



Appeal Decision

Site visit made on 30 May 2022

by **L Wilson BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st July 2022

Appeal Ref: APP/J0540/W/21/3287810

Land South of Lovers Lane Sutton to Nene Valley Railway Station at Stibbington, Peterborough

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Andrew Nash against the decision of Peterborough City Council.
 - The application Ref 20/01026/FUL, dated 23 July 2020, was refused by notice dated 20 July 2021.
 - The development was originally described as the project proposes the construction of a dual-use cycle/pedestrian path from Sutton village across the meadows to the Nene Valley Railway Station at Stibbington. This would be approx. 900m in length. The constructed path would form part of a longer cycle route, mainly on public roads from Ailsworth to the NVR station.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a dual use cycle/pedestrian path and associated earthworks from Sutton village across the meadows to the Nene Valley Railway station at Stibbington, including cattle grids, a new 3m wide timber cycle/footbridge over field drain and new flight of steps with wheeling channel to the footbridge across the River Nene at Land South of Lovers Lane Sutton to Nene Valley Railway Station at Stibbington, Peterborough in accordance with the terms of the application 20/01026/FUL, dated 23 July 2020, subject to the attached schedule of conditions.

Preliminary Matters

2. The site address in the heading above has been taken from the Council's decision notice and the appeal form as it is more precise than that given on the application form. In addition, the development for which planning permission is sought was originally described on the application form as "the project proposes the construction of a dual-use cycle/pedestrian path from Sutton village across the meadows to the Nene Valley Railway Station at Stibbington. This would be approx. 900m in length. The constructed path would form part of a longer cycle route, mainly on public roads from Ailsworth to the NVR station". However, in the formal decision, I have used the description given on the decision notice as it is a more precise and accurate reflection of the development for which permission is sought.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the surrounding area and the living conditions of the residents of Sutton.

Reasons

4. The proposed path would primarily follow the former Wansford to Stamford railway line which has been safeguarded for walking and cycling infrastructure under local planning policy. The proposal would provide a route from Sutton to Wansford Station on the Nene Valley Railway (NVR).
5. Sutton is a small village characterised by attractive properties and its tranquil nature. The dead-end layout of the village results in no through traffic passing through the village. Having said that, the village historically had greater connectivity to other areas. There are blind corners with limited visibility and a lack of footpaths within Sutton, nevertheless these are not unusual characteristics of a small village.
6. There is an existing path across the field to the NVR which I observed on my site visit was used by walkers. Although the proposed path starts at Lovers Lane, the purpose of the route is to link with the wider footpath and cycle infrastructure within Peterborough. It is likely that the scheme would increase the number of visitors travelling through Sutton as the proposed development would provide better access for cyclists and pedestrians to the NVR. However, there is no substantive evidence before me to demonstrate that the proposal would substantially increase the number of people travelling through Sutton or that the route would be widely used by commuters. Therefore, it is unlikely that the scheme would result in a significant increase in visitors, vehicles and parking within the village.
7. Concerns have been raised regarding the speed and noise of cyclists as well as the loss of privacy and users of the path could include powered cycles and e-scooters. The route would be adjacent to gardens and dwellings within Sutton. Nonetheless, I am not convinced that the proposed development would have an unacceptable impact on residents' use and enjoyment of their private gardens or any significant loss of privacy. This is because it is unlikely that there would be a significant increase in noise, disturbance or visitors, including cyclists. The majority of cyclists would ride considerately and respectfully which would be at a speed appropriate to the highway. In addition, the surfacing along Lovers Lane and steps would make this a less desirable route for club road cyclists. A planning condition could also be attached to ensure appropriate signage is implemented to warn cyclists, and other users, that horses are likely to be in the road ahead.
8. The proposed path would connect with Lovers Lane which is a verdant, rural lane. This leads on to Sutton Meadow which is a large flat expanse of grassland generally used for grazing. The path, and associated cattle grid, timber fencing and earthworks, would undoubtedly alter the character and appearance of the area. However, these features are not unusual in rural areas. I understand that the scheme initially proposed a tarmac surface. Nonetheless, the appellant has agreed to use gravel chippings to be rolled into the surface.

