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# Appeal Decision

Site visit made on 9 February 2023

**by A Hickey MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 April 2023**

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**Appeal Ref: APP/W0530/W/22/3299270**

**Land east of Highfields Road, Highfields Caldecote, Cambridge**

- 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 Miss Hanrah Short of Linden (Highfields Caldecote) LLP against the decision of South Cambridgeshire District Council.
  - The application Ref 21/02795/S73, dated 9 June 2021, was refused by notice dated 16 March 2022.
  - The application sought planning permission for up to 140 residential dwellings (including up to 40% affordable housing) removal of existing temporary agricultural structures and debris introduction of structural planting and landscaping informal public open space and children's play area community orchard and allotments surface water flood mitigation and attenuation vehicular access points from Highfields Road and associated ancillary works without complying with conditions attached to planning permission Ref S/3777/19/VC, dated 21 July 2020.
  - The conditions in dispute are Nos 18 and 20 which state that:
    - (18) No development shall commence until a scheme for a shared use footway/cycleway along the western side of Highfields Road, from the new development northern access to St Neots Road, has been submitted to and approved in writing by the local planning authority. The scheme shall be completed prior to the occupation of the first dwelling on site.
    - (20) No development shall take place until a scheme for the design and materials to be used for access and public rights of way including their widths, gradients, landscaping and signposting, together with the concurrent extinguishing of part of public footpath No. 9 and the creation of a circular public bridleway, has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before the occupation of the 50th dwelling on site.
  - The reasons given for the conditions are:
    - (18) To mitigate the impact of development traffic upon the local highway network and provide a high standard of facilities for walkers, cyclists and public transport users in accordance with Policy TI/3 of the South Cambridgeshire Local Plan 2018.
    - (20) To provide safe and convenient access and to achieve a permeable development in accordance with Policy HQ/1 of the South Cambridgeshire Local Plan 2018.
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## Decision

1. The appeal is dismissed.

### **Applications for costs**

2. An application for costs was made by Miss Hanrah Short against South Cambridgeshire District Council. This application is the subject of a separate Decision.

### **Preliminary Matters**

3. In my Decision, I have amended the original description of development to remove reference to matters that are not development. Both the main parties have had the opportunity to comment.
4. Condition 18, which is in dispute states, no development shall commence until a scheme is approved, and the approved scheme is required to be completed prior to the occupation of the first dwelling on site. I observed how development on site had commenced and a number of dwellings on site are now occupied. I sought the views of the main parties and have considered their responses as part of my Decision.
5. Within the reason given for condition 18, the Decision notice for application ref: S/3777/19/VC, reference is made to Policy TI/3 of the South Cambridgeshire Local Plan (LP). Both the main parties acknowledge that this was a typographical error and should be read as Policy TI/2. As such, for the purposes of this appeal, I have taken Policy TI/2 of the LP to be the correct policy for the reason behind the imposition of condition 18.

### **Background and Main Issue**

6. The appeal site has a complex planning history. Outline planning consent was granted on appeal in 2017 for the development of up to 140 residential dwellings with vehicular access from Highfields Road and associated ancillary works, with all matters reserved except for the main site access under appeal ref: APP/W0530/W/16/3149854.
7. A subsequent Reserved Matters permission for phase 1 of the scheme (66 dwellings) was approved by the Council and is currently under construction with a number of dwellings being occupied. The time period for submission of reserved matters applications for the remaining dwellings approved under outline appeal has subsequently expired. Nevertheless, the principle of development on the site has been established.
8. The Section 73 application relates to application ref: S/3777/19/VC, which was a variation approved to the original outline approval by the Council. It has been submitted due to the fact that insufficient land is available to deliver the works required by conditions 18 and 20. The Appellant is now seeking to amend condition 18 to alter the length of sections of the proposed cycle link along Highfield Road. Amendments are also sought to remove the requirement under condition 20 for the provision of a circular public bridleway to a footpath only.
9. Based on the proposed amendments, I find the main issue is whether conditions 18 and 20 are necessary and reasonable having regard to the location of the development, its accessibility to public transport, local services and facilities and connectivity to the existing cycle, walking and rights of way network.

## Reasons

10. The appeal site is situated to the northern edge of Highfields Caldecote village (the village) and south of the A428. The A428 connects Cambridge to St Neots. The appeal site is approximately 14 km west of Cambridge by road and around 5 km by road east of the new settlement of Cambourne. Highfields Road and Main Street serve as the main spine road through the village.
11. Whilst only a snapshot in time, I saw at my site visit, which took place mid-day on a weekday, that the spine road through the village was not heavily trafficked but there was a steady flow of vehicles in both directions. In addition to the flow of motor vehicles, there was a steady volume of pedestrians and cyclists using the footway and road.

