



Appeal Decision

Hearing Held on 30 April 2019

Site visit made on 30 April 2019

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 June 2019

Appeal Ref: APP/J0405/W/18/3207290

Land north of Good Intent, Good Intent, Edlesborough LU6 2RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by K Attrill, C Hutchings, M Anstee, T Anstee against the decision of Aylesbury Vale District Council.
 - The application Ref 17/02222/APP, dated 5 June 2017, was refused by notice dated 30 May 2018.
 - The development proposed is redevelopment of the site to provide 14 residential dwellings, including access and parking.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by K Attrill, C Hutchings, M Anstee and T Anstee against Aylesbury Vale District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issue is the effect of the proposal on highway safety with particular regard to visibility at the junction of Good Intent and the High Street.

Reasons

4. The appeal site is allocated for residential development in the Edlesborough Parish Neighbourhood Plan 2013 – 2033 (April 2017) (NP). It is a parcel of land located at the end of Good Intent which itself leads on to the High Street. Along with the properties located in Orchard End and Jacksons Close, 51 properties are currently served by the existing junction.
5. Policy EP3 of the NP relates to the allocation of the site for residential development, and amongst other things, it requires that vehicular access is provided from the adjacent ongoing development at Cow Lane rather than from Good Intent. The policy does not explicitly state the reason for this restriction. However, at the hearing, both parties accepted that it related to concerns in relation to the capacity of the junction of Good Intent with the High Street.
6. Despite the requirements of the NP, the proposal would provide vehicular access from Good Intent rather than Cow Lane, and it is the appellant's position that vehicular access from Cow Lane is not deliverable. This is because

the necessary road is not required to be adopted and it does not abut the shared boundary. The use of this access would therefore require negotiations with the adjacent land owner. There is also a noticeable difference in land levels between the appeal site and the adjacent development which would need to be addressed to enable suitable vehicular access.

7. However, based on the evidence before me and from what was discussed at the hearing, I have nothing substantive before me to suggest that negotiations between land owners have exhausted this matter and which confirms that access from the adjacent development is undeliverable. For example, there is no correspondence provided from the adjacent land owner, or any information in relation to potential costs and any subsequent effect on viability. In the absence of any compelling evidence on this point, I am unable to conclude that access from Cow Lane is not possible. Consequently, on the evidence before me, the proposal conflicts with Policy EP3 of the NP.
8. It is common ground between the parties that visibility from the Good Intent junction looking left does not achieve the requirements of Manual for Streets which is 43 metres, based on a speed restriction of 30mph. However, the results of a speed survey show that the 85th percentile speed along the High Street is 28mph. Due to this speed, it is accepted by both parties that the level of visibility that should be achieved from the junction is 39 metres when looking left. Despite this, due to land in separate ownership, and the presence of a low means of enclosure, the actual distance that can be achieved is 29 metres.
9. There have been no recorded accidents at the junction, however, this does not imply that the junction is adequate or that its use could be safely intensified. It is apparent when observing the junction that due to the presence of a low means of enclosure, visibility is restricted when looking left. Consequently, increasing the use of the substandard junction without alterations would put more highway users at risk of an accident. This would be harmful to highway safety.
10. The appellant has provided details of four potential junction alterations designed to improve highway safety. Options 1, 2 and 3 are comparable in their approach and would introduce parking restrictions to remove vehicles from within the visibility splay and only enable parking beyond it. It is suggested that the location of the parked cars would prevent vehicles moving into the opposite carriageway when approaching the Good Intent junction from the left. Consequently, and as endorsed by Manual for Streets in appropriate circumstances, this would enable visibility to be measured to the centreline of the carriageway, rather than the nearside. Based on the evidence I have before me, by utilising such an approach, the necessary visibility could be achieved.
11. Despite this, option 1 would not introduce a physical restriction that would guarantee cars remaining on the relevant side of the carriageway. In addition, the option would rely on a Traffic Regulation Order (TRO) process that would involve public consultation. Option 2 would introduce a build-out to physically prevent vehicles entering the adjacent carriageway, however, the same physical restriction could impede traffic flows in the opposite direction. It would also rely on a TRO. Option 3 is based on a similar principle but would also introduce a raised table at the junction with the aim of reducing traffic speeds. As with options 1 and 2, it would also require a TRO.

