



Appeal Decision

Hearing held on 27 February 2024

Site visit made on 27 February 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2024

Appeal Ref: APP/K0235/W/23/3332469

Land south of the A428, Wyboston Lakes Complex, Great North Road, Wyboston MK44 3AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr David Barford on behalf of Wyboston Lakes Ltd against the decision of Bedford Borough Council.
 - The application Ref is 22/01774/MAO.
 - The development proposed is outline planning application with all matters reserved except for access for a business park development with up to 23,400 m² of floor space, the construction of new access onto the A428 incorporating a signalised pedestrian/cyclist crossing, and new strategic landscaping.
-

Decision

1. The appeal is allowed and outline planning application with all matters reserved except for access for a business park development with up to 23,400 m² of floor space, the construction of new access onto the A428 incorporating a signalised pedestrian/cyclist crossing, and new strategic landscaping at land south of the A428, Wyboston Lakes Complex, Great North Road, Wyboston MK44 3AL in accordance with the terms of the application, Ref 22/01774/MAO, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr David Barford against the decision of Bedford Borough Council. This application is the subject of a separate decision.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposed development would be in a suitable location having regard to the local development strategy, with particular regard to whether the proposed development would support and enhance the role of Wyboston Lakes as a regional centre for leisure, training and conferencing; and
 - The effect of the proposed development on the integrity of the Eversden and Wimpole Woods Special Area of Conservation.

Reasons

Whether supports and enhances role of Wyboston Lakes complex

4. The appeal site is a vacant parcel of land comprised of hardstanding and scrub, enclosed to the north by the A428 trunk road. The appeal site is within the Wyboston Lakes complex, a resort providing two training centres, conference suites, serviced office accommodation, and leisure and recreation facilities including a hotel, golf course, fitness centre, swimming pool, spa, restaurants, fishing and water sports centre, and jogging and walking trails. Whilst the complex has a mix of uses, it is characterised by its leisure, training and conferencing facilities within a landscaped setting.
5. Policy 73 of the Bedford Borough Council Local Plan 2030 (LP) allocates the Wyboston Lakes complex for development and permits proposals which support and enhance the complex's role as a regional centre for leisure, training and conferencing. During the hearing it was explained that the complex faced financial instability from 2008 to 2018 and at the height of the COVID-19 pandemic. Whilst the conferencing and training facilities attract business customers located nationwide, there typically remains available capacity which the appellant is seeking to utilise and provide demand for.
6. The complex's existing office accommodation hosts 35 businesses which generate demand for the complex's training and conferencing facilities, including through meeting needs for flexible and co-working opportunities. The proposed development would comprise a business park development, expected to accommodate a range of uses including offices, research and development, financial services, and professional services. It is anticipated that through providing additional floorspace, the proposed development would attract further businesses to the complex thus generating additional demand for the complex's conferencing and training facilities.
7. The Wyboston Lakes Economic Needs Assessment (ENA) estimates the proposed development would provide circa 2,340 jobs. Locating additional staff at the complex would increase demand and support the viability of the complex's leisure and recreation facilities.
8. It is estimated the additional jobs associated with the scheme would generate up to £131m per annum of GVA and therefore the scale of economic uplift arising from the proposed development would be significant. The appellant suggests this would fund improvements to the quality of the complex's facilities. However, since there is no mechanism to secure the delivery of such improvements, this carries limited weight in my decision.
9. The Council's Employment Land Study 2022 indicates that proximity to hotels, dining and essential local retail is important to occupiers, and favours employment sites which provide a landscaped campus-style park environment potentially in waterside locations. The mix of uses and landscaped appearance of the Wyboston Lakes complex reflects the characteristics of such locations.
10. The ENA provides case study examples demonstrating that office space benefits significantly from being co-located with a diverse range of amenities and outperforms wider office markets. The complex's existing office accommodation experiences high average occupancy rates of 95%, suggesting high demand for its floorspace. Therefore, the evidence suggests there would

be demand for the proposed development in this location and there is a realistic prospect that benefits associated with the proposal would be delivered.

