
Appeal Decision

Site visit made on 11 August 2020

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15/09/2020

Appeal Ref: APP/J0405/W/20/3249145

**K&Z Sheds, Unit 3, Rookery Farm, Bicester Road, Kingswood, Aylesbury
HP18 0RB**

- 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 Mrs Zoe Brown of K&Z Sheds against the decision of Aylesbury Vale District Council.
 - The application Ref 19/03709/APP, dated 7 October 2019, was refused by notice dated 21 February 2020.
 - The development proposed is erection of greenhouse to create a plant nursery.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - the effect of the development on the safe and efficient operation of the highway network in the vicinity of the appeal site, and;
 - whether the development is in an acceptable location, having particular regard to accessibility by a range of means of transport.

Reasons

Highways

3. The development relates to an existing shed sales and landscaping business. The proposed greenhouse is ostensibly intended to grow and store plants that would be used in relation to the landscaping concern. The intention is to allow customers to view and select plants they may wish to be part of any landscaping project. The appellant contends this would allow them to grow their own plants, rather than source them from external providers. The appellant has also suggested the greenhouse could be used by local schools for educational purposes.
4. The plans indicate that access to the site would be from a previously permitted access off the A41. This has been constructed but was not in use at the time of my visit. The previous permission imposed no restrictions on the use of this access. However, the Council and Highway Authority are concerned that the development would result in a potential intensification of the use of the access. On this basis, they contend that it would no longer be fit for purpose.

5. The evidence indicates that there is an intention that the plants grown in the greenhouse would be available for sale. This facility does not currently exist. The appellant suggests that the majority of sales would be to existing clients of the landscaping business. However, the appellant's appeal statement also concludes that sales to other clients could take place. The development also includes scope for an additional 10 parking spaces and there is a recognition that it would lead to 2-3 additional on-site jobs (as well as longer term job growth, which would mainly involve off-site workers). These factors are all suggestive that the introduction of the greenhouse would result in some change to the operation of the site and business and a subsequent increase in trips generated.
6. The appellant has drawn my attention to the relative size of the greenhouse in comparison to other nearby garden centres and nurseries. However, this does not alter the fact that the greenhouse may result in some change to the operation of the site. Based on what is before me, it is not unreasonable to conclude that there may be an increase in trips generated and a consequential increase in the use of the access. In this regard, I am not persuaded that the greenhouse would result in no change to the existing situation.
7. The permitted access lies within a 40 mph zone. However, a change to the national speed limit is only a short distance away. While my observations can only represent a snapshot of normal conditions, Bicester Road appeared to be a busy and fast moving main road. My visit took place in the mid-afternoon. Even at this time, and when trips may generally have been lower than the norm due to the pandemic situation, there was a steady and fairly constant flow of traffic past the site. This included a relatively high proportion of Heavy Goods Vehicles (HGVs). This accords with the traffic data provided by the Council, which confirms that a large volume of traffic passes by the site on a daily basis.
8. There is also concerning evidence of accidents along this stretch of road. While recognising that some of these are not all in the vicinity of the site, they are indicative of the risks related to the slowing and turning of vehicles along this road. Importantly, the evidence of accidents includes locations within 40 mph zones. These also relate to the slowing and turning of vehicles. There is also some evidence of accidents in relatively close proximity to the site. These may be few in number in comparison to the number of vehicles passing by, but they nevertheless provide an indicator that the area is not without risks.
9. With or without the development, the overall number of trips generated by the business is unlikely to be high in comparison to overall traffic levels. However, this is not a particularly useful or determinative comparison when considering the potential effect on safety or the efficient operation of the highway network. The issue is more about how the access would be used and whether this would have a detrimental impact on other road users.
10. Turning right into or out of the site would likely result in some safety issues. Drivers may have to wait for some time for gaps in traffic flow and then have to manoeuvre quickly across the carriageway in the path of approaching traffic. Queuing both within or outside the site may result in drivers making such manoeuvres at inappropriate times due to frustration.
11. If turning right into the site, drivers would need to stop in the carriageway without a dedicated filter lane or space to decelerate and wait safely. Slowing and waiting cars would not only create a hazard, they would also cause an

obstruction to approaching traffic, negatively affecting the operation of the road and potentially leading to drivers making unsafe overtaking manoeuvres. The often steady stream of traffic in both directions would make it difficult to find sufficient gaps to access or exit the site safely. Even with good levels of visibility in both directions, the flow and likely speed of traffic along the road means that anybody seeking to turn right could still generate a degree of risk. This is not a desirable situation.

