

OFFICERS REPORT: DELEGATED APPLICATIONS

REFERENCE: 20/0159/FUL

Date of Expiry of Application: 15th July 2020

Date Passed to RVD: 13th July 2020

Site Address: Manor Trading Estate Benfleet Essex SS7 4PS

Applicant's Name: ACT Roadways Ltd

Site Description:

The application concerns an industrial estate located to the north of Church Road in Benfleet.

Description of Proposed Development:

The application seeks permission for an upgrading of the privately-owned roads serving the business premises on Manor Trading Estate. The applicant writes that a top layer will be scraped off and a new surface placed on top. The works therefore do not amount to a reconstruction of the roads and are of a superficial nature.

Kerbs are proposed to be repaired and replaced. Any misconnected drainage is proposed to be rectified, for example where there are instances of foul water being connected to surface water drainage.

Replacement of street lighting and new street signage is proposed.

Relevant History:

None

Local Plan Allocation: Employment

Relevant Policies:

National Planning Policy Framework (the Framework, 2019)

Local Plan (LP, 1998):

EC4 – Pollution

ED7 – Environmental improvements

Consultation Responses:

UK Power Networks – We have cables in the area to be stopped up, but providing the usual statutory rights of protection are incorporated within the order, no objections to the proposal.

Cadent Gas – There are low or medium pressure (below 2 bar) gas pipes and associated equipment in the vicinity of the works.

Environmental Health – Conditions are needed for

- o Further investigative drainage works/CCTV survey
- o Contaminated land investigation/remediation

Legal Services – No observations

Highways – The proposed improvement works are all on the private road infrastructure and clear of the publicly maintainable highway. From a highway and transportation perspective the proposal is acceptable to the Highway Authority.

Lead Local Flood Authority – No objection

Anglian Water – No comments received

Emergency Planning Officer – Consulted in error

Neighbour notification – the following comments have been made:

- o Concern raised at possible lack of access to business premises if kerbs are raised
- o What disruption will there be to businesses on the estate?
- o Lack of detail
- o Impact of CCTV on privacy
- o There is a stream in the area
- o Access for utility companies

Comments on Consultation Responses:

- o The references to CCTV on the “estate roads improvement plan” refer to surveying of the drainage system and not to surveillance of the industrial estate. No CCTV cameras are proposed as part of the application.
- o Any material planning issues raised are considered in the evaluation of the proposal.

Evaluation of Proposal:

In principle, the repair and resurfacing of the roads is welcomed as the roads are in a poor condition and improving them would assist in creating favourable operating conditions for businesses, in accordance with paragraph 80 of the Framework. It would also be an appropriate environmental improvement in line with LP Policy ED7. There is therefore no objection to the principle of the development proposed.

The main issues with this application are:

- o Drainage
- o Contaminated land issues
- o Access to business premises

Drainage

The Framework states on numerous occasions, including at paragraph 163, that developments should not increase flood risk elsewhere. In an ideal world, surface water would be disposed of by infiltration methods or attenuated discharge to surface water sewers. However, it would not be reasonable to require the applicant to install a sustainable drainage system for these roads in the context of an existing system, which is to be renovated, and the highway authority does not install sustainable drainage for the adopted roads it maintains.

There is therefore no objection to this aspect of the proposal.

Pollution of the water environment has been raised as a concern. Policy EC4 of the LP states that development which would have a significant adverse effect on, *inter alia*, the natural environment by reason of releases of pollutants to water will be refused. This is broadly consistent with paragraph 170 of the Framework.

The local planning authority notes that polluted surface water runoff from businesses in the area may have historically entered the surface water drains. While paragraph 170(e) of the Framework states that existing development should not contribute to unacceptable levels of water pollution, and that development should, wherever possible, help to improve local environmental conditions such as air and water quality, the existing businesses on the estate are not the subject of this application. When applications come forward for extensions to or redevelopment of existing business premises, it may be possible to require them to manage their surface water in a more effective and sustainable manner. In the context of this application, however, it is not considered reasonable to require the applicant to take measures to remedy problems caused by businesses outside his jurisdiction.

Other control mechanisms exist which can be used to rectify instances of environmental pollution, for example, the Environment Agency can investigate pollution incidents in the water environment.

The local planning authority nevertheless acknowledges that the application is thin on detail about the drainage system. As a minimum, a condition needs to be imposed on any planning permission stating that all surface water drains are to be connected to the surface water drainage system.

The council's Environmental Health service has commented that the 'Estate Roads Improvement Plan' has shown that further drainage investigative works and a CCTV survey need to be conducted. Comments on the drawing state for example '*Unknown location of manhole, CCTV to confirm*', '*Unable to lift cover*', '*Unknown flow direction*' and '*More investigation needed*'. To this end, the Environmental Health service requests that further investigative works and a CCTV survey are carried out, and the report of this sent to Environmental Health for comment.

The Environmental Health service requested this information as part of the planning application. The applicant expressed the view that this matter could be appropriately dealt with by way of a condition on any planning permission granted. In response to this, the Environmental Health service has suggested the following wording for a condition:

"The development hereby permitted shall not be commenced until further drainage investigative works and a CCTV survey has been carried out. The report shall combine the findings from further drainage works that will be carried out and the CCTV survey. The report shall be sent to Environmental Health for comment."

The local planning authority considers that such a condition should also require any defects of the drainage system (for example, cracked pipes) to be rectified within an agreed timeframe. Otherwise, what is the point of asking for further investigative work and a CCTV survey. It is considered reasonable that the opportunity should be taken to repair defects in the drainage system while other issues are rectified, if the drainage system is to be worked on anyway. While major upgrading of the system e.g. installation of SuDS has been found to be unreasonable, it is nonetheless reasonable to seek to restore it to something approaching its original condition so that it can drain the area as first intended. The applicant has stated that misconnected surface/foul water connections will be put right as part of the works to the drainage system so it would not put the applicant to unreasonable effort to put right any other identified problems.