9. Details of the surface finish can be secured by a planning condition to ensure that the proposed surfacing would not be incongruous to the surrounding landscape. I am satisfied that the other elements of the scheme, including cattle grids, timber fencing and earthworks would not be incongruous in the landscape and would not cause significant harm to the character and appearance of the surrounding landscape, including the entrance to the village from the south.
10. The northern end of the scheme would be adjacent to the Sutton Conservation Area (CA) and close to listed buildings. In addition, the NVR bridge is Grade II listed and the former railway line is a non-designated heritage asset. The reasons for refusal do not refer to the CA, listed buildings or non-designated heritage assets. However, the Council assert, in their statement, that the proposal would result in adverse harm to nearby heritage assets. There is no substantive evidence which indicates that an alternative conclusion and different view to the planning officer, set out in the committee report, and the conservation officer is justified.
11. I am satisfied that the scheme would preserve the character and appearance of the CA, would not harm the setting of the listed buildings, would preserve the special interest of the listed buildings and would not cause harm to the non-designated heritage asset. This is because the proposal is considered to be of benefit to the heritage assets and non-designated heritage assets, nature of the scheme, historic use of the appeal site and distance to some of the listed buildings.
12. It has been drawn to my attention that there are alternative routes and Highways England intend to dual a section of the A47 from Wansford to Sutton. This would include a route for walkers, cyclists and horse riders. There is limited information before me regarding the stage of that scheme. Nonetheless, the proposed path would take an alternative route with a different character. Even if that scheme was implemented, I do not consider that there would be an over dominance of cyclists using the village. Furthermore, the existing route from Ailsworth to Wansford, which runs through Sutton, can be unsuitable, for particularly cyclists, due to the terrain. The other routes highlighted do not make the proposed route unacceptable.
13. For the reasons given above, the proposed development would not have an unacceptable effect on the character and appearance of the surrounding area and the living conditions of the residents of Sutton. Therefore, it would comply with Policies LP16, LP17 and LP19 of the Peterborough Local Plan 2016 to 2036 (2019). These seek, amongst other matters, to ensure proposals positively contribute to the character and local distinctiveness of the area in which it would be situated, particularly in areas of high heritage value. In addition, new development should not result in an unacceptable impact on the amenity of existing occupiers of any nearby properties.

Other Matters

14. In addition to matters relating to the main issues, I have considered in detail the objections from residents, the Parish Council and the British Horse Society. The concerns relate to arrange of matters including alternative routes, highway safety, flood risk (including the sequential assessment), accessibility, Nene Park Trust Master Plan, replacement steps, horses/ equestrian users. As well as wildlife and biodiversity implications (including endangered or rare species

- living within the boundary such as Polecats), cattle grids, Arboriculture, archaeology, determination process/ public consultation, disruption during construction, finance, crime, anti-social behaviour and litter.
15. The Council did not refuse the planning application on these grounds. Furthermore, the Local Highways Authority, Environment Agency, Natural England, Wildlife Trust as well as the Drainage, Archaeology and tree officers did not object to the scheme.
 16. The alternative routes are noted but these are not for consideration under this planning proposal. I am satisfied that the scheme would not unduly impact on the highway network. In relation to flood risk, the land is allocated within the Local Plan for walking and cycling infrastructure. In addition, as highlighted above, the A47 would provide a different route and does not provide a reasonable alternative route. An updated flood risk assessment (FRA) was produced in 2019. The Environment Agency consultation response was based on that FRA, and they were satisfied that it was acceptable, subject to a planning condition. On the basis of the information presented, the proposal complies with local and national planning policy, is categorised as a water-compatible development¹, would not increase the risk of flooding elsewhere and the site can be appropriately drained.
 17. There are no changes to the accessibility of the bridge other than replacement steps and a wheeling tunnel which will be an improvement on the existing situation. The lack of access for equestrian users and matters relating to funding do not make the proposal unacceptable. On a different matter relating to the impact on horse riders, horse riding and cycling already co-exist locally and all over the country. In addition, the proposal would not unduly impact on the manège facility. The proposal would avoid any adverse impact on the biodiversity within the site, including protected species and biodiversity enhancements would be provided. Cattle grids are widely used, and I cannot see why they would be of any more danger in this location than elsewhere.
 18. Furthermore, appropriate methods would be implemented to protect the existing trees surrounding the site. The construction of the proposal would give rise to disruption, but some effects can be mitigated by way of conditions and the works would be time limited. There is no robust justification to demonstrate that the proposal would result in an increase in anti-social behaviour and would result in an unsafe area or increase opportunities for crime and fear of crime or increase litter.
 19. Consequently, subject to appropriate conditions, there is no credible evidence before me that would lead me to an alternative conclusion to the Council on the other matters raised or that could justify the dismissal of the appeal on these grounds.