### *Condition 18*

12. Policy TI/2 of the LP states, in part, planning permission will only be granted for development likely to give rise to increased travel demands where the site has (or will attain) sufficient integration and accessibility by walking, cycling or public and community transport. It further requires the provision of safe, direct routes within permeable layouts that facilitate and encourage short-distance trips by walking and cycling between home and nearby centres of attraction, and to bus stops to provide real travel choice for some or all of the journey, in accordance with Policy HQ/1 of the LP.
13. Criterion C of TI/2 of the LP is also relevant as this seeks the protection and improvement of existing cycle and walking routes to ensure the effectiveness and amenity of these routes are maintained, including through maintenance, crossings, signposting and waymarking, and where appropriate, widening and lighting.
14. There are a small number of shops and services within the Village, including a hairdresser, a beauty salon and other social buildings such as the community hall. To the north of the appeal site and the village is the closest convenience shop which forms part of the Petrol Station on St Neots Road selling a limited number of day-to-day groceries and items. It is from St Neots Road that residents of the surrounding area access bus stops to the surrounding towns and villages that offer more additional shops and services with a wider choice.
15. In view of the above policy requirements, I have had regard to the Inspector's Decision<sup>1</sup> (outline appeal) in allowing the outline consent. Whilst the reason for imposing condition 18 is somewhat limited, the crux of its imposition can be found within the reasoning of the Decision. This reasoning is consistent with the reason stated in the Council's Decision under application ref: S/3777/19/VC.
16. The Inspector in the outline appeal, noted that there would be a degree of conflict with policies within the development plan at the time, which the Council have confirmed have been superseded by LP Policies TI/2 and HQ/1. However, the Inspector concluded this harm was limited given the bus services together with the opportunity to use an upgraded cycleway to the main road and shop which offered a practical choice with regard to transport and accessibility.

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<sup>1</sup> Ref: APP/W0530/W/16/3149854

17. From my observations of the facilities and services found in the village, I find no reason to disagree with the previous Inspector that most future residents will need to use a car for main shopping trips and commuting given the limited facilities and services within the village. Furthermore, I find that there is still a draw for existing residents of the village and future residents to both walk and cycle to access the nearby bus stops and the shop to the north on St Neots Road, which places additional demand on the use of the footway and road.
18. The Appellant asserts that the proposed variation provides full pedestrian access, and the removal of the cycle path provision relates to only 240 metres of road. As such, it is contended that there is no real absence of choice for occupiers of the development; bicycles may be used on a short stretch of road or pushed.
19. Nevertheless, even a short reduction would reduce the amount of dedicated cycle space for users seeking to access nearby bus stops and the sole grocery/retail shop. This reduction would be located closest to what will become a busy entry point into the appeal site. It is my view that the loss of this part of the dedicated cycle link would result in cyclists either using or pushing their bicycles on the footway in order to avoid travelling close to a busy section of road close to a junction. The presence of these bicycles on the footway would discourage pedestrians from using this section of footway, thereby affecting accessibility. It is also likely that some users may avoid choosing to cycle to avoid such conflict with pedestrians. This conflict would be in addition to that identified by the inspector under the outline appeal.
20. I acknowledge that the Council's Highways Officer did not object to the scheme. However, I have found that the removal of this section of the cycle link would harm accessibility to public transport and local retail shop for the reasons I've established.
21. The National Planning Policy Framework (the Framework) at paragraph 135 seeks to ensure that the quality of approved development is not materially diminished between permission and completion as a result of changes being made to the permitted scheme.
22. Whilst the Appellant has advised that the land is not available to provide the additional width required, there is insufficient justification for failing to provide such an important component of the scheme as no information of any alternative schemes that have been considered is put forward. In the absence of such detail, I cannot be sure that this is the only way the development could be progressed without jeopardising the whole scheme.
23. For a development of this scale, providing access to public transport and the sole nearby convenience shop is necessary and demand will likely grow as more occupiers take up residence. Without robust evidence to demonstrate what potential alternative schemes have been explored, it is my view the quality of the development, if allowed, would be materially diminished when compared to the Approved Scheme as a result of the loss of this section of the shared cycle link.
24. Accordingly, I find that condition 18 (No 18) is both necessary and reasonable having regard to the location of the development, its accessibility to public transport, local services and facilities. Therefore, the proposal would be contrary to Policies TI/2 and HQ/1 of the LP, which seek, amongst other things,

that new development integrates and provides accessibility by walking, cycling or public and community transport within permeable layouts that facilitate and encourage short-distance trips by walking and cycling. It would also conflict with paragraph 135 of the Framework, which seeks to ensure that the quality of approved development is not materially diminished between permission and completion.

