
TO: Elisabeth Boyle, Planner

FROM: Reese Martin, Planner – Transport

DATE: 6 December 2024

SUBJECT: **LUC-2023-36**
12 ANNIE STREET, OSBOURNE

APPLICATION:

Land Use Consent is sought for retrospective earthworks at the site at 12 Annie Street. The site has legal frontage to both Annie Street and Bradley Road and is currently comprised of vacant farmland and vegetation.

Vehicle access was originally provided through the site via an existing privately maintained metalled accessway extending from the end of the formed and sealed Council maintained section of Bradley Road which appears to have been established between 1956 and 1967. This proposal seeks to authorise retrospective earthworks that have been carried out by the applicant for the creation of a second metalled accessway which has been formed parallel to the original accessway. It is acknowledged that the scope of this proposal originally included unconsented/unapproved earthworks within the unformed parts of the Bradley Road and Annie Street Road Reserve, however the scope has now been subsequently reduced to the works within private property only as well as further earthworks within the site to stabilise some of the original earthworks already carried out.

The site is zoned Township and Settlement. The Council maintained section of Bradley Road is classified as a Local Road under the 2GP Road Classification Hierarchy while Annie Street is considered to be an unformed Legal Road. The proposal is assessed as a restricted discretionary activity.

ACCESS:

As noted above, vehicle access to and through the site was originally provided via an existing metalled accessway partially located within the unformed Bradley Road Reserve which extended from the end of the Council maintained Bradley Road formation to within the site with a formed width that appears to have varied between 2.5-3.0m before taking a 90-degree turn along the site's south eastern property boundary into the unformed Annie Street Road Reserve. It is therefore considered to be a privately maintained accessway partially within Legal Road.

The applicant has carried out unconsented earthworks in order to create a second private accessway parallel to the original accessway which has been formed using a mixture of gravel/metal and crushed building material. It is understood that following the original earthworks a landslip has occurred within the site resulting in unstable material and debris falling onto the new accessway. Therefore further earthworks are required within the site to stabilise the new accessway including re-battering the existing slopes and the removal of

landslip material which will significantly reduce the width of the old accessway. The applicant has also confirmed that once this work has been carried out the new accessway will still provide a minimum formed width of at least 3.0m.

Once these works are completed the applicant has advised that the new accessway will be fenced/gated and will only be available for access by emergency vehicles (the proposed fencing/gating is understood to be a permitted activity). Whilst the old accessway has up until the recent earthworks provided vehicle access to 17 Bradley Road and 13 and 15 Annie Street it appears that there is no legal mechanism to provide physical access to these properties over the subject site. As noted, it is understood that the proposed fencing/gating works can be carried out as a permitted activity and in any case does not form part of this proposal. It is therefore considered that this is a civil matter between neighbouring landowners that should be resolved outside of the resource consenting process.

Rule 6.6.3.3 requires that the maximum width of a vehicle access for residential activities is 6.0m. It is noted that the width of the new accessway where it transitions to a private driveway within the Annie Street Road Reserve has a formed width of approximately 10.0m at the present time and therefore does not comply with this requirement. Although this is considered to be more of a technical non-compliance in this instance on the basis that the accessway does not front onto a formed road, enables practical use of the private accessway within the site and is unlikely to result in any noticeable concerns. Therefore the effects of this technical rule breach is considered to be less than minor.

Rule 6.6.3.6.a requires that driveways that adjoin a legal road that is hard surfaced, must be constructed with a hard surface for a minimum distance of 5.0m from the edge of the road. In addition, Rule 6.6.3.6.b requires that in all zones other than the rural and rural residential zones, the full length of any driveway that serves 2 or more residential properties must be hard surfaced. It is noted that while the old and new vehicle accessway through 12 Annie Street and within unformed Legal Road previously provided physical access to three additional properties addressed as 17 Bradley Road and 13 and 15 Annie Street, this appears to have been via an informal vehicle access arrangement. The new vehicle accessway within 12 Annie Street has been constructed with an unsealed surface comprising of metalled material and other crushed building material and therefore technically does not comply with this requirement.