Conditions

20. I have assessed the Council's suggested conditions in light of guidance found in the Planning Practice Guidance and where necessary the wording has been amended for clarity and precision. The appellant and Council were given the opportunity to comment on the altered wording of these conditions and an additional condition.

¹ Annex 3 of the Framework

21. It is necessary to attach a condition specifying the approved plans as this provides certainty. To ensure that the development does not result in increased flood risk, a condition relating to the Flood Risk Assessment is necessary. In order to ensure that the development does not have an adverse ecological impact, a condition relating to the Ecological Impact Assessment is necessary. Given the date of the report and the 3 years time limit condition, it is necessary to ensure that the survey is fit for purpose and updated if the development has not taken place by December 2022.
22. A condition ensuring appropriate compensation for the impact of the proposed development on the Sutton Meadows South Country Wildlife Site is also necessary. There is no compelling evidence before me to demonstrate that there is not a realistic prospect of this being implemented and the use of a Grampian condition is acceptable in this case. A condition preventing lighting is also necessary in the interests of amenity and to maintain and enhance biodiversity. In order to protect retained trees and hedges, a condition requiring an Arboricultural Method Statement is necessary. However, in this instance, an Arboricultural Impact Assessment would not be appropriate as it is not necessary to make the development acceptable in planning terms.
23. Details of the surfacing of the path is necessary in the interest of visual amenity. To minimise and mitigate the impact on Lovers Lane and in the interest of safeguarding living conditions of nearby residents and equine users, a condition requiring a construction method statement is necessary. In the interest of highway safety, a condition relating to the visibility splays at the junction connection with Lovers Lane is necessary. There is no robust evidence before me to demonstrate that there is not a realistic prospect of this being implemented and a Grampian condition is acceptable in this case. A condition relating to the cattle grids is necessary in the interests of safety and biodiversity. In order to ensure that suitable cycle parking is provided, a condition relating to the cycle stands is necessary.
24. I have also attached a condition relating to the wheeling channel to ensure that it is of an appropriate design. In the interests of highway safety, a condition relating to signage to alert all users that horses are likely to be in the road ahead is necessary. A condition relating to the timber bridge and details of the ramp construction, is also necessary in the interests of flood risk and water management. On the basis of the information presented, I do not consider the suggested condition relating to fencing to be necessary or reasonable in the interests of highway safety.

Conclusion

25. I realise that this decision will come as a disappointment to those who objected against the proposed development. However, taking everything into account, there is no compelling reason to withhold planning permission in this case. The appeal therefore succeeds.