Subject to such a condition there is no objection on the basis of drainage.

Contaminated land issues

The council's Environmental Health service has raised concerns regarding contamination from historical use of the land, and recommended surveys and remediation. Paragraphs 178-179 of the Framework support the remediation of land, although they are concerned with new development

and new uses of sites rather than existing development. Resurfacing the roads could not be described as new development, although the material that is to be removed as part of the work could contain pollutants from surrounding businesses, so it is proper to ensure that site workers involved in the project are not exposed to unacceptable risks.

The applicant has agreed to the condition recommended in the Environmental Health consultation response, which will be imposed on any permission granted. Subject to this condition there is no objection to this aspect of the proposal.

Access to business premises

Several representations have been made expressing concern at the possibility of loss of vehicular access via dropped kerbs after the work is carried out. Concern has also been raised about disruption of access to business premises during the work. While this might be largely viewed as a private matter as the roads are all unadopted, the continued smooth operation of businesses and the estate generally is in the interest of the health of the local economy, particularly as it recovers from the effects of the COVID-19 outbreak. Ensuring that businesses can continue to operate smoothly would assist in creating favourable operating conditions for them, in accordance with paragraph 80 of the Framework. There is no detail in the application about kerb arrangements. A condition should therefore be imposed on any planning permission to require details of the new kerbing (e.g. high/low kerbs) to be submitted and approved before works to the kerbing are undertaken.

Subject to a condition as described there is no objection to this aspect of the proposal.

As far as disruption to access from the resurfacing work is concerned, the applicant has indicated in a covering letter that a phased approach will be taken. Each business premises will necessarily lose access for a short period of time, while the parcel of road in front of that site is resurfaced, but a phased approach as indicated would keep the disruption to a minimum. It is not felt to be necessary or proportionate to seek to approve the precise phasing details.

Other matters

New road markings are proposed which appear to reflect the existing situation. An originally proposed one-way system has now been dropped. There is no objection to the proposed road markings.

The application also proposes new/refurbished lighting, road signage and guarding of pedestrian footways but details of these elements of the proposal have not been included with the application. Road traffic signs are a form of advertisement to which parts 2 and 3 of the of the advertisement regulations do not apply. They do not require consideration as part of this application. The remaining elements are matters which can be dealt with by condition.

I have taken all other matters raised by interested parties into consideration but none are sufficient to outweigh the considerations that led to the following:

My Recommendation is Approval subject to the following conditions

- 1 The development hereby permitted shall be begun on or before the expiration of three years beginning with the date of this permission.

REASON: This condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall not be commenced until further drainage investigative works and a CCTV survey of the foul and surface water drainage systems have been carried out and the report of this submitted to and approved in writing by the local planning authority. The report shall combine the findings from the further drainage investigative works that will be carried out and the CCTV survey. Any defects that are found in the drainage systems shall be rectified in accordance with details and time frames that are first approved in writing by the local planning authority.

REASON: To bring the drainage to a condition where it fulfils its intended purpose of providing adequate drainage for the estate.

- 3 All surface water run-off from the private road infrastructure shall be directed to the surface water drainage system.

REASON: To limit the potential for flooding elsewhere and to prevent surface water from entering and overwhelming the foul drainage system.

- 4 No works to road kerbing shall be undertaken until details of the new/repared kerbing, including indication of high and low (dropped) kerb positions, have been submitted to and approved in writing by the local planning authority, with reference to accurately scaled plans. Development shall thereafter be carried out in accordance with the approved details.

REASON: Insufficient details of this aspect of the proposal have been submitted for consideration.

- 5 No works to install new, refurbished or replacement lighting shall be undertaken until details have been submitted to and approved in writing by the local planning authority, with reference to accurately scaled plans. Development shall be carried out in accordance with the approved details.

REASON: Insufficient details of the height and luminance of street lamps have been submitted for consideration.

- 6 No works to install or alter guarding of pedestrian footways shall be undertaken until details have been submitted to and approved in writing by the local planning authority, with reference to accurately scaled plans. Development shall be carried out in accordance with the approved details.

REASON: Insufficient details of this aspect of the proposal have been submitted for consideration.

- 7 Prior to commencement of development, a construction management plan shall be submitted to and approved in writing by the local planning authority. The plan shall include (but not be limited to) details of the phasing of the development, proposed working hours, arrangements for access to business premises during development, any traffic control measures, locations for parking of operatives' vehicles and the storage of materials. Such plan as may be approved shall be adhered to for the duration of development.

Reason: To minimise disruption to businesses from construction in the interest of the economic health of the estate.

Informatives

- 1 All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicant is advised to contact the Development Management Team by email at development.management@essexhighways.org or by post at:

SMO3 - Essex Highways, Childerditch Highways Depot, Unit 36, Childerditch Industrial Park, Childerditch Hall Drive, Brentwood, Essex, CM13 3HD

- 2 The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes technical check, safety audits, site inspection, commuted sums for maintenance and any potential claims under the Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required as security in case of default.
- 3 Prior to any works taking place in the public highway the developer shall enter into the appropriate legal agreement with the Highway authority under the Highways Act 1980 to regulate the construction of the highway works.
- 4 In all cases where spoil is unavoidably brought out onto the highway, the applicant/developer is reminded of their responsibility to promptly remove such spoil at their own expense and to the satisfaction of the Highway Authority.
- 5 Should the works unearth any contaminated land, such as what would be considered in an Environmental Investigation (Contamination) or asbestos-containing materials, careful consideration must be given to its handling and correct disposal. Waste transfer receipts must be obtained and kept.
- 6 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



23.07.2020