
Appeal Decision

Hearing Held on 26 June 2019

Site visit made on 25 and 26 June 2019

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th July 2019

Appeal Ref: APP/P0240/W/18/3210480

Former Shefford Lower School, land off Wynchwood Lane, Shefford SG17 5XA

- 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 Mr Troy Mayer on behalf of Black Horse Residential Ltd. against the decision of Central Bedfordshire Council.
 - The application Ref CB/17/05211/FULL, dated 27 October 2017, was refused by notice dated 27 April 2018.
 - The development proposed is the demolition of existing building and erection of 7 new dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing building and erection of 7 new dwellings at Former Shefford Lower School, land off Wynchwood Lane, Shefford SG17 5XA in accordance with the terms of the application, Ref CB/17/05211/FULL, dated 27 October 2017, subject to the conditions contained in the schedule attached to this Decision.

Application for costs

2. At the Hearing, an application for costs was made by Mr Troy Mayer on behalf of Black Horse Residential Ltd. against Central Bedfordshire Council. This application is the subject of a separate Decision.

Procedural Matters

3. During the Hearing, the appellant submitted an undated Unilateral Undertaking (UU) regarding a waste management plan. A dated UU has since been submitted. I shall address this matter later in my decision.
4. In addition, the Council submitted a copy of a recent appeal decision¹. As a result of the Inspector's findings, the appellant no longer disputes that the Council can demonstrate a 5 year supply of deliverable housing land.

Main Issue

5. The main issue is the effect of the development on highway safety.

¹ Appeal Refs: APP/P0240/W/18/3206495 and APP/P0240/W/19/3220640

Reasons

6. The appeal site would be accessed via Wynchwood Lane, which leads directly off Ampthill Road. There are four residential properties that have vehicular access directly off Wynchwood Lane. The Lane is wide enough for two cars to pass for part of its length and then narrows to a width that would only allow a single vehicle to pass.
7. The Central Bedfordshire Design Guide: A guide for designing high quality new developments (the Design Guide) 2014 states that junction sightlines on a Minor Street should be 2.4m x 17m. There is no dispute that existing vehicular access points on the Lane fall below this standard. However, the Lane does not have any designated footways and can reasonably be considered a shared surface.
8. Paragraph 7.2.8 of the Manual for Streets (MfS) states that shared surfaces encourage low speeds. Furthermore, paragraph 7.2.14 of the MfS goes on to state that shared surfaces are likely to work well on cul-de-sacs and where the volume of motor traffic is below 100 vehicles per hour.
9. The Highways Statement dated August 2018, prepared by Ardent Consulting Engineers confirms that the traffic survey carried out July 2018 identified existing two-way traffic movements on the Lane as being no more than 7 vehicles per hour. Utilising TRICS data, the proposal would add a further 4 two-way traffic movements. Therefore, the traffic movements would be far below the MfS recommended 100 vehicles per hour for a shared surface.
10. At the Hearing, local residents disputed the reliability of the traffic survey results. However, even if the data is not a true representation of daily traffic movements on the Lane, given the small number of existing properties on it, I do not consider that the results are significantly inaccurate. I appreciate the local residents' concerns that the proposed increase in traffic along the Lane would be significantly greater than existing. However, the number of movements would remain low.
11. Given the relatively short length of the Lane, the low levels of existing and proposed traffic using it and that it would be a shared surface, vehicles would likely travel at low speeds. Whilst there may be instances whereby existing residents have to reverse into/out of their property, which may disrupt the flow of traffic on the Lane, this would only cause a minor inconvenience to drivers having to wait and, given the low traffic numbers, would not cause any unacceptable risk to highway safety.
12. In terms of driver to pedestrian visibility, the Design Guide states that junction sightlines should be 2m x 2m. This is to be measured from the rear of the footpath then 2m either side of the vehicle path. There is no dispute between the parties that the junction of Wynchwood Lane and Ampthill Road does not provide these sightlines. The appellant refers to the Design Manual for Roads and Bridges, which provides an alternative approach to measuring sightlines; however, as the appeal site is within an urban environment, I attribute very limited weight to this document.
13. Paragraph 7.8.3 of the MfS states that vehicle exits at the back of the footway mean that emerging drivers will have to take account of people on the footway and the absence of wide visibility splays at private driveways will encourage

drivers to emerge more cautiously. It goes on to state that consideration should be given to whether this will be appropriate, taking into account the frequency of vehicle movements; the amount of pedestrian activity; and, the width of the footway.