L M Wilson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Planning Red Line Drawing (11965-PAPP-PCW-01 Rev B), Proposed route between Sutton and Wansford Station sheet 1 of 5 (11965-DWG-PCWFC-01 Rev C), Proposed route between Sutton and Wansford Station sheet 2 of 5 (11965-DWG-PCWFC-02 Rev B), Proposed route between Sutton and Wansford Station sheet 3 of 5 (11965-DWG-PCWFC-03 Rev B), Proposed route between Sutton and Wansford Station sheet 4 of 5 (11965-DWG-PCWFC-04 Rev B), Proposed route between Sutton and Wansford Station sheet 5 of 5 (11965-DWG-PCWFC-05 Rev B), Typical Details (11965-DWG-PCW-FC-06 Rev C), Proposed route from Green Wheel to Wansford NVR station (dated 10/01/2020) and Proposed cycle / pedestrian route through Sutton (dated Feb 2019).
- 3) The development shall be carried out in accordance with the submitted Flood Risk Assessment (produced by Sustrans, dated October 2019) and the mitigation measures detailed in the floodplain storage section (paragraphs 2.3.1-2.3.2). The floodplain storage mitigation measures shall be carried out before any part of the development is brought into use and shall be retained thereafter.
- 4) The development hereby approved shall be carried out in accordance with the recommendations set out in the Ecological Impact Assessment: Peterborough Cycleway Wansford Station to Sutton (produced by Greenwillows Associates Ltd, dated December 2020). If development has not commenced by December 2022 an updated Ecological Impact Assessment, based on the same methodology, shall be submitted to and approved in writing by the local planning authority. All ecological measures and/or works shall then proceed in accordance with the approved measures.
- 5) No development shall take place until the following measures as described in the 'Proposed compensatory work on Sutton Meadows South CWS' have been completed:
 - A survey of the CWS and fields immediately adjacent to it to be made at the appropriate time of year, to identify an area of poorer grassland where compensatory measures would be most effective. This area shall be at least 0.8ha.
 - This area shall then be harrowed and spread with locally sourced green hay from a nearby local provenance species-rich site.

The area shall be monitored annually for a period of at least 3 years, to record its continuing botanical diversity as part of the conservation aims of the CWS.

The applicant shall submit a single annual monitoring report to the local planning authority for written approval for the first three years following the commencement of development.

If, after evaluating the submitted monitoring results, the local planning authority considers remedial measures are necessary, it will serve notice on the applicant requiring a scheme of remedial measures. The remedial measures

- shall be fairly and reasonably related in scale and kind to the development hereby approved. Within one month of receiving such written notice, the applicant shall submit such a scheme of remedial measures (including a timeframe for implementation) and the approved remedial measures shall be implemented in accordance with the approved scheme and programme.
- 6) No lighting shall be installed in relation to the development hereby permitted.
 - 7) No site clearance, preparatory work or development shall take place until an Arboricultural Method Statement in accordance with British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
 - 8) Prior to the laying of the surfacing of the path hereby approved, the details of the surface finish shall be submitted to and approved in writing by the local planning authority. The path shall be implemented in accordance with the approved details.
 - 9) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall include details related to: (i) the parking of vehicles of site operatives and visitors, (ii) loading and unloading of plant and materials, (iii) storage of plant and materials used in constructing the development, (iv) a scheme for recycling/disposing of waste resulting from construction works, and (v) delivery and construction working hours. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
 - 10) No development shall take place until details of the tie in of the path hereby approved to the adopted highway have been submitted to and approved in writing by the local planning authority. The details shall include visibility splays at the junction connection with Lovers Lane. The works shall be carried out in accordance with the approved details before any part of the development is brought into use and shall be retained thereafter.
 - 11) Details of the cattle grids shall be submitted to and approved in writing by the local planning authority. The cattle grids shall incorporate features which allow a small animal to escape from under the grid in the event it has fallen down between the bars. The cattle grids shall be carried out in accordance with the approved details before any part of the development is brought into use and shall be retained thereafter.
 - 12) Details of the cycle wheeling channel shall be submitted to and approved in writing by the local planning authority. The cycle wheeling channel shall be constructed in accordance with the approved details before any part of the development is brought into use and shall be retained thereafter.
 - 13) The Sheffield cycle stands, shown on approved drawing 'Proposed route between Sutton and Wansford Station sheet 5 of 5 (11965-DWG-PCWFC-05 Rev B)', shall be provided prior to the path hereby approved being brought into use. The stands shall be placed no less than 1 metre apart and shall be retained in perpetuity.

- 14) Details of signage to warn users of the path that horses are likely to be in the road ahead shall be submitted to and approved in writing by the local planning authority. The signage shall be installed in accordance with the approved details before any part of the development is brought into use and shall be retained thereafter.
- 15) Details relating to the maintenance of the timber bridge and the ramp, shown on approved drawing 'Proposed route between Sutton and Wansford Station typical details' (11965-DWG-PCWFC-06 Rev C)', shall be submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details before any part of the development is brought into use.