



Appeal Decision

Site visit made on 10 October 2023

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 29TH November 2023

Appeal Ref: APP/X3025/W/23/3321602

Land at Sheepbridge Lane, Mansfield, NG18 5FN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Richard Walker of Walker Homes against the decision of Mansfield District Council.
 - The application Ref 2022/0343/VCON, dated 25 May 2022, was refused by notice dated 22 November 2022.
 - The application sought planning permission for proposed 32 No. residential dwellings without complying with a condition attached to planning permission Ref 2020/0065/FUL, dated 5 January 2021.
 - The condition in dispute is No 2 which states that: This permission shall be read in accordance with the Approved Plans and documents listed below. The development shall thereafter be undertaken in accordance with these plans and documents.
 - The reason given for the condition is: To define the permission, for the avoidance of doubt.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The approved plans mentioned in the disputed condition included plan no. 2247-SITE001 Version C dated 24 August 2020. The plan provided with the appeal has a slightly different reference number and the parties have confirmed that the approved plan no is 19/2247/ SITE001 Revision C dated 24 August 2020 and I have determined the appeal on the basis of this plan.
3. Further, on the application form, the reference number of the original application did not match the decision notice dated 5 January 2021. I am satisfied that the correct reference was included on the decision notice and I have included that in the banner header above.

Background and Main Issue

4. The approved plan shows that a new footpath would extend up to and allow access into the adjacent recreation ground, Moor Lane Park (the park). I observed at the site visit that the development has been completed, but a close boarded fence prevents access from the new footpath to the park. As a result, the development has not been undertaken in accordance with the approved plans and the condition has been breached. The appellant seeks to retain the development without complying with the requirement to provide access to the park and have provided an amended plan which shows that the access to the park would be blocked up.

5. The main issue is whether the retention of condition 2 that requires that a new footpath extends up to and allows access into the adjacent park is necessary to ensure that the development is accessible and provides appropriate pedestrian links to the park, taking account of whether such access would result in anti-social behaviour, additional crime and disorder or the fear of crime and disorder.

Reasons

6. The development, which has been constructed, is an attractive residential development of 32 dwellings arranged along access roads and private drives. It fronts onto Sheepbridge Lane with the park to the rear. There is a straight pathway along St Christophers Road that was intended to provide access into the park. I observed at the site visit that a previous entrance to the park has been blocked up by a close boarded fence. I understand that prior to it being blocked, access to the park had been possible via this entrance for many years, although it has not been formalised as a public right of way.
7. The park itself is an attractive open space that has an extensive perimeter footpath. Facilities include a children's play area, a shelter and a basketball court. There are other entrances available, including one at the end of Intake Avenue, a road that can be accessed off Sheepbridge Lane nearby. However, walking distances to the park via Intake Avenue for residents of the new development and those that live in many of the houses along Western Avenue, Century Avenue and some other surrounding roads, including those living to the west of Sheepbridge Lane and further along it to the south would be longer and less convenient than the more direct route via the development.
8. It follows that the access shown on the approved plans would ensure that many local residents would be able to access the park in the most direct and convenient way. Conversely, blocking the access prevents the development from being an inclusive and accessible place that provides an appropriate link to the park.
9. I turn now to consider whether the access to the park would result in an unacceptable degree of anti-social behaviour, crime and disorder or the fear of crime and disorder. I have taken careful account of the submissions from the police and the fact that several residents of the development have expressed concern about allowing access to the park. I have also taken account of the points that have been made about the fact that many residents are elderly and vulnerable and that the development has already suffered damage and that there is on-going anti-social behaviour linked to the park. For example, many residents of the development have mentioned damage to fencing and the use of motorbikes in the park.
10. However, the proposed development has been well designed. The footpath leading to the park is an integral part of the overall comprehensive design of the development, has lamp posts located at regular intervals along its length and is overlooked by several houses. Given these factors I am satisfied that the development has adopted appropriate secured by design principles as the footpath is straight, wide, well lit, overlooked by houses on the development and well maintained.
11. I accept that issues can arise where you have "leaky cul-de-sacs" where cul-de-sacs are connected to one another by footpaths. However, if the access was

unblocked, the footpath would provide a straight route between Sheepbridge Lane and the park via St Christophers Road and would not connect to other roads on the development. As a result, implementing the development as shown on the approved plans would not compromise the security of the development as the footpath is to the front of most dwellings along the road and although it would pass to the side of No 1 Odin's Walk near the entrance to the park, this dwelling has a side window overlooking the footpath and provides a good level of natural surveillance.

12. Consequently, blocking the access to the park conflicts with Policies P1 and P2 of Mansfield District Local Plan 2013-2033 adopted in September 2020 (MDLP) as it undermines the overall high-quality design of the development and prevents it from contributing positively to the creation of an inclusive and accessible well-designed place. Blocking the access is also at odds with the aims of the National Planning Policy Framework (the Framework) which seeks to foster well designed places with accessible open spaces.
13. Moreover, blocking access to the park also conflicts with Policies P3, P4 and IN4 of the MDLP which supports comprehensive, well-connected developments that create a network of routes which are safe, attractive, convenient and improve accessibility to existing community open space. Overall, I am satisfied that if the access is reinstated in accordance with the previously approved plans, the development would be a safe place where crime and disorder and the fear of crime would not undermine the quality of life or community cohesion and therefore would accord with the aims of the Framework.
14. I therefore conclude that the proposal to not comply with existing condition 2 which requires that the development shall be undertaken in accordance with approved plan 19/2247/SITE001 Revision C dated 24 August 2020, would have an unacceptable impact upon the accessibility and convenient use of public open space by residents of the development and properties in the residential areas to the west and south of Sheepbridge Lane. As previously explained, the proposal subject of this appeal conflicts with Policies P1, P2, P3, P4 and IN4 of the MDLP, and the associated policies of the Framework.
15. It follows from the above that the condition is necessary to ensure that the development is accessible and provides appropriate pedestrian links to the park. As such it is necessary to make the development acceptable, relevant to planning and the development permitted, enforceable and precise in relating to the approved plans submitted with the application that are identifiable, and reasonable in all other respects.

Other Matters

16. In their reason for refusal, the Council has cited Policy IN1 which deals with infrastructure delivery and more particularly relates to contributions and future maintenance of new infrastructure and is therefore not directly relevant to this appeal.

Conclusion

17. For the reasons given above I conclude that the proposal to continue to block up access to the park is contrary to the development plan and there are no material considerations which indicate that a decision should be made other than in accordance with it. Therefore, the appeal is dismissed.

S Rawle

INSPECTOR