



**OFFICER REPORT TO LOCAL COMMITTEE
(REIGATE AND BANSTEAD)**

**RELOCATION OF A ZEBRA CROSSING
LESBOURNE ROAD, REIGATE**

16 APRIL 2012

NB – This item was deferred from the 5 March 2012 meeting of the Local Committee (Reigate and Banstead)

KEY ISSUE

To seek authority to advertise a Public Notice for the relocation of a zebra crossing following the grant of planning permission on appeal.

SUMMARY

Planning Consent was granted at appeal for the development of 2 No. 3 bed and 1 No. 5 bed dwellings (Planning Application No. P/11/00361/F). The approved development includes highway works to move an existing zebra crossing on Lesbourne Road by a distance of 6 metres, to maintain a safe crossing point for pedestrians.

Section 23 of the Road Traffic Regulation Act 1984 makes it necessary to advertise the intention to relocate the existing zebra crossing.

OFFICER RECOMMENDATIONS

The Local Committee (Reigate and Banstead) is asked to agree to:

- (i) The publication of a Public Notice to relocate an existing zebra crossing on Lesbourne Road by a distance of 6 metres to the west of its current location (as shown in Annex 1).

1.0 INTRODUCTION AND THE PROPOSALS

- 1.1 A planning application was granted permission at appeal (Ref: APP/L3625/A/11/2153565) on 6 September 2011 for the development of 2 No. 3 bed and 1 No. 5 bed dwellings, with alterations to the existing private access road and junction with Lesbourne Road.
- 1.2 The approved development incorporates a highway safety scheme to relocate an existing zebra crossing, located on Lesbourne Road within close proximity to the site's private highway access.
- 1.3 The relocation of the zebra crossing was assessed by the Highway Authority during the public consultation on the planning application and considered to be acceptable on highway safety grounds.
- 1.4 Following the grant of planning permission for the residential development, it is necessary to advertise the intention to relocate the zebra crossing, in accordance with Section 23 of the Road Traffic Regulation Act 1984.
- 1.5 The Local Committee is asked to agree to the advertisement of a notice, to inform the public of the intention to relocate the zebra crossing on Lesbourne Road.
- 1.6 The Planning Permission
- 1.7 Planning application P/11/00361/F followed two applications submitted in 2010 for residential development of the site. The Highway Authority recommended to Reigate and Banstead Borough Council that both applications should be refused on highway safety grounds.
- 1.8 Planning application No. P/10/01657/F proposed the demolition of the existing garages and erection of 2 No. 2 bed, 2 No. 3 bed and 2 No. 4 bed semi-detached dwellings and 1 No. 4 bed detached dwelling, with associated alterations to access onto Lesbourne Road. This application was withdrawn by the applicant.
- 1.9 Planning application No. P/10/02199/F proposed the erection of 2 No. 3 bed and 2 No. 4 bed semi-detached dwellings, with associated alterations to access onto Lesbourne Road. Reigate and Banstead Borough Council refused this application and the applicant did not appeal the decision.
- 1.10 Reigate and Banstead Borough Council, as Local Planning Authority, consulted Surrey County Council, as Highway Authority, on the 10

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March 2011, regarding planning application P/11/00361/F. The application was for the erection of 2 No. 3 bed and 1 No. 5 bed dwellings with associated access road, detached double car port and alterations to existing private access road.