*Condition 20*

25. Turning to condition 20 (No 20), the Appellant advises that they are unable to secure sufficient land to the perimeter of the site such that it could accommodate the 4m required for the bridleway. The revised proposal would see the same circular route proposed however, given the reduced width, this would be for pedestrians only, removing access for both cyclists and horse riders.
26. Policy TI/2 of the LP does not make reference to bridleways. Nonetheless, as I have set out above, it does require, in part, new cycle and walking routes connect to existing networks, including the wider Rights of Way network. It also seeks the protection and improvement of existing cycle and walking routes, including the Rights of Way network, to ensure the effectiveness and amenity of these routes are maintained.
27. Policy HQ/1 of the LP has a number of similar aims and seeks new development to be permeable with ease of movement and access for all users and abilities. New development is required to be user-friendly and have conveniently accessible streets and other routes both within the development and linking with its surroundings and existing and proposed facilities and services, focusing on delivering attractive and safe opportunities for walking, cycling, public transport and where appropriate, horse riding.
28. From the evidence before me and my observations on site and of the surrounding Public Rights of Way, including existing bridleways and footpaths, it is clear the proposed bridleway would not lead directly onto any adjoining network for cyclists or horse riders but would link with existing footpaths for pedestrians. However, when considering the aims of policies T1/2 and HQ/1, these allow for conveniently accessible routes both within the development and linking with its surroundings that connect to existing networks.
29. I accept that should the appeal be allowed, the proposal would still provide a circular footpath. However, I find that the bridleway/cycle link, because of its close connection to other networks, is also likely to be an attractive and suitable route for cyclists and horse riders to access even if using a short section of Highfields Road is required. I have also not been provided with any evidence to conclude that Public Rights of Way in the area are not usable all year round or that connecting to the Bridleway on a daily basis during the winter would not occur.
30. While it is unlikely that future occupiers of the development would be stabling a horse at home, they may choose to do this nearby and ride closer to home. In any event, there are also likely to be a number of occupiers that store a cycle at home and seek to use convenient, well-connected routes close to home.

31. The Framework advocates<sup>2</sup> that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks. As such, the proposal would still see the inclusion of a footpath but also the removal of facilities for cyclists and horse riders. This would be contrary to the requirement of the Framework, which seeks to ensure that the quality of approved development is not materially diminished.
32. The Appellant in acquiring the site, would have been aware of the requirements to provide the bridleway. While I'm advised by the Appellant that efforts have been made to acquire additional land, there is no evidence before me as to the details of these discussions. Furthermore, there is no information on any alternative schemes that have been considered to provide the bridleway route within land under the ownership of the Appellant.
33. Accordingly, I find that condition 20 is both necessary and reasonable having regard to the location of the development, its accessibility and connectivity to the existing cycle, walking and rights of way network. Therefore, the proposal would be contrary to Policies TI/2 and HQ/1 of the LP. It would also conflict with paragraph 135 of the Framework. There is also a conflict with the aims of the Cambridgeshire Rights of Way Improvement Plan, which seeks to improve rights of way for all users, including cyclists and equestrian users.

### **Other Matters**

34. I acknowledge that the Council's Officer report states that any conflict with the adopted policy is outweighed by other material planning considerations, most notably the implementation of the 2019 reserved matters. Nevertheless, I have found, for the reasons set out above, that the disputed conditions are both necessary and reasonable. Furthermore, from the evidence provided, I consider there would be no additional benefit from the appeal scheme, which weighs in favour of the proposal or any compelling evidence that the original scheme would be in jeopardy should this appeal fail.
35. The Appellant has provided a deed of variation for the appeal scheme. As I am dismissing the appeal for the reasons set out above, it has not been necessary for me to assess this further.
36. The Appellant has drawn my attention to examples<sup>3</sup> of shared-use footways/cycleways in nearby villages. However, I have not been provided with details of how these are comparable to the appeal scheme with regard to accessing nearby bus stops and other facilities and services.
37. I note an outline<sup>4</sup> application for a new settlement at Bourn Airfield has been approved by the Council's planning committee, and the decision notice is due to be issued. While this could result in new services and facilities being delivered near the appeal site, this is not guaranteed. I have therefore given little weight to this matter in reaching my Decision.

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<sup>2</sup> Paragraph 100

<sup>3</sup> Barton and Swavesey

<sup>4</sup> Ref: S/3440/18/OL

## **Conclusion**

38. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*A Hickey*

INSPECTOR