



Appeal Decision

Site visit made on 28 February 2023

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2023

Appeal Ref: APP/P0240/W/22/3310498

Land north of Shefford Road, Clophill, Bedfordshire, Bedford MK45 4BT

- 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 Mr and Mrs I Dodd against the decision of Central Bedfordshire Council.
 - The application Ref CB/22/02288/VOC, dated 31 May 2022, was refused by notice dated 4 October 2022
 - The application sought planning permission to construct a detached bungalow with associated works, without complying with a condition attached to planning permission Ref CB/21/04453/FULL, dated 4 April 2022.
 - The condition in dispute is No. 4: No dwelling shall be occupied until a 2.0m wide footway has been constructed from the proposed access along the site frontage to the west to join with the existing footway. Any Statutory Undertakers equipment or street furniture shall be resited to provide an unobstructed footway.
 - The reason given for the condition is: In the interests of road safety and pedestrian movement.
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Decision

1. The appeal is allowed, and planning permission is granted to construct a detached bungalow with associated works, at Land north of Shefford Road, Clophill, Bedfordshire, Bedford MK45 4BT, in accordance with the terms of the application Ref CB/22/02288/VOC, dated 31 May 2022, without compliance with condition 4, previously imposed on planning permission Ref CB/21/04453/FULL, dated 4 April 2022, and subject to the conditions contained within the attached schedule.

Applications for costs

2. An application for costs was made by Mr and Mrs I Dodd against Central Bedfordshire Council. This application is the subject of a separate Decision.

Background and Main Issue

3. Planning permission was granted for a detached bungalow.¹ The appellant applied to the Council to remove condition 4 of this planning permission, which requires the construction of a footpath at the front boundary of the property. The Council refused planning permission to carry out the development without complying with condition 4 and states that to remove this condition would lead to poor pedestrian connectivity, inconvenience and safety.

¹ Ref: CB/21/004453/FULL

4. The main issue in this case is therefore the effect of removing condition 4 on pedestrian access in this area, having regard to safety and movement.

Reasons

5. The National Planning Policy Framework (the Framework) at Paragraph 56 states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. This is also reflected in advice on conditions set out in the Planning Practice Guidance (PPG).
6. The appeal property is at the edge of a rural settlement. It fronts a relatively straight stretch of carriageway with good visibility for road users. The carriageway is bounded, at the front of the appeal property, by a grass verge. Although the verge is slightly mounded it is relatively flat. A new section of footpath has been constructed opposite the appeal property. I saw that the carriageway leading into the village centre has a footpath at least one side of the road, but there are a number of gaps in the footpath at this edge of the settlement location.
7. The planning permission for the bungalow has resulted in an additional dwelling served by an access on to the carriageway which is also used by one other dwelling. However, this still only amounts to two dwellings in this immediate area. At this edge of village location, taking account of this scale of development along this stretch of rural road, the number of pedestrians in this area is limited. Even with the addition of the bungalow the pedestrian footfall in this area is likely to be light and intermittent.
8. The Council is concerned that, without the footpath required by condition 4, pedestrians would use the carriageway. However, pedestrians have the option to walk over the grass verge to meet the existing footpath on the northern side of the carriageway, or to cross the road to the footpath on the southern side of the road.
9. Crossing the grass verge may be unsuitable for pedestrians with prams or for people with reduced mobility. However, the access to the appeal property is a wide and flat hardstanding with space for pedestrians with prams or wheelchairs to wait, and safely cross the road to the footpath opposite, without coming into conflict with vehicles either using the access or on the carriageway. The footpath opposite does not have a dropped kerb directly opposite the appeal property. However, if required there is a dropped kerb a short distance to the east of the appeal property's access which would also provide a safe and convenient means of crossing the road.
10. Pedestrians wishing to use a footpath would need to cross the road twice. However, this is only a short distance and therefore amounts to a slight inconvenience for the pedestrians accessing the bungalow or the services and bus stop available in Clophill. For the few pedestrians likely to use this route, the route would not be unreasonably indirect for this reason, and this arrangement would not as such be inconsistent with guidance documents and notes in respect of pedestrian access.
11. Also, if pedestrians did choose to walk in the carriageway, it would be for a short distance, and on a stretch of road with good visibility such that motorists

could clearly see the pedestrians, thereby avoiding incidents. Taking account of the location, the highway conditions and the limited number of pedestrians, the absence of a footpath fronting the appeal property would not have an unacceptable impact on highway safety in the area. The footpath would not be required to make the development acceptable for the reasons outlined above and consequently condition 4 is unnecessary.