- 1.11 Planning application P/11/00361/F included a proposal to relocate the existing zebra crossing on Lesbourne Road. This had not been proposed in either of the two previous planning applications. The applicant stated that relocating the zebra crossing further away from the highway access would reduce the likelihood of conflict between pedestrians using the crossing and vehicles turning in/out of the private highway access.
- 1.12 The Highway Authority's assessment of the proposal included undertaking a Road Safety Audit to identify any safety problems. The Road Safety Audit report did not find any significant safety problems with the proposed relocated zebra crossing. All the safety recommendations detailed in the report have been addressed and incorporated into the final scheme. This includes providing a section of guardrailling within the footway on the north side of Lesbourne Road, aligned with the Omnibus building/nursery pedestrian access. The guardrailling is required to divert pedestrians and encourage them to cross at the relocated zebra crossing.
- 1.13 The Highway Authority considered that this element of the planning application would reduce the likelihood of vehicles using the highway access coming into conflict with pedestrians using the zebra crossing. This element of the planning application did therefore secure a highway safety improvement.
- 1.14 However, on balance officers maintained that the improvements made to the planning application did not outweigh the risks to highway safety anticipated by an increase in vehicular movements at the sub-standard private highway access.
- 1.15 The Highway Authority therefore recommended that the planning application should be refused on the following grounds:
 - The steep gradient of the private access road could result in pedestrians, particularly the elderly or wheelchair users, struggling to use the access road with safety and convenience and increase the likelihood of pedestrians coming into conflict with vehicles entering and leaving the site.
 - It had not been satisfactorily demonstrated that the 2.0m x 2.0m pedestrian visibility splay on the west side of the access could be provided and permanently maintained. Any obstruction to the required pedestrian visibility splay could result in danger and inconvenience to pedestrians crossing the site access on the public footway.

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- 1.16 The refusal recommendation did not include the relocated zebra crossing, because the Highway Authority considered this element of the planning application was acceptable on highway safety grounds.
- 1.17 The refusal recommendation of the Highway Authority was the sole reason for refusal on the decision notice issued by Reigate and Banstead Borough Council dated 4 May 2011.
- 1.18 The developer decided to appeal the refusal and an informal hearing was held on 16 August 2011.
- 1.19 Surrey County Council as Highway Authority attended the appeal hearing to defend its objection to the planning application. The Highway Authority acknowledged that the relocation of the zebra crossing was a formal part of the planning application and explained to the planning inspector that this element of the proposed development would not have a material impact on highway safety. The Highway Authority maintained however that the private highway access itself was sub-standard and could not safely accommodate the intensification in use that would result from the proposed development; the appeal should therefore be dismissed on these highway safety grounds.
- 1.20 The appellant argued that the planning application included significant improvements to the existing highway access, including widening the access to allow two-way traffic movement, providing 2.0m x 2.0m pedestrian visibility splays onto Lesbourne Road, and providing anti-skid surface on the private access road. The appellant considered these improvements were sufficient to safely accommodate the residential development.
- 1.21 As is normal practice for planning appeals, the Highway Authority was required to recommend conditions that it considered would be necessary should the planning inspector be minded to allow the appeal and grant planning permission for the development. The conditions recommended by the Highway Authority are shown in Annex 2. This included a condition that, before any development commenced, the zebra crossing should be relocated to secure the highway safety improvements detailed in paragraph 1.11.
- 1.22 The planning inspector concluded that the existing access was sub-standard, due to it being narrow, steep and having very limited visibility onto Lesbourne Road. The Inspector considered it necessary to balance the impact of intensification in use of the highway access with the improvements proposed by the appellant.
- 1.23 The Inspector concluded that overall the proposed improvements to the highway access would offer a substantial increase in highway

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safety, which would adequately compensate for the additional use of the road (see Annex 3 for copy of appeal decision notice). The Inspector therefore allowed the appeal and granted planning permission for the development, subject to a number of conditions. The Inspector agreed with and imposed all the conditions recommended by the Highway Authority.

- 1.24 A planning inspector is considered to be an expert in all planning matters, and is acting for the Secretary of State when considering planning appeals. Appeal decisions are legal documents; the decision made the planning inspector is final unless it is successfully challenged in the High Court.
- 1.25 An Inspector's decision cannot be challenged merely because Surrey County Council as Highway Authority disagrees with the Inspector's decision. For a challenge to be successful the County Council would have to satisfy the High Court that the Inspector made an error in law, e.g. Misapplying a policy or failing to take account of an important consideration. There were no grounds on which the County Council could challenge the Inspector's decision on this particular planning appeal. A challenge must in any event take place within 3 months of the Inspector's decision.
- 1.26 The Public Notice
- 1.27 The developer now wants to undertake the works to relocate the zebra crossing. To do this the developer is required to enter into a Section 278 Agreement with the County Council, to enable them to carry out the works within the public highway.
- 1.28 Before the Section 278 Agreement can be completed, there is a statutory requirement for the relocation of the zebra crossing to be advertised in a local newspaper, in accordance with Section 23 of the Road Traffic Regulation Act 1984.
- 1.29 If authority is not given to advertise the Public Notice this means that the developer will be unable to fulfill a pre-commencement condition of his planning permission and he may consider a refusal unreasonable.
- 1.30 Case law limits the County Council's discretion to decline to progress development-related highway works that have planning permission. As noted in paragraph 1.24, unless there has been a material change in circumstances since planning permission was granted, the County Council should advertise the Public Notice. In this case, there has been no material change in circumstances.