Although it is noted that the original accessway through 12 Annie Street that extends off of the formed end of Bradley Road which is sealed for approximately 45.0m from the Bradley Road/Rowland Street intersection has also historically been formed using a similar alignment and metalled surface material. It is also not uncommon for unsealed vehicle accesses to extend off of the end of sealed Legal Roads in more rural environments that serve multiple properties.

Given that the old/new private accessways slopes down away from the end of the sealed portion of the Bradley Road formation the potential for mud, stone, gravel, and other materials being trafficked back up onto the Council maintained road carriageway is considered to be low and is likely no different compared to historic usage of the original accessway.

It is acknowledged that while the owners of 13 and 15 Annie Street have raised concerns about the new accessway being unsuitable for their intended usage, this is matter best considered between the applicant and those landowners in the event that an agreement is reached that enables them to formally gain access over 12 Annie Street and onto the formed section of

Bradley Road. The applicant is therefore advised that in the event of such an agreement being reached a formal agreement should be drawn up between the owners/users of all private accesses in order to clarify their maintenance responsibilities.

Therefore based on the assessment above, the effects of the old/new vehicle accessway not being hard surfaced is considered to be less than minor.

Rule 6.6.3.7.a requires that the maximum change in gradient without transition for driveways is 1 in 8 for summit grade changes or 1 in 6.7 for sag grade changes. In addition, Rule 6.6.3.7.b requires that the gradient of the first 5.0m measured from the road boundary into the site must be no greater than 1 in 8. While the gradient of the first 5.0m of the new accessway has not been measured by Transport or the applicant, given the steep nature of the new accessway, conservatively it is considered unlikely that this requirement has been complied with.

However, it should be acknowledged that the original long existing private accessway both within Road Reserve and within the site is also a relatively steep formation that also likely does not comply with this requirement and is also consistent with the relatively steep topography of the surrounding area.

The purpose of this requirement is more generally to ensure that vehicles using the accessway are not bottoming out or scaping and damaging the road carriageway or vehicles as well as ensuring that mud, stone, gravel, and other material is unlikely to be carried onto the road. It also ensures that vehicles have a level platform to wait on before crossing any footpath/berm and onto the road from a site. However, this concern is less relevant in this instance given that the accessway within the site transitions onto a privately formed accessway within Road Reserve which then transitions onto the Council sealed and maintained road carriageway within Bradley Road.

As noted already above, on the basis that the driveway slopes down away from the formed section of Bradley Road the potential for loose material being trafficked out onto the formed road due to the proposed gradient of the accessway is considered to be low. It also appears that there are no sharp/steep changes in gradient within the new accessway and transitions appear to be provided and therefore it is considered that the new accessway likely complies with Rule 6.6.3.7.a within the site and therefore the potential for vehicles to bottom out while transitioning between the access and the formed road is also considered to be low. On that basis the effects of this rule breach is considered to be less than minor.

For the avoidance of any doubt, the applicant should note that the Council regards the old and new vehicle access to 12, 13, and 15 Annie Street, 17 Bradley Road, from the termination of the existing Council maintained sealed road formation to the property boundary, to be a private access on a legal road, and will not assume any responsibility for its maintenance.

PARKING AND MANOEUVRING:

No on-site car parking and manoeuvring is currently provided within the site and no on-site car parking and manoeuvring provision is proposed as part of this proposal.

GENERATED TRAFFIC:

Transport considers that the effects of the traffic generated as a result of this proposal on the transport network will be less than minor.

CONCLUSION

Transport considers the effects of the proposed development on the transportation network to be less than minor, subject to the following advice notes:

ADVICE NOTE:

- (i) The applicant should note that the Council regards the old and new vehicle access to 12, 13, and 15 Annie Street, 17 Bradley Road, from the termination of the existing Council maintained road formation to the property boundary, to be a private access on a legal road, and will not assume any responsibility for its maintenance.
- (ii) The applicant is advised that a formal agreement should be drawn up between the owners/users of all private accesses in order to clarify their maintenance responsibilities in the event that legal access over 12 Annie Street by any neighbouring properties is achieved.