12. It was discussed during the hearing that a TRO process involves public consultation before implementation. Consequently, there can be no guarantee that the proposals would be successfully implemented. In addition, the proposals have not been the subject of any safety audit process. Although the existing houses served by the junction may benefit from the alterations, due to the uncertainty around the TRO process and the lack of safety auditing, the delivery of the parking restrictions and other alterations could not be guaranteed. If undelivered, the junction would remain substandard for the development proposed and therefore, for the reasons identified above, options 1, 2 and 3 would not overcome the concerns in relation to visibility.
13. The fourth option proposed would involve the introduction of a mini-roundabout at the junction. It is accepted by the parties that such a proposal would provide the necessary visibility at the junction and the appeal is supported by a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 to deliver the necessary works.
14. However, the proposal to introduce a mini-roundabout has not yet been the subject of a safety audit. Whilst it may facilitate the necessary visibility and would not require a TRO, it would be an intrusive addition to the highway. It would require suitable lighting as well as new road markings and the introduction of rumble strips. Moreover, due to low traffic flows from Good Intent, the Highway Authority is concerned that this would operate as a minor arm to the junction and consequently would be afforded less opportunity to exit.
15. For the reasons identified above, option 4 would significantly alter how the junction would operate. However, due to the lack of a safety audit, the safety implications of the option are not yet fully understood. As a consequence, there can be no certainty that the requirements of the UU could be delivered and therefore it cannot be relied upon as a means of facilitating a safe and suitable access for the proposed development.
16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The NP requires vehicular access from an adjacent development which would not be provided by the proposal. Consequently, it is in direct conflict with the development plan. The Good Intent junction does not provide appropriate visibility for safe intensification and the proposed junction improvements are not sufficiently advanced in relation to safety or delivery. In the absence of a suitably developed, designed or audited junction improvement that would facilitate access to the appeal site in a safe and suitable manner, the material considerations do not indicate a decision other than in accordance with the development plan.
17. I therefore conclude that the proposal would have an unacceptable impact on highway safety. Consequently, it fails to accord with Policy EP3 of the NP, as well as advice contained within Buckinghamshire's Local Transport Plan 4 and the National Planning Policy Framework. Taken together, these require safe and suitable access provided from Cow Lane.

Other Matters

18. The planning application was also refused due to the lack of an agreement under Section 106 of the Town and Country Planning Act 1990 in relation to

financial contributions towards Education as well as Sport and Leisure. In addition, a contribution to upgrade an adjacent footpath has been requested by the Council and agreed to by the appellant. Although I have been provided with copies of completed Unilateral Undertakings, due to my findings in relation to the main issue, there is no need to consider these matters further.

Conclusion

19. For the reasons identified above, the appeal is dismissed.

Martin Chandler

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

John Brindley	CMYK (Planning and Design) Ltd
Ian Bishop	Bishop Consultancy Services
Tim Jones	Landowner
Trevor Tizard	CMYK (Planning and Design) Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Daniel Ray	Principal Planning Officer
Sarah Hearn	Senior Highways Officer
Jo Thornton	Highways Development Management Team Leader

INTERESTED PERSONS:

John Wilkinson	Edlesborough Parish Council
Dorothy Rollings	Neighbour
Martin Rollings	Neighbour

DOCUMENTS SUBMITTED DURING THE HEARING

- 1) Statement of Common Ground – dated 30 April 2019
- 2) Draft Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 in relation to development contributions towards education, sport and leisure and footpath works.
- 3) Draft Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 in relation to junction alterations.

DOCUMENTS SUBMITTED AFTER THE HEARING

- 1) Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 in relation to development contributions towards education, sport and leisure and footpath works.
- 2) Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 in relation to junction alterations.