12. The access is also at a relatively tight angle and thus vehicles would have to slow appreciably to make the turn from either direction. This would be different and more severe than vehicles slowing on entering the 40 mph area. Even in a 40 mph zone, this would involve slowing considerably to make the turn. Therefore, even turning left into the site may cause a hazard to following vehicles. Similarly, turning left out of the access would require sufficient gaps to allow acceleration to the speeds achieved by approaching traffic. Although still in the 40 mph zone, the national speed limit sign is only a short distance from the access and at this point many drivers may be accelerating in anticipation of the change in limit.
13. Even if many of the trips associated with the development would take place outside peak hours, there would still be a relatively high level of passing traffic. The risk of conflict would thus still be high during these periods and the issues of slowing and turning from both directions potentially hazardous.
14. There are obviously other accesses along this stretch of road. However, in the immediate area these tend to serve dwellings and thus would generate far fewer trips. The main part of Kingswood is also in the 40 mph zone. The more built-up nature of the settlement itself and the overt traffic controls, would be more likely to slow vehicles down. Furthermore, the main crossroads junction contains ghost islands for vehicles turning right, which provide a safe place to decelerate and wait. These conditions are markedly different to those present at the site.
15. I recognise that the access already has permission and, to an extent, some of my concerns apply for any vehicles entering or exiting the site. Such risks would already exist and have been found acceptable by the Council. However, there is no clear evidence before me which indicates what level of trip generation was considered acceptable in the first instance. Furthermore, the evidence does not demonstrate to my satisfaction that the proposal would not result in a material increase in trips. No acceptable mechanisms have been suggested which would ensure the operation of the site would not change and no mitigation measures to reduce the highway risks have been put forward.
16. It is legitimate for the Council to consider how the proposal would affect trip generation and associated risks. Based on the evidence before me, I am unable to conclude with any certainty that the development would not result in a material change in the operation of the site or the number of trips generated. Similarly, the nature of the access is such that the potential intensification in its use would be likely to lead to unacceptable highway safety risks.
17. The Council has referred to the emerging Vale of Aylesbury Local Plan (VALP). This plan is at a late stage in preparation and thus carries substantial weight. Policy T5 (as set out in the Main Modifications) seeks to ensure unacceptable traffic impacts are mitigated. The development would therefore conflict with this policy. In any event, there would also be conflict with National Planning

Policy Framework (the Framework). In particular, paragraph 108, which states that safe and suitable access to a site should be achieved for all users.

18. It is not clear what status the Buckingham Local Transport Plan 4 (LTP4) or Buckinghamshire County Council Highways Development Management Guidance Document (DMGD) have in relation to the development plan. On this basis, I have afforded them little weight in my decision. Nevertheless, insofar as they seek to ensure highway safety, the development would be in conflict with these documents.
19. The Council's decision notice refers to Policy RA36 of the Aylesbury Vale Local Plan (AVLP). However, this does not specifically relate to safety and thus is not relevant to this main issue.

Location

20. Kingswood is a small settlement with few services or facilities. The site sits outside what might be considered the main built-up area and can be accessed by a footway which runs along the opposite side of the road. The distance from the village, the nature of the footway or the need to cross a busy road would not necessarily discourage those who would be minded to walk. I have had regard to the Highway Authority's evidence and the Department for Transport's Manual for Streets 1. Nevertheless, the development would be unlikely to generate large pedestrian footfall and thus the safety risks are minimal.
21. The nearest bus stop is around 500 metres from the site, which is a reasonable walking distance. However, services are not especially regular. In any event, whether or not people would be willing to travel by bus is likely to be dependent on the purpose of any visit. The Council has suggested that it is unlikely that people would use a bus, or walk the 500 metres, if they had bought plants from the greenhouse. I agree with this assertion. The nature of this type of business in general is unlikely to be the kind where trips by public transport, cycling or walking are particularly prevalent.
22. Paragraph 83 of the Framework encourages the sustainable growth of rural businesses. Paragraph 84 states that sites to meet the needs of local business may have to be found outside existing settlements that are not well served by public transport. Paragraph 103 also recognises that in seeking to promote sustainable transport objectives, solutions will vary between urban and rural areas and that this should be taken into account in decision making.
23. Even if the development were in a more accessible location, it is unlikely to result in a significant modal shift away from the car. The catchment area for a business of this type and the type of activity taking place, including the potential sale of plants, is such that it would mostly generate trips by private vehicle. The development is therefore unlikely to result in material harm to the objective of promoting sustainable travel patterns or choice.
24. In conclusion on this matter, the majority of trips associated with the greenhouse are likely to be made by car. This is as much to do with the nature of the business as the site's location. There is also a recognition in national policy that access to sustainable forms of transport will differ between urban and rural areas. When taking all such relevant matters into account, I do not consider the greenhouse to be in an unsuitable location in principle.

25. Again, AVLP Policy RA36 is not directly related to this main issue. This policy refers to protecting the characteristics of rural roads, which would not be affected by the development. Emerging VALP Policy T5 relates to the direct impacts of transport and only mentions sustainable travel patterns in regard to work or education trips. This policy is also not directly relevant to the main issue. As noted above, the status of LTP4 and the DMGD is not clear in relation to the development plan. However, I find no overall conflict with these documents in terms of sustainable travel. Moreover, there is no conflict the Framework which seeks, amongst other things, to promote sustainable patterns of development.

Other Matters

26. The development would clearly have some economic benefits for the appellant and potentially the local economy. There may also be limited benefits associated with the proposal for local schools, though nothing has been provided which suggests this is necessary. Rural diversification is supported by the Framework. However, there is nothing to suggest such benefits could not be achieved in a less harmful manner. This does not therefore alter my overall conclusion.

27. The Council's officer report raises some concerns over the location of the greenhouse and its impact on landscape character. The report suggests that it should be located in a different part of the site to reduce its visual impact. Nevertheless, this was not included as a reason for refusal. In light of my conclusions on highway safety, I do not need to consider this matter any further.

Conclusion

28. Notwithstanding my conclusions on the location of development, I find that it would lead to unacceptable highway safety risks. There are no material considerations that would outweigh my concerns in this regard. For this reason, I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR