The Planning Inspectorate

Appeal Decision

Site visit made on 11 June 2020

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2020

Appeal Ref: APP/P0240/W/20/3244880
New Close Nurseries, Fildyke Road, Meppershall

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Blakeney Estates Ltd against the decision of Central Bedfordshire Council.
- The application Ref CB/19/02994/VOC, dated 9 September 2019, was approved on 11 December 2019 and planning permission was granted subject to conditions.
- The development permitted is demolition of existing glasshouses and redevelopment with 10 residential dwellings and all ancillary works.
- The condition in dispute is No 11 which states that: A footway shall be constructed on the north side of Fildyke road from the western boundary of No. 63 Fildyke Road to the east boundary of No. 67 Fildyke Road of a minimum width of 1.2m in accordance with details of the approved drawing/or scheme to be submitted to and approved by the Local Planning Authority. The footway shall be constructed to the approved details within 80% of occupation of the proposal and shall be retained thereafter. Any Statutory Undertakers equipment or street furniture shall be re-sited to provide an unobstructed footway.
- The reason given for the condition is: In the interests of road safety and pedestrian movement (Policy DM3 of the Core Strategy for the North and Section 4 of the NPPF).

Decision

1. The appeal is dismissed.

Procedural Matters

2. In its evidence the Council referred to policies within the emerging Central Bedfordshire Local Plan 2035. Whilst this plan has completed Examination in Public, I understand that further modifications are necessary. The Council has not conveyed how this may affect the policies to which it has referred. Therefore, whilst I have had regard to them, bearing in mind its stage of preparation, it does not carry full weight.

3. I am also considering another appeal by the same appellant against a condition which also requires the provision of a footpath on an adjacent site[1]. That appeal is the subject of a separate decision.

Background and Main Issue

4. Planning permission was granted for the redevelopment of the site[2] subject to a condition requiring the provision of a 2m wide footpath to Fildyke Road. An

[1] APP/P0240/W/20/3244952
[2] CB/17/02409/FULL

application was then submitted to remove that condition in its entirety. The application was subsequently approved by the Council. The condition requiring the provision of a footpath was retained though the wording of the condition was revised. This is Condition 11, as detailed above, which is now the subject of this appeal.

5. The appellant contends that condition 11 should be deleted as a footpath is not necessary to make the development sustainable or for the highway safety of residents. They also state that the condition is unreasonable as the footpath would only facilitate the appeal site and not substantially reduce the section of Fildyke road without a footpath, nor provide an appropriate linkage to any local services or facilities.

6. The main issues are therefore whether the condition is enforceable, reasonable and necessary in the interests of:

    - highway safety, with particular regard to road safety and pedestrian movement, and
    - access to services by a choice of travel modes.

Reasons

Highway safety

7. The scheme includes a new road junction onto Fildyke Road, which is a narrow road, and there are no footpaths in the vicinity of the site. The proposal is for 10 large family sized dwellings, whilst this number of dwellings may not be significant in terms of the wider settlement, it would result in a material increase in vehicular and pedestrian traffic on this section of Fildyke Road, where development is sparser.

8. I saw on my site visit that the access is at a point where the road begins to curve and land levels fall to the west. I also saw that a number of vehicles park on-street, and where this occurs only single file traffic can pass along Fildyke Road. This also restricts access for pedestrians who are forced further into the centre of the carriageway in order to pass the parked vehicles. This is therefore a location where drivers would need to pay particular attention to road conditions and make decisions such as braking and adjusting speed, in addition to negotiating parked vehicles and the new road junction.

9. There are sections of grass verge to the north of Fildyke Road, but these are uneven and unsuitable for walking, or for using pushchairs and wheelchairs. There are also driveways to existing dwellings which cross the grass verges and result in further uneven changes between surfaces. The driveways also appear as private land with the surfacing material varying and extending up to the highway. It is therefore not clear from a pedestrian viewpoint that there is an off-road space that they can utilise. This section of Fildyke Road does not, therefore, provide for a particularly easy or inviting route for pedestrians.

10. The scheme would not only increase vehicular movements along Fildyke Road, but with the creation of a new road junction, would also introduce a further hazard for pedestrians.

11. A footpath is provided for within the site, along the eastern side of the internal access road and, in the absence of a footpath to Fildyke Road, this would

terminate at the new road junction. Pedestrians would therefore be forced into the road at this point and, as drivers negotiate the junction, this could lead to conflicts between vehicles and pedestrians, to the detriment of highway safety.

