-mail advised the applicant to commission an RSA1 now to establish whether yellow lining is needed or not. This would have the benefit of smoothing out and speeding up the s278 process, as well as identifying any other potential snagging issues. It is up the applicant if they wish to proceed in this manner, but the advice to proceed with an RSA1 now is intended to positively help them.

The e-mail went on to say that alternatively (albeit less favourable), the applicant can proceed with the current plans which do not show junction protection measures, however these plans should include wording along the lines of "The need for junction protection measures to be confirmed at s278 stage" (or similar). If the Safety Audits (stages 1 to 3) as part of the s278 process do not identify the need for junction protection measures then fine. If however they do, then our Implementation team would ask for revised plans which show this. Assuming the plans approved at this planning stage make reference to the potential implementation of such measures, that should overcome any potential challenges on discrepancies in this respect between the planning plans and the s278 plans.

In terms of the TRO process for yellow lining (if needed), our TRO team advise that the process involves an initial consultation which seeks the views of those affected in the immediate vicinity and various standard consultees (including the police). From this there may arise the need for some changes, and the proposal then moves onto formal consultation. If there are any objections received at either of these consultation stages, these can be overruled so long as valid safety reasons are provided. A Delegated Officer at the Highway Authority would need to sign off any TRO scheme that receives objection.

The LPA has agreed with the approach above, however, it is noted that the revised plans submitted do not show the additional wording as requested at the access (neither has an RSA1 been submitted). Therefore, part i of condition 1 above includes wording to ensure such a plan is submitted before commencement, but this element of the condition can be removed if such a plan was received now.

3) Sustainable travel measures / site accessibility substandard:

The Highway Authority has previously requested the following works be included as Grampian planning conditions to any grant of consent:

- i) The two closest bus stops upgraded to include relocating the cage onto the main carriageway and reinstating the footway / grass verges (as appropriate) across the existing laybys, and installation of raised Kassel kerbing and shelters at both. By moving the stops onto the carriageway this gives buses priority over cars (in accordance with LTP4 policy 1) as it means they do not have to wait for a gap in passing traffic to pull out. This also allows for the widening of the footway at the eastbound stop, which would enable a shelter to be installed, and the Kassel kerbing will facilitate wheelchair users onto and off buses.
- ii) An informal crossing for pedestrians over Cuffley Hill, with a central island and pedestrian dropped kerbs / tactile paving either side. This will ensure all users of the development can safely and conveniently access the stop on the opposite side of the road. The location of such a crossing would most sensibly sit within the site access design, which could then incorporate a right turn lane (albeit a right turn lane is not necessary purely for capacity purposes).
- iii) Pedestrian dropped kerbs and tactile paving at both The Meadway and Robinson Avenue junctions, to ensure those in wheelchairs, with buggies, sight impairments, etc can safely and conveniently access Cuffley Station and the Newgatestreet road shopping parade.

At the meeting of 13/9/2020, the developer made it clear they do not consider the works listed under i and ii above to be necessary, and that the use of Grampian planning conditions to secure such work is not justified. They are of the view any such works should be delivered by s106 agreement instead.

With respect to the latter point, the use of Grampian conditions to secure necessary off-site highway works is a long established practice (cf. Grampian Regional Council v City of Aberdeen (1984)). The government's planning portal also includes the following wording:

“Planning obligations, in the form of section 106 agreements and section 278 agreements, should only be used where it is not possible to address unacceptable impacts through a planning condition”.

“Conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. It may be possible to achieve a similar result using a condition worded in a negative form (a Grampian condition) – i.e. prohibiting development authorised by the planning permission or other aspects linked to the planning permission (e.g. occupation of premises) until a specified action has been taken (such as the provision of supporting infrastructure)”.