11. The proposed floorspace would represent less than 4% of the floor area of the existing complex. The majority of the complex's floorspace would continue to serve the purposes of training, conferencing, recreation, and leisure. The proposed development would therefore be subordinate to the main function of the complex and would not change its character.
12. The Council does not dispute that the proposed development would increase demand for the complex's facilities but is of the view that this is not what was intended by Policy 73. Paragraph 16 d) of the National Planning Policy Framework (the Framework) states that plans should contain policies that are clearly written and unambiguous so it is evident how a decision maker should react to development proposals.
13. Criterion (i) of Policy 73 relates to proposals for office development, and the supporting text indicates there is opportunity for small-scale research and development within the allocation. It is therefore implicit that such uses may be appropriate. In addition, the scale of office development is not quantified by the policy or supporting text. Therefore, Policy 73 provides flexibility and is not prescriptive of the type, use or scale of development deemed to support or enhance the complex's role. Moreover, Policy 73 does not specify the nature or magnitude of such support, and therefore planning judgement must be exercised in determining whether the requirement is met.
14. The increased demand for use of the complex's facilities has not been disputed and no evidence has been provided to suggest the benefits of the scheme would not be realised. The proposal adequately demonstrates that the development would generate demand for the complex's facilities, and the economic effects of the scheme would assist in ensuring the complex remains viable. I am therefore satisfied the proposed development would support and enhance the complex's role as a regional centre for leisure, training and conferencing.
15. I am satisfied that my consideration of the proposed development against Policy 73 could not be used as justification for other types of development such as residential or retail, or result in the loss of existing facilities, as there is a clear, functional relationship between the proposed development and the complex and I have been provided with detailed evidence regarding the scale and type of support and enhancement that it can offer. These considerations may not be the same for other types of development.
16. At time of my decision, the draft Local Plan is being examined. The Council indicates the scale of floor space proposed is not significant in relation to the overall size of the allocations envisaged by the emerging Local Plan's employment strategy. Therefore, the proposal is not expected to undermine the draft Local Plan.
17. The existing office accommodation within the complex pre-dates the Local Plan, and the Council asserts that the proposal is not justified by the complex's diverse planning history. However, as set out above, I have found the proposal adequately demonstrates it would comply with the requirement of Policy 73 to support the complex's role.

18. There is no dispute between the parties that the proposal would satisfy criteria (i)-(viii) of Policy 73. Since the proposal would comply with Policy 73, the proposed development would be suitably located within the context of the Local Plan's locational strategy for employment development.
19. Alleged conflict with LP Policy 72S formed the Council's second reason for refusal. Policy 72S applies to additional strategic employment development at sites not allocated for such a use. As I have found the proposal would comply with Policy 73, I must conclude the site is allocated for the proposed use. Consequently, Policy 72S is not engaged and it is not necessary to assess the proposal against its requirements.
20. As set out above, the proposal demonstrates that the development would support and enhance the role of Wyboston Lakes as a regional centre for leisure, training and conferencing. Having regard to the local development strategy, including the provisions of LP Policy 73, the proposed development would be in a suitable location.

Eversden and Wimpole Woods Special Area of Conservation

21. The appeal site is located 16.5km from the Eversden and Wimpole Woods Special Area of Conservation (SAC). The SAC comprises a mixture of ancient coppice woodland and more recent high forest woods. The conservation objectives for the SAC are to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the favourable conservation status of its qualifying species, the Barbastelle bat.
22. The site is outside the known foraging range of the SAC's Barbastelle bat colony. Following a preliminary bat roost assessment, the Wildlife Trust for Bedfordshire, Cambridgeshire and Northamptonshire found that trees within the appeal site did not hold potential roost features and considers it unlikely that bats from the colony at the SAC would forage around Wyboston Lakes, concluding that the proposal presents no significant risk to the SAC's Barbastelle bat population.
23. Due to the known foraging distances and flight directions, availability of other habitats within foraging distance of the SAC, and evidence of bat surveys, I conclude no likely significant effects would arise from the proposed development, either alone or in combination with other development. The proposal is therefore screened out for the purposes of Appropriate Assessment.
24. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of a European site. For the reasons set out above, the proposed development would not harm the integrity of the SAC. The proposal would therefore comply with criterion (viii) of LP Policy 73 which requires development at Wyboston Lakes demonstrate no significant effect on the qualifying features of the nearby Eversden and Wimpole Woods SAC.

Other Matters

Setting of Listed Building

25. The Crown Inn, a Grade II Listed Building, is located 110 metres west of the site at the Phoenix Business Park. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special regard

to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The building is a two-storey, 17th century public house with 19th century alterations, constructed from colour-washed rough cast over a timber frame, with a clay tile roof, chimney stacks at the ridge and gable end, ground floor canted bay windows, first-floor casement windows with leaded lights, and front door in a moulded surround. The building's significance is therefore derived from its historic and architectural interest.