14. The footway along Ampthill Road on either side of the junction is approximately 3m wide and whilst it is likely to be more heavily used during school drop off/pick up times, in general, it is lightly trafficked, particularly considering its width. Drivers approaching the junction along Wynchwood Lane would likely be travelling at low speeds and would creep forward whilst looking in either direction to join Ampthill Road. Given the width of the footway; the low frequency of traffic along the lane, taking in to account the proposed increase as a result of the development; and, the relatively low number of pedestrians, I find that the lack of the standard visibility sightlines would not result in a significant risk to driver/pedestrian conflict. Furthermore, the presence of a bay window at 69 Ampthill Road naturally diverts pedestrians from the back of the footway resulting in them becoming more visible to approaching drivers. I have had regard to the comments from local residents regarding near misses between pedestrians and drivers at the junction. However, I do not find that the junction is inherently dangerous or that the proposed development would unacceptably increase any existing risk.
15. The appellant has suggested the use of deterrent paving in order to create the required sightlines. However, as I have found that there would not be any unacceptable harm with the existing junction, I do not find that these would be necessary.
16. I have also had regard to the comments from local residents regarding the amount of traffic on Ampthill Road and the number of incidents that have occurred but have not been officially recorded. Whilst the proposal would increase the amount of traffic on Ampthill Road, there is no substantive evidence that it would represent an unacceptable risk to highway safety. I note that the local highway authority raises no objection to driver to driver visibility on the junction and based on my own observations on site I find no reason to conclude otherwise.
17. Concern has also been raised regarding the potential conflict between vehicles and pedestrians walking along Wynchwood Lane. The Lane is narrow and there would be little room for two vehicles and a pedestrian to safely pass and one vehicle and pedestrians to pass at the narrowest parts. However, the Lane has good forward visibility and therefore drivers and pedestrians would clearly see one another, even in the dark as vehicles would have their lights on. As a consequence, they could simply manoeuvre accordingly, for example, if two cars are to pass each other they would unlikely do this at the point where a pedestrian is walking. Given the low number of vehicle movements along the Lane, such instances are unlikely to be frequent.
18. I note the local residents' concerns that the width of the lane is narrower than what is indicated on the application drawings and what the Highways Statement has based its findings on. However, even taking the reduced figures as suggested into account, based on the evidence before me and my own observations on site, I do not consider that the proposal represents any significant harm to highway safety

19. The UU, dated 28 June 2018, is with regard to a Waste Management Plan (WMP). The WMP would be agreed with the Council and the dwellings could not be occupied until it is in place. The WMP could also set out the size of refuse collection vehicle that could be used, ensuring that it is of a size that could adequately access/egress the site without causing detriment to highway safety. The appellant has provided evidence that an 8.1m long refuse collection vehicle could adequately do this. The Council do not dispute this. I note that a refuse collection vehicle may not be able to access Wynchwood Lane if a car is waiting at the junction. However, it is not unreasonable to expect the refuse collection vehicle to wait in the road for a short period of time until the vehicle at the junction moves on. Therefore, I am satisfied that a refuse collection vehicle would not have any unacceptable risk to highway safety.
20. I have considered the UU and conclude that it would be necessary to make the development acceptable in planning terms, be directly related to the proposal and fairly related to it in scale and kind. I conclude therefore that the UU meets the three tests in Regulation 122(2) of the CIL Regulations 2010 and Paragraph 56 of the National Planning Policy Framework (the Framework).
21. I find therefore that the proposal would not have any significantly harmful effect on highway safety. Whilst there would be some conflict with the Design Guide, overall, the access to the development would be appropriate in accordance with Policy DM3 of the Central Bedfordshire Core Strategy and Development Management Policies 2009. Furthermore, it would accord with paragraph 109 of the Framework, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

22. I acknowledge that part of Wynchwood Lane is in the ownership of the occupants of 2 Wynchwood Lane and that there is a concern regarding the maintenance of drainage running along the Lane. However, matters of land ownership have not had any bearing on my consideration of the planning merits of the proposal. There is no substantive evidence that the proposal would have a harmful effect on the integrity of the existing drains along the Lane.
23. I also note the allegations regarding the applicant's behaviour regarding the part demolition of the previous school on the site. However, this has also not had any bearing on my consideration of the planning merits of the proposal.
24. A number of objections refer to existing parking problems in the locality, particularly with people parking on the footway on Ampthill Lane. However, the proposal would provide adequate parking within the site and based on my observations on site, it is unlikely that existing parking problems would not create any unacceptable risk to highway safety for drivers accessing/egressing the Lane.
25. Concerns have been raised regarding oversubscribed schools in the area. However, there is no substantive evidence that the proposal would significantly compound this problem.