12. The Council recognises that there are gaps in the footpath, and state that these could be addressed through development where possible. However, where this outcome is made possible through the imposition of conditions, the condition should satisfy the test of a planning condition as set out in the Framework and PPG. In light of the above, this would not be the case with this development, and the requirement for the footpath would not be a proportionate requirement for these reasons.
13. The main parties disagree about the cost of constructing the footpath. In any event the cost would be significant, and this would be unnecessary for the reasons set out above.
14. The Council asserts that the provision of footpaths fronting each dwelling on an estate road is considered reasonable, and this was so for the development of fifty dwellings opposite the appeal property. However, the approved bungalow is a minor development and materially different from that nearby major development. This matter has not altered my findings for this reason.
15. The Council contend that the appellants agreed to the condition. Be this as it may, I find that the condition is not necessary for the reasons outlined. Therefore, this matter has also not altered my findings in this case.
16. In light of the above, I find that the removal of condition 4 would not have a harmful effect on pedestrian access in this area, having regard to safety and movement. Removing condition 4 would not conflict with Policies T1 and T2 of the Central Bedfordshire Local Plan. These policies, amongst other matters, require that proposals for new development must not have a detrimental effect on highway safety and patterns of movement.
17. The proposal would also not conflict with 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.
18. My attention has been drawn to other policies of the Local Plan, but these do not appear to be in dispute in this case. These policies have not been determinative in this appeal for this reason.

Conditions

19. The guidance in the PPG makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. The original planning permission for the bungalow has a number of conditions attached. As I have limited information before me about the status of the conditions imposed on that planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

20. For the reasons outlined above and having regard to the development plan and other material considerations, planning permission is granted and condition 4 imposed on the previous planning permission is deleted. Accordingly, the appeal is allowed.

A J Sutton

INSPECTOR

Schedule of Conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of Planning Permission Ref CB/21/04453/FULL.
- 2) Prior to the commencement of development, an Arboriculture Impact Assessment and Method statement showing suitable protection measures shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall then be adhered to throughout the whole construction process.
- 3) Notwithstanding the details shown, development shall not begin until details of a 4.8m widened junction for no less than 8.0m into the site of the proposed vehicular access with the highway have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied until the junction has been constructed in accordance with the approved details.
- 4) Any gates provided shall open away from the highway and be set back a distance of at least 8.0 metres from the highway boundary. The gates shall remain unlocked/unobstructed so that all traffic using the site can use the turning head to leave in forward gear.
- 5) Before the premises are occupied all on site vehicular areas shall be surfaced in a stable and durable materials in accordance with details to be approved in writing by the Local Planning Authority. Arrangements shall be made for surface water drainage from the site to soak away within the site so that it does not discharge into the highway or into the main drainage system.
- 6) Notwithstanding the details shown development shall not begin until details of the parking layout including a 6.0m wide area between the visitor parking spaces and the residential parking spaces has been submitted to and approved in writing by the local planning authority and the approved details shall be implemented prior to occupation.
- 7) Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, or any amendments thereto, the parking provision on the site shall not be used for any purpose, other than as parking provision unless permission has been granted by the Local Planning Authority on an application made for that purpose.
- 8) The scheme for the secure and covered parking of cycles on the site as indicated on the approved plan no. L-02 rev C shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.
- 9) Prior to the construction of vehicular parking areas associated with the approved development, a scheme for the charging of electric and ultra-low emission vehicles for the approved dwelling shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall accord with Policy T5 of the Central Bedfordshire Local Plan and shall include the following:
 - Details of active charging posts or passive provision such as cabling and electricity supply.

- Timescales / triggers for implementation of the scheme.

The development shall be completed in accordance with these approved details including the agreed timescales / triggers.

- 10) No development shall take place until a landscaping scheme to include all hard and soft landscaping and a scheme for landscape maintenance for a period of five years following the implementation of the landscaping scheme have 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 and/or first use of any separate part 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 during the next planting season.
- 11) The development hereby permitted shall be undertaken in full accordance with the Council's adopted 'Construction Code of Practice for Developers and Contractors'
https://www.centralbedfordshire.gov.uk/info/44/planning/674/codes_of_practice_for_planning.
- 12) The development hereby permitted shall be undertaken in full accordance with the Council's adopted 'Environmental Code Practice'
https://www.centralbedfordshire.gov.uk/info/44/planning/674/codes_of_practice_for_planning/3
- 13) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers L-01, L-02 Rev C, L-03 Rev C.

Schedule End.