26. There is uncertainty regarding the appearance of the proposed development since this would form a reserved matter. However, the Crown Inn is separated from the appeal site by a dual carriageway and roundabout junction. To the rear of the building are the modern commercial buildings of the business park. The area surrounding the building is therefore modern and functional in character. Views between the site and listed building are generally obscured by the tree belt at the site's western boundary.
27. Therefore, due to the separation distance, presence of screening, and proximity to modern development, the proposed development would have a neutral effect upon the building's setting. The proposal would therefore preserve the listed building, its setting, and features of special interest.

Highways

28. Wyboston, Chawston & Colesden Parish Council requested the development not commence until the National Highway's A428 Black Cat to Caxton Gibbet project is complete and the existing A428 is de-trunked. The access arrangements were designed following discussions with National Highways, who confirmed it had no objections to the proposed development. Consequently, it is not necessary to prevent commencement of development until such works are completed.

Conditions

29. The Statement of Common Ground provides a list of planning conditions to be imposed which have been agreed by the parties, including certain pre-commencement conditions. I have considered the suggested conditions against the Framework's tests.
30. In the interests of certainty, I have attached conditions stating the approved plans, the time limit for submission of the reserved matters application, and period for commencement of the development. In addition, I have attached conditions specifying the reserved matters and requiring submission of a phasing plan.
31. To maintain highway safety and the amenity of surrounding land uses, I have attached a condition requiring submission of a construction management plan. An archaeological strategy is necessary to safeguard archaeological assets and ensure the proper and timely preservation, investigation, recording, reporting and presentation of assets affected. To ensure sufficient and appropriate waste storage and recovery facilities, I have attached a condition requiring a waste audit be undertaken.
32. In the interests of highway safety and to promote sustainable modes of travel, conditions are attached requiring submission of a scheme for car and cycle

parking, details of the footway/cycleway between the proposed new crossing of the A428, and a travel plan for each building.

33. To conserve protected species, a condition is imposed which requires the proposed development be carried out in accordance with the recommendations, mitigation and enhancement opportunities as set out in the approved Ecological Impact Assessment and achieve a net gain in biodiversity.

Conclusion

34. For the reasons given above, having regard to the development plan taken as a whole and all other relevant material considerations, I conclude the appeal should be allowed.

E Dade

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Martin Page Dip EP MRTPI	Planning Consultant, Brown and Co
Richard Kimblin KC	Advocate, No 5 Chambers
Mark Powney	Director, Savills
Richard Smith	Chief Commercial Officer, Wyboston Lakes Ltd
Steve Jones	Chief Executive, Wyboston Lakes Ltd
David Barford	Appellant
Anna Stein	No 5 Chambers

FOR THE LOCAL PLANNING AUTHORITY:

Martin Tidy MRTPI	Principal Planner
Alastair Wren MRTPI	Team Leader Appeals and Enforcement
Penelope Jewitt	Senior Planner
Ian Johnson	Manager for Heritage and Planning Compliance

DOCUMENTS

Costs Rebuttal, Bedford Borough Council

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 039584/1; Site Plan As Existing 21/130/S0001/D; Topographical Survey Plan ASC.21.840; Tree Plan 2210 Ap.1; Tree Plan 2210 D01; Proposed Business Park Access 21-0762/SK01/B; Swept Path Analysis Refuse Vehicle 21-0762/SP01/A; Swept Path Analysis 16.5M Articulated Vehicle 21-0762/SP02/A; Pedestrian Route to Eaton Socon 21-0762/SK02.
- 2) Application for approval of the reserved matters shall be made to the local planning authority in writing before the expiration of 5 years from the date of this permission.
- 3) Development shall not commence until details of the following matters (in respect of which approval is expressly reserved) have been submitted to and approved in writing by the local planning authority in relation to each phase: (1) the external appearance of the development; (2) the landscaping of the site; (3) the layout of the development; (4) the scale of the development. The development shall be carried out in strict accordance with the approved details.
- 4) The development hereby permitted shall be begun before the expiration of 2 years from the date of the last of the reserved matters to be approved for that phase.
- 5) As part of the first reserved matters submission, a phasing plan and strategy for the whole site shall be submitted to and approved in writing by the local planning authority.
- 6) No development on any phase shall take place, including any works of demolition, until a Construction Management Plan, associated with that phase of the development of the site, has been submitted and approved in writing by the local planning authority which will include information on:
 - a. The parking of vehicles
 - b. Loading and unloading of plant and materials used in the development
 - c. Storage of plant and materials used in the development
 - d. The erection and maintenance of security hoarding / scaffolding affecting the highway if required.
 - e. Measures on site to control the deposition of dirt / mud on surrounding roads during the development.
 - f. Footway/cycleway or road closures needed during the development period (to include all proposals for road closures or traffic diversions prior to the adoption of roads within the development)
 - g. Traffic management needed at the interface with the public highway during the development period.
 - h. Times, routes (to include specific measures such as delivery ticket instructions and location of signage) and means of access and egress for construction traffic and delivery vehicles (including the import of materials and the removal of waste from the site)

The approved Construction Management Plan associated with the development of the site shall be adhered to throughout the development process.

