



Appeal Decision

Site visit made on 11 June 2025

by **Stewart Glassar BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 June 2025

Appeal Ref: APP/C1435/W/24/3357954

Brodricklands and Hamlands Farm, Lower Willingdon, Eastbourne BN22 0UZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Barratt David Wilson Southern Counties against Wealden District Council.
 - The application Ref WD/2024/1373/CD sought approval of details pursuant to condition No 30 of planning permission Ref WD/2021/0278/MFA granted on 25 February 2022.
 - The development proposed is outline application with all matters reserved (except for means of access from St Martins Road and Dutchells Way) for up to 390 residential dwellings, new internal access roads and footpaths, sport pitches and allotments (including ancillary facilities), car parking, open space, sustainable urban drainage system; and associated landscaping, infrastructure and earthworks.
 - The details for which approval is sought are: *'Details for the provision of a footway to connect to and abut at an agreed point along the north-western boundary of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the completion of the development.'*
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the submitted details satisfy the requirements of the relevant condition.

Reasons

3. Condition 30 sets out that details for the provision of a footway that connects to an agreed point along the north-western boundary shall be submitted to and approved by the Council, with the approved details being implemented before completion of the development.
4. In order to discharge the condition, the appellants have submitted details which indicate a mown path through the site's open/ecological area and connecting through to a point on the north-western boundary of the site. It is said that the path would be regularly mown as part of the wider landscape maintenance programme.
5. The condition does not define the term 'footway' nor provide an indication as to what might be expected in terms of surfacing or its construction, or indeed if any is required. However, the reason for the condition is to allow the future provision of a pedestrian connection through to the 1066 path having regard to Policies TR3 and TR13 of the Wealden Local Plan 1998. A connection to the 1066 path would allow

users to head out into the countryside but equally to access Eastbourne Road, Lower Willingdon or Polegate.

6. As far as is relevant to this case, Policy TR3 says that new developments should have a satisfactory means of pedestrian access that meets planning and highway standards. Neither the condition nor the supporting text elaborates on what these standards would be.
7. However, in planning terms, a footway serving a new residential development would normally be expected to offer a route, condition and environment which is safe and generally appropriate for its intended purpose and for those who would be using it. In this case, the footway is not intended to be adopted by the Highway Authority and so there does not appear to be a need to accord with their standards.
8. Policy TR13 indicates that the Council will seek the provision of safe and convenient pedestrian routes in new developments which should link to the existing footpath network where appropriate.
9. Although there may be certain benefits in having a mown path, having viewed and walked the area, the land is not always easy to traverse and such a path is likely to become less easy and convenient to use in bad weather, when it could quickly become muddy and/or rutted.
10. In such situations, even for an average, healthy person the route could become harder to negotiate, with users either deciding to not use it or informally widening the footway or creating their own alternative options to get round the more difficult areas. While I take on board the appellant's comments about a more formalised footway having implications for the habitat, wildlife etc, such benefits could quickly be lost when the footway is used during periods of bad weather.
11. Furthermore, as the Council indicates, there are alternative options that do not require a traditional footway construction, but which would nonetheless provide a more robust basis for the footway. It is not clear that the appellant has considered any of these alternatives nor the extent to which they might, over the course of a year, have a comparable effect on the wildlife/habitat to that of a mown path.
12. It is noted that the principal connections for the site are to the east. Even though this may mean that more people walk that way, it does not mean that the proposed footway would not be used, even during the autumn and winter months, unless it became impassable. It is therefore not clear why the grass would necessarily have time to recover during these periods.
13. Overall, based on the evidence before me, I do not find the proposed mown path to offer a safe and convenient route that would be appropriate for its intended purpose. For the reasons above, I conclude that the details submitted are insufficient to discharge condition 30 attached to planning permission Ref WD/2021/0278/MFA in relation to the provision of a footway to connect to and abut at an agreed point along the north-western boundary of the site.

Other Matters

14. The main parties have tried to define the term 'footway' with references to such material as the Highways Act 1980 and the National Design Guide. However, such documents are not referenced in the condition and the parties trying to

retrospectively find definitions to suit their competing cases was not particularly instructive.

15. The landscape scheme for the development indicates some mown paths through the ecological area. However, their provision does not remove the obligations under condition 30, which is intended to fulfil a different purpose.
16. I acknowledge that many other pedestrian routes in the vicinity of the site are not hard surfaced. However, my considerations are limited to the condition and what it is seeking to achieve rather than how its surface might differ from other footways in the vicinity.
17. The condition does not seek lighting and so in this appeal it is not a matter I need to consider.

Conclusion

18. For the reasons set out above and having regard to all other matters raised, the appeal is dismissed.

Stewart Glassar

INSPECTOR