



Appeal Decision

Site visit made on 16 March 2020

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 April 2020

Appeal Ref: APP/K0235/W/19/3241760

Wyboston Lakes, Great North Road, Wyboston, Bedfordshire MK44 3AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Wyboston Lakes Ltd against the decision of Bedford Borough Council.
 - The application Ref 19/01484/M73, dated 8 July 2019, was refused by notice dated 25 October 2019.
 - The application sought outline planning permission for development of a continuing care retirement village (Class C2) comprising care home with nursing and dementia suites, restaurant, care apartments, bar and physio and associated works without complying with a condition attached to planning permission Ref 11/02569/MAO, dated 22 July 2015.
 - The condition in dispute is No 24 which states that: *'No part of the care facility hereby permitted shall be occupied prior to the completion of the off-site highway improvement works as shown on URS Drawing Number 46381001/05003/002 Rev A dated September 2011'.*
 - The reason given for the condition is: *'In the interests of highway safety and encouraging sustainable modes of travel to the site in accordance with saved Policy BE30 of the Bedford Borough Local Plan 2002 and Policies CP2 and CP29 of the Core Strategy and Rural Issues Plan 2008.'*
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Decision

1. The appeal is allowed and outline planning permission is granted for the development of a continuing care retirement village (Class C2) comprising care home with nursing and dementia suites, restaurant, care apartments, spa and physio and associated works (Outline – all matters reserved except for access) at Wyboston Lakes Complex, Great North Road, Wyboston, Bedford, MK44 3AL in accordance with the application Ref 19/01484/M73, dated 8 July 2019, without compliance with condition number 24 but subject to all other conditions previously imposed on outline planning permission Ref 11/02569/MAO dated 22 July 2015 (with the exception of Condition 10 which was previously deleted and with the addition of Condition 27 added by appeal decision APP/K0235/W/17/3171641).

Preliminary Matter

2. Since the application was determined by the Council it has adopted the Bedford Borough Local Plan 2030. The appellant has had the opportunity to comment on the relevant policies and I have taken account of these matters.

Main Issue

3. The main issue in this appeal is whether the disputed condition is necessary and reasonable to make the development acceptable

Reasons

4. The outline planning permission was granted by the Council in relation to the development described above. In February 2019 the Council approved all reserved matters for the development pursuant to the outline permission and approval of conditions 1,5,6,7,9,11 and 21. The disputed condition 24 of the outline permission requires the construction of a Toucan crossing over the A428 Trunk Road, prior to occupation of the development.
5. There is an existing pedestrian crossing which is not controlled by lights, closer to the existing roundabout, to the west of the siting of the crossing covered by condition 24. I had the opportunity to observe its use during my site visit. The Council considers that residents, visitors and staff at the approved development would require the proposed crossing in order to make the development suitably accessible and to promote sustainable forms of travel to/from the development.
6. The appellant has indicated that the facility will accommodate residents who would be unlikely to walk or cycle to and from the development. Their experience of other similar developments indicates that many residents would be elderly and/or frail and simply would not be able to walk and cycle any distance. Notwithstanding the fact that the development includes a gym, a swimming pool and the appellant seeks to promote use of nearby nature trails, I have taken account of this.
7. With regard to the existing crossing, the evidence submitted indicates that there have been no collision accidents involving pedestrians/cycles using the crossing. Whilst the Council has presented data relating to vehicle speeds along the road, these appear to relate to the stretch further to the east where the Toucan crossing would be. The appellant makes the point that speeds at the existing crossing are much less as vehicles would either be approaching the roundabout or emerging from it. This accords with my observations.
8. In relation to the numbers using the crossing, I accept that the proposal may well involve a greater use of the existing crossing, but the evidence before me does not demonstrate that it would be unsafe to do so. Furthermore, the figures indicate that it is well used and does not appear to act as a deterrent to pedestrians and cyclists. It is also notable that the Toucan crossing would involve a not-insignificant diversion to reach it which may itself act as a deterrent for pedestrians and cyclists.
9. The appellant also indicates that there is the prospect of the A428 being downgraded in the future, which may result in fewer HGVs than currently use it. Although the prospect of this depends on other highways work and could be some years away, I have noted the submission in this respect.
10. Taking these points together, it seems to me that the future residents of the site would be unlikely to need to cross the A428 on foot or cycle. Any visitors or workers who need to do so could safely cross at the existing crossing and so it would not act as a deterrent to the use of sustainable means of accessing the development.

Conclusion

11. For the reasons set out above, I consider that the disputed condition is not necessary. The appellant has submitted a complete Unilateral Undertaking in relation to provisions for care and other matters and the Council has agreed to its contents. In my judgement, it is necessary to make the development acceptable and I have taken account of it in determining this appeal.
12. As a consequence of my findings, the appeal is allowed.

S T Wood

INSPECTOR