26. I appreciate the concerns raised regarding noise and construction traffic management during the construction of the proposal. However, such effects would be temporary and could be adequately controlled by way of an appropriately worded condition. Furthermore, it is unlikely that such traffic would prevent emergency vehicles accessing the lane.

Conditions

27. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the conditions as necessary.
28. For the avoidance of doubt, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
29. In the interests of the character and appearance of the area a condition is necessary regarding the external materials to be used on the walls and roofs and a landscaping scheme.
30. In the interests of safeguarding any archaeological findings a condition is necessary regarding an archaeological investigation. To prevent any disturbance of potential findings, it is essential that this is a pre-commencement condition.
31. In the interests of protecting neighbouring residential amenity, conditions are necessary regarding the hours of demolition, construction and site clearance.
32. In the interests of highway safety and protecting neighbouring residential amenity a condition regarding a Construction Traffic Management Plan is necessary. It is essential that this is a pre-commencement condition in order that no development activity unacceptably harms neighbouring amenity.
33. In the interests of highway safety, conditions are necessary regarding the implementation of the scheme for car parking and the removal of permitted development rights pertaining to the conversion of the garages.

Conclusion

34. For the reasons given above, having regard to all matters raised, the appeal is allowed.

Alexander Walker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2016893-01D, 2016-893-02, 2016-893-03, 2016-893-04, 2016-893-05, 2016-893-06, 2016-893-07, 2016-893-08, 2016-893-09, 2016-893-11 and 3207.Shefford.MHA.TPP.
- 3) No construction work above ground level shall commence until details of the materials to be used in the construction of the external walls and

roofs of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 4) No development (excluding demolition and site clearance) shall commence until a landscaping scheme to include all hard and soft landscaping, boundary treatments and a scheme for landscape maintenance for a period of five years following the implementation of the landscaping scheme has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented by the end of the full planting season immediately following the completion of the development (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained in accordance with the approved landscape maintenance scheme and any which die or are destroyed during this period shall be replaced with the same size and species of tree, shrub or grass during the next planting season.
- 5) No development shall commence until a written scheme of archaeological investigation for an open area excavation followed by post excavation analysis and publication, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) No demolition, construction or site clearance works shall take place on the site except between 0800 and 1800 hours on Monday to Friday, 0900 to 1300 on Saturdays, and none shall take place on Sundays, Bank and Public Holidays.
- 7) No development shall take place, including any works of demolition, until a Construction Traffic Management Plan has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures on site to control the deposition of dirt/mud on surrounding roads during the development period;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) Footpath/footway/cycleway or road closures needed during the development period;
 - ix) Traffic management needed during the development period; and,
 - x) Times, routes and means of access and egress for construction traffic and delivery vehicles (including the import of materials and the removal of waste from the site) during the development of the site.

The approved Construction Traffic Management Plan shall be adhered to throughout the construction period for the development.

- 8) No dwelling shall be occupied until the scheme for car parking (with access thereto) has been provided in accordance with the approved plans. The parking spaces for each dwelling shall be retained throughout the lifetime of the development and shall thereafter be kept available for parking at all times.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the garage accommodation on the site shall not be used for any purpose, other than garage accommodation.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Stuart Kemp
Robert Page

Planning Officer
Principal Highways Officer

FOR THE APPELLANT:

Zach Simons
Matthew Last
Simon Chapman
Natasha Abbott

Barrister (Landmark Chambers)
Ardent Consulting Engineers
Optimis Consulting
Optimis Consulting

INTERESTED PERSONS:

Andy Cruise
Debbie Cruise
Cllr. Mark Liddiard
Deborah Maguinness
Cllr. Tony Brown
Rosemary Edwards

Local Resident
Local Resident
Local Councillor
Local Resident
Local Councillor
Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Unilateral Undertaking (undated), submitted by the appellant.
2. Official copy of register of title, submitted by the appellant.
3. Official copy of title plan, submitted by the appellant.
4. Copy of transfer of deeds, submitted by the appellant.
5. Copy of email dated 25 June 2019 from Steve Griffiths, submitted by the appellant.
6. Suggested condition regarding pedestrian deterrent, submitted by the appellant.
7. Five Year Land Supply Statement, dated 1st April 2019, submitted by the Council.
8. Appeal Decision refs: APP/P0240/W/18/3206495 and APP/P0240/W/19/3220640, submitted by the Council.

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Unilateral Undertaking (dated 28 June 2019), submitted by the appellant.