2.0 ANALYSIS

2.1 Road Traffic Regulation Act 1984

Local authorities need to have regard to the provisions of the Road Traffic Regulation Act 1984 in deciding whether to progress development related highway schemes. Section 122 of that Act places a duty on the local authority to ensure, so far as is practicable, the expeditious, convenient and safe movement of vehicular and other traffic, including pedestrians.

2.2 The relocated zebra crossing was reviewed by the Highway Authority as part of the assessment of Planning Application P/11/00361/F, to ensure the proposal was in accordance with the requirements of section 122, as summarised below.

(a) Expeditious movement - The relocated zebra crossing will not prejudice the existing expeditious movement of vehicular and pedestrian traffic on Lesbourne Road. It is likely that moving the zebra crossing will also improve the efficient movement of vehicles and pedestrians at the private highway access on the north side of Lesbourne Road, opposite the development site.

(b) Convenient movement - The relocated zebra crossing does not reduce convenience for any road users and maintains the existing desire line for pedestrians. The highway works include; improving the existing bus stop on the north side of Lesbourne Road by providing new DDA compliant raised kerbing; providing new footway incorporating tactile paving at either side of zebra crossing; re-surfacing of existing footway on north and south side of Lesbourne Road, within the vicinity of zebra crossing. It is likely that these improvements will enhance convenience for most road users.

(c) Safe movement - As part of the County Council's normal procedures, the proposed development-related highway works have already undergone a stage 1/2 road-safety audit at the planning application stage to ensure road safety. In addition, post-construction there will be a stage 3 audit. The design of the highway works meets the County Council's safety standards.

2.3 The new location of the zebra crossing will continue to provide for the expeditious, convenient and safe movement of vehicular and other traffic, including pedestrians. Hence, there is no obvious Section 122 reason why the County Council should not progress the Public Notice necessary to enable the construction of the proposed development-related highway works.

3.0 CONSULTATIONS

- 3.1 The Local Planning Authority and the developer discussed the development as part of the normal planning application process. The County Council undertook its own inter-service consultations at planning stage.
- 3.2 In accordance with the statutory requirement, Surrey Police have been consulted on the proposed relocation of the zebra crossing and they have no objection to the proposal.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The developer will fund all costs associated with the S278 Agreement, advertising the Section 23 Notice and constructing the relocated zebra crossing. There are no financial consequences for the County Council in progressing the Public Notice.

5.0 EQUALITIES AND DIVERSITIES IMPLICATIONS

- 5.1 As outlined in Section 2.0, so far as is reasonably practicable, the highway works will be expedient, convenient and safe for all road users.
- 5.2 There are not considered to be any significant adverse equalities and diversity implications associated with progressing the Public Notice.

6.0 CONCLUSION AND REASONS FOR RECOMMENDATIONS

- 6.1 Planning permission has been granted at appeal for development of 2 No. 3 bed and 1 No. 5 bed dwellings, with associated vehicular access onto Lesbourne Road. The planning permission includes a condition to relocate the existing zebra crossing on Lesbourne Road, to ensure that highway safety will not be compromised as a result of vehicles using the site access.
- 6.2 Section 23 of the Road Traffic Regulation Act 1984 makes it necessary to advertise the intention to relocate the zebra crossing.
- 6.3 It is recommended that the local committee agree the publication of the Public Notice described above.

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Annexes

- 1 Drawing No. TSP/SIX/P1994/11 A – Proposed Relocated Zebra Crossing
- 2 Conditions recommended by the Highway Authority
- 3 Appeal Decision Notice