7) No development shall take place until an archaeological strategy for evaluation and if necessary, a further mitigation strategy based on the outcome of the evaluation, have been submitted to and approved in writing by the local planning authority. The archaeological mitigation strategy shall include a timetable and the following components (the completion of each to the satisfaction of the local planning authority will result in a separate confirmation of compliance for each component): -

- a. fieldwork and/ or preservation "in situ" of archaeological remains;
- b. a post-excavation assessment report (to be submitted within six months of the completion of fieldwork);
- c. a post-excavation analysis report, preparation of site archive ready for deposition at a store approved by the Local Planning Authority, completion of an archive report, and submission of a publication report (to be completed within two years of the completion of fieldwork).

The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

8) No development on any phase shall take place until a waste audit for that phase has been submitted to and approved in writing by the local planning authority. The waste audit should include:

- a. The anticipated nature and volumes of waste that the development will generate;
- b. Where appropriate, the steps to be taken to ensure the maximum amount of waste arising from development on previously developed land is incorporated within the new development;
- c. The steps to be taken to ensure effective segregation of wastes at source including, as appropriate, the provision of waste sorting, storage, recovery and recycling facilities;
- d. Any other steps to be taken to manage the waste that cannot be incorporated within the new development or that arises once development is complete.

9) As part of each reserved matters for layout, a scheme for car and cycle parking (with access thereto) in accordance with Bedford Borough Council's Parking Standards for Sustainable Communities: Design and Good Practice 2014 shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and made available for use before the relevant building is occupied and the car and cycle parking areas shall not thereafter be used for any other purpose.

10) As part of the reserved matters for layout, details of the footway/cycleway between the proposed new crossing of the A428 (Rappor drawing Pedestrian Route to Eaton Socon Drawing No SK02) to meet the requirements of LTN 1/20 Cycle infrastructure design shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the footway/cycleway has been constructed in accordance with the approved details.

11) Within 6 months of the first occupation of each building, a detailed travel plan shall be submitted to and approved in writing by the local planning authority for the particular building. The travel plan shall include:

- a. A baseline survey of site occupants (if known) or a timetable to undertake a baseline survey of occupants (within 6 months of first occupation) to establish current/proposed travel patterns;
- b. Details of existing and proposed transport provision and facilities, to include links to pedestrian, cycle and public transport networks and conformity with the local planning authority's car and cycle parking standards;
- c. Proposals and measures to minimise private car use and facilitate walking, cycling and use of public transport;
- d. A detailed set of Travel Plan targets with relevant target dates;
- e. A detailed 'Action Plan' with responsibility and/ funding identified to include specific timetabled measures designed to promote travel choice;
- f. Proposed plans/methods to monitor and undertake annual reviews of the Travel Plan and its targets for a period of 5 years. After each of the five annual reviews, a copy therein to be submitted to the Local Planning Authority in writing for information (or approval).

Details of site-specific marketing and publicity information to be provided to all occupiers of the development, to include:

- i. Site specific travel and transport information;
- ii. Incentives to encourage sustainable modes of travel (e.g. travel vouchers);
- iii. Details of relevant pedestrian, cycle and public transport routes to/ from and within the site;
- iv. Maps showing the location of shops and other facilities; and
- v. Copies of relevant bus and rail timetables: and
- vi. The appointment of a travel plan co-ordinator who will be responsible for the preparation and submission of the Action Plan and of the 5 annual reviews thereof.

The Travel Plan shall be carried out in accordance with the timetable contained therein and shall continue in force for as long as any part of the development is occupied.

- 12) The proposed development shall be carried out in accordance with the recommendations, mitigation and enhancement opportunities as set out in the approved Ecological Impact Assessment (local planning authority document number V12) dated January 2022. As part of the first reserved matters submission for landscaping, an on-site biodiversity net gain must be demonstrated for the entire site.

END OF SCHEDULE