With respect to the former point, the LPA's attention is again drawn to paragraph 108 of the NPPF which states developments should ensure that “safe and suitable access to the site can be achieved for *all* users”, and that “appropriate opportunities to promote sustainable transport modes can be – or have been – taken up”. Similarly, paragraph 110 states that “development should give priority first to pedestrian and cycle movement and second – so far as possible – to facilitating access to high quality public transport... and appropriate facilities that encourage public transport use”. It also states that developments should “address the needs of people with disabilities and reduced mobility in relation to all modes of transport”. Our LTP4 policy 1 also puts the needs of pedestrians, cyclists, and public transport users ahead of the private motorcar.

The Highway Authority is further mindful of Section 19 of the Equalities Act 2010, and the importance of ensuring, for example, disabled residents of this development who rely on a wheelchair are not disadvantaged from using the bus because of a lack of raised kerbing at the stops and a suitable crossing point between them.

With this in mind, it is difficult to see how the proposal would comply with the above policies if the measures listed in i, ii, and iii above are not implemented as part of the development.

The difficulty here appears to be with the fact that several other developments along Cuffley Hill and Goffs Lane are also proposed, some of them requiring the same upgrade works. In this particular case, some of the off-site highway works which form part of the adjacent CG Edwards consent may overlap with those listed above. The LPA will need to establish what they consider to be the best approach in this respect, but essentially the above works are considered necessary to implement for this development alone, and as such are included as conditions at the start of this report.

In terms of a wider s106 contribution, the Highway Authority has previously identified that a pooled contribution towards the proposed signalisation scheme of the Newgate Street Road / Goffs Lane junction (which would better manage the flow of traffic through this junction as well as benefit pedestrian movements) may be justified. Again, the LPA will need to consider what level (if any) is appropriate to seek from this development, but HCC's planning obligations toolkit provides a headline figure of £103,500 by today's indexation. At the meeting of 18/9/2020 the developer said they would provide alternative s106 calculations for the Highway Authority to consider, but to date these have not been received.

The works listed in i, ii and iii above could all be considered as having a wider public benefit, and therefore reasonably the cost of delivering these works could be deducted from the toolkit headline figure. The LPA may want to consider this when negotiating any highway related s106 with the developer.

4) Visibility from individual driveway accesses is not shown across the site (in particular, pedestrian visibility):

The submitted plans now largely show these, but it is noted that many of the pedestrian visibility splays from individual driveway accesses rely on land within adjacent plots. If the LPA is content that these splays can somehow be secured, despite them falling on different plot's land, then there should be no issue. The LPA may want to include a condition ensuring all visibility splays across the site are maintained in perpetuity, but essentially as the internal roads are not to be adopted by the Highway Authority this is not directly a public highway matter.

5) Clarification needed on the treatment to be applied at the points where internal footways cease and enter shared surface carriageways, especially where speed tables form a part of the design. It would not be desirable for those in wheelchairs for example to have to route up or down a speed table where footways cease:

All the revised plans still show the end of footways routing onto the incline of raised tables, which will be problematic to those in wheelchairs. However, the internal tracking diagrams do include an inset diagram which commits to extending the footways beyond ramped inclines. The LPA may be of the view this is sufficient for this planning stage, but it is recommended that more detailed plans showing these changes on the actual site design is conditioned. In addition, none of the plans show tactile paving at internal junctions over which pedestrians must cross. Condition 5 above is therefore included to cover this, which will help ensure this development is LTP4 policy 1 compliant, and in accordance with NPPF paragraphs 108 and 110.

6) Travel Plan substandard:

The revised (November 2019) Travel Plan Statement has been assessed by our Travel Plan team and is now considered suitable. The Travel Plan co-ordinator and secondary contact will need to be confirmed once officially appointed. Condition 7 above covers this aspect.

CONCLUSION: To conclude, the above response sets out the measures (conditions and s106) that the Highway Authority considers necessary to make this development acceptable in planning terms. However, the LPA will ultimately decide on the suitability of these, and the mechanism for securing them, especially in the light of the various other developments coming forward in the vicinity.

Signed
Matthew Armstrong

3 September 2021