12. There is a surfaced footpath that runs from outside No 53 Fildyke Road all the way to the road junction with High Street. I saw on my site visit that the existing services and facilities within the village appear to be concentrated around High Street and Shefford Road. Fildyke Road provides the only direct route from the site for pedestrians to these local services.

13. Although the proposed footpath would not provide a continuous link to this existing footpath, the distance over which pedestrians would have to share the space or attempt to utilise unsuitable verges would be much reduced if the footpath were provided. Pedestrians would also be further away from the new road junction, and the associated hazards, before they were forced back on to the highway.

14. The provision of a footpath, extending either side of the new road junction, would therefore provide a safe refuge for those wishing to cross the new junction in addition to safe and convenient access for pedestrians, particularly those with pushchairs or wheelchairs, using Fildyke Road.

15. I appreciate that the footpath would be narrower than the minimum width advised by the Central Bedfordshire Design Guide: A guide for designing high quality new developments, 2014. However, it is better than no footpath at all.

16. The appellant states that to address drainage and flooding issues, works would need to be undertaken on land within third party ownership. However, the submitted detail also indicates that a footpath of a minimum 1.2m width could be achieved wholly on land within the ownership of the appellant or highways.

17. Crash map data has been provided which the appellant states shows there are no issues with highway safety at this location. That data however is reflective of the current situation and does not take into account the situation that would exist once the development was completed.

18. The timing stated in the condition for the construction of the footpath is both precise and enforceable. It is reasonable, in that it does not prevent construction activities from commencing, but ensures the footpath is constructed prior to the majority of dwellings being occupied. This is not indicative of the footpath being unnecessary, rather the adoption of a reasonable and proportionate approach to its provision.

19. Whilst I acknowledge that the intended scheme for the provision of a 2m footpath proved problematic, it has not been demonstrated that other options in relation to the provision of a 2m wide path are not available. The condition previously imposed remains, and I am not persuaded that a fallback scenario, whereby the development could be fully occupied without the provision of a footpath, exists, nor has it been demonstrated that the condition cannot be enforced.

20. In addition to mitigating the impacts for pedestrians around the new junction the provision of a footpath would also offer a significant improvement to the safety of pedestrians wishing to access local services and facilities. I therefore conclude that the condition is necessary and reasonable in the interests of highway safety and would be enforceable. The removal of the condition would

conflict with Policy DM3 of Central Bedfordshire Core Strategy and Development Management Policies, 2009 (LP) as appropriate access, with provision for pedestrians would not be available.

Access to Services

21. As detailed above, to the west of the site there is a surfaced footpath to the north of Fildyke Road, that runs from outside No 53 all the way to the junction with High Street and Shefford Road. This is where many local services and facilities, such as a local school and bus services that would provide access to other centres and upper schools, are concentrated.

22. To be sustainable there needs to be real choice available to future residents in relation to utilising means other than the private vehicle. The existing grass verges do not represent a safe and convenient access and, would not in any case, be available to all. Not providing a safe and attractive route for pedestrians, even partially, would diminish the sustainability credentials of the site and a lack of accessibility by means of transport other than the private car would weigh heavily against the proposals.

23. The provision of a footpath, even of a reduced width and without providing a continuous linkage to the existing footpath, would provide a meaningful service in that it reduces the distance that pedestrians would be forced into the road. This would encourage future occupants to see walking as a largely safe and convenient option, more so than if they were required to walk in the road over a longer distance.

24. The condition is therefore necessary in respect of the provision of walking access to local services and facilities and would contribute towards the high quality design requirements of LP Policy DM3 and the National Planning Policy Framework's approach of promoting sustainable transport modes and giving priority to pedestrian and cycle movements within the scheme and neighbouring areas, and encourage public transport use.

Other Matters

25. The appellant has referred to a development opposite where the requirement for a footpath to Fildyke Road was not progressed due to a 1.2m width not being considered appropriate for use by wheelchairs and pushchairs. I have not been provided with any further details of that case, though I note the Council and Highways Officer have not raised any such concerns in relation to the appeal scheme.

26. The existing grass verges to the north of Fildyke Road are segmented and do not form a continuous link. They are also punctuated with driveways of differing colour finishes and materials, and disappear almost entirely in places.

27. The existing verges to the north of the road therefore do not form a distinct feature within the street scene and visually have limited benefit. As such the removal of the verge as part of the appeal scheme would not result in any significant harm to the character and appearance of the area. These other matters do not, therefore, lead me to a different conclusion.

Conclusion

28. For the reasons stated above Condition 11 is enforceable, reasonable and necessary in the interests of highway safety and promoting sustainable transport modes. I therefore conclude that the appeal should be dismissed, and the condition retained in its present form.

A Denby

INSPECTOR