



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/20/3244952

**Tower Nursery, Tower View Nurseries, 81 Fildyke Road, Meppershall,
Central Bedfordshire, SG17 5LU**

- 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/18/04569/FULL, dated 5 December 2018, was approved on 22 July 2019 and planning permission was granted subject to conditions.
 - The development permitted is Demolition of existing greenhouses and redevelopment with 9 residential dwellings including new access and all ancillary works.
 - The condition in dispute is No 5 which states that: Notwithstanding the submitted details, prior to the occupation of any dwelling hereby approved details for a 2m wide pedestrian footway (or width to be agreed if required) linking up with the footway required by planning approval ref:17/02409/FULL has been submitted to and approved in writing by the Local Planning Authority. The footway shall be provided prior to occupation or in accordance with an alternative timescale agreed with the LPA prior to occupation.
 - The reason given for the condition is: in order to minimise danger, obstruction and inconvenience to pedestrians, users of the highway and the premises.
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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 similar condition on an adjacent site¹. That appeal is the subject of a separate decision.

Background and Main Issues

4. Planning permission was granted for the redevelopment of the site for 9 dwellings subject to a condition requiring a pedestrian footway of 2m width, or width to be agreed.

¹ APP/P0240/W/20/3244880

5. The appellant contends that the condition should be deleted as a footpath is not necessary to make the development sustainable or for the highway safety of residents. They also consider 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 condition refers to a footpath required at an adjacent site under a separate planning approval² (adjacent site). The appellant considers the requirement for a footpath at the adjacent site is unenforceable and so therefore concludes that the condition subject of this current appeal is similarly unenforceable as it specifically references the adjacent permission.
7. The main issues are therefore whether, the condition is enforceable, reasonable and necessary in the interests of
 - (i) highway safety, with particular regard to road safety and pedestrian movement, and
 - (ii) access to services by a choice of travel modes.

Reasons

Highway Safety

8. The scheme includes a new road junction onto Fildyke Road and proposes 9 dwellings, whilst this may not constitute a major development and the number of dwellings would not be significant in terms of the wider settlement, the scheme is for large family sized dwellings, and it would result in a material increase in vehicular and pedestrian traffic on this section of Fildyke Road, where development is sparser.
9. The proposed access is close to the road junction of Fildyke Road with Chapel Road. The road here is narrow, with no footpaths only grass verges to both sides. I saw on my site visit that a number of vehicles park on-street and, where this occurs, only single file traffic can pass. This also restricts access for pedestrians with them being forced to pass the parked vehicles by walking into the centre of the highway.
10. 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.
11. Considering the proximity to the junction with Chapel Road, this is 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.

² CB/17/02409/FULL

12. A footpath is to be provided for within the site to one side of the internal access road. In the absence of a footpath to Fildyke Road this footpath would terminate at the junction with pedestrians either being forced onto the carriageway into the path of oncoming traffic or attempting to utilise the unsuitable grass verges. This could lead to conflicts between vehicles and pedestrians, to the detriment of highway safety.
13. 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.
14. 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.
15. The scheme would not only increase vehicular movements along Fildyke Road but, with the creation of a new road junction, also introduce a further hazard for pedestrians. The provision of a footpath would address this and provide a safe and convenient access for pedestrians, particularly those with pushchairs or wheelchairs.
16. 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.
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 condition does state that the footpath should link to that required on the adjacent scheme. Whilst I note the discussions between the parties regarding the adjacent site, the footpath subject of this appeal could be completed independently and would not be reliant upon the existence of the adjacent footpath, nor land within third party ownership.
19. The condition is clear that the implementation of the footpath is required prior to occupation. That the condition provides additional clarity referring to the submission of the footpath details, prior to the occupation of any dwelling, does not diminish the precision of the remainder of the condition. The condition does allow for an alternative timescale to be agreed, though again it is clear that this needs to be done prior to occupation. I do not therefore consider the condition to be ambiguous in this regard.
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 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. As detailed above the 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 one of a width below the guidance in the SPD 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 to the west of the site 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 5 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