



**Forest Heath**  
District Council

# DEV/FH/18/016

## Development Control Committee 5 September 2018

### Planning Application DC/18/1489/VAR – Mildenhall Hub, Sheldrick Way, Mildenhall

<b>Date Registered:</b>	31.07.2018	<b>Expiry Date:</b>	30.10.2018
<b>Case Officer:</b>	Penny Mills	<b>Recommendation:</b>	Approve
<b>Parish:</b>	Mildenhall	<b>Ward:</b>	Market
<b>Proposal:</b>	Planning Application - Variation of Condition 3 of DC/17/1106/FUL to amend the timing for the certification of the diverted public right of way, to prior to the first occupation of the development. The submission and agreement of full details of the temporary diversion of the public footpath and the provision of that path to remain prior to the commencement of any works affecting the existing routes		
<b>Site:</b>	Mildenhall Hub, Sheldrick Way, Mildenhall		
<b>Applicant:</b>	Mr Alex Wilson & Ed Thomas		

#### **Synopsis:**

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and Associated matters.

#### **Recommendation:**

It is recommended that the Committee determine the attached application and associated matters.

#### CONTACT CASE OFFICER:

Penny Mills

Email: penny.mills@westsuffolk.gov.uk

Telephone: 01284 757367

## **Background:**

**This application is referred to the Development Control Committee as the development relates to a major strategic development site and the applicant is the Council.**

**Planning permission for the Mildenhall Hub was issued on 24 November 2017 following determination of the application by the Development Control Committee at its November 2017 meeting. The principle of development of the Mildenhall Hub has therefore been established.**

**This application seeks to vary the timing of the delivery of the diverted public right of way that was approved as part of the original scheme.**

### **1.0 Proposal**

- 1.1 The application seeks to vary Condition 3 of planning permission DC/17/1106/FUL for the Construction of Mildenhall Hub to include Office, Leisure, Health, Emergency and Educational Facilities with associated external works including revised vehicle access from Sheldrick Way, new vehicle parking area, a Sustainable Urban Drainage scheme, 3g Playing Pitch and provision of new Public Plazas. Condition 3 currently states:

*Prior to the commencement of any development on the site that would affect the current alignment of Mildenhall Public Footpath No. 25 and Mildenhall Public Footpath No. 24, the Town and County Planning Act Diversion Order shall be confirmed and certified.*

*Reason: To ensure appropriate provisions are in place to redirect the footpath prior to any works that may disrupt its use.*

- 1.2 The applicant proposes to vary this condition to allow for the Diversion Order to be confirmed and certified prior to commencement of use of the Mildenhall Hub. Arrangements for the temporary diversion of the public footpaths is to remain as a pre-commencement requirement.

### **2.0 Application Supporting Material**

- 2.1 The full planning application, plans and documents submitted by the Applicant can be viewed online using the following link:  
<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PCOCK9PDHS400>

### **3.0 Site Details**

- 3.1 The application site is located on the western side of Mildenhall and is approximately 500m from the Town Centre. The site, which extends to approximately 19.2 hectares, contains the Mildenhall College Academy Sixth Form site and adjacent agricultural farm land. Mildenhall Public Footpath No. 25 runs north to south from Queensway to Wamil Walk adjacent to Sheldrick Way and Mildenhall Public Footpath No. 24 crosses the site east to west along an existing hedgerow.

## 4.0 Relevant Planning History

Reference	Proposal	Status	Decision Date
DC/17/1106/FUL	Planning Application - Construction of Mildenhall Hub to include Office, Leisure, Health, Emergency and Educational Facilities with associated external works including revised vehicle access from Sheldrick Way, new vehicle parking area, a Sustainable Urban Drainage scheme, 3g Playing Pitch and provision of new Public Plazas.	Application Granted	24.11.2017

## 5.0 Consultations

- 5.1 Statutory consultees and neighbours were consulted on and notified of the application on 31 July 2018, with responses due by 21 August 2018. The consultation period has been extended following the posting of the site notices on 14 August 2018. The consultation period therefore expires at midnight on 04 September 2018. This report summarises the responses received at the time of writing and an update will be provided to Members at the committee meeting of any additional responses received.

All of the full responses are available on the Council's website: <https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PCOCK9PDHS400>

- 5.2 Rights of Way and Access Team - No objection. In depth discussions have been undertaken with the applicant and contractor and SCC is satisfied that the condition will be met. SCC are in receipt of an application for the temporary diversion of the routes, which include an alternative route. This is currently being processed by SCC's legal services team.
- 5.3 Environment Agency - No comment to make.
- 5.4 Historic England - No comment to make.
- 5.5 Highways England - No objection.
- 5.6 NATS Safeguarding - Proposed development does not conflict with safeguarding criteria.
- 5.7 Sports England - The proposed development does not fall within Sports England's statutory or non-statutory remit.
- 5.8 SCC Flood and Water Management - No comments to make.

## **6.0 Representations**

6.1 Parish Council – Following review of the Rights of Way and Access Team comments the Parish Council support the application.

6.2 Neighbours

3 letters have been received from local residents raising the following points:

- Hub development has necessitated the removal of one of the best hedges for wildlife. A vital corridor for wildlife and several food plants on which many species rely will be removed.
- Do not understand logic of proposal – loss of agricultural land and a bypass would become essential if the intention is to extend with houses/shops etc.
- Loss of agricultural land results in loss of production and loss of employment.
- Reduction of or complete loss of amenity or recreation value
- Negative effect upon transport and energy use
- Loss of the green belt of agricultural or designated wildlife land, that clearly defines and separates areas of difference
- Existing amenities could be up-cycled.

## **7.0 Development Plan Policy**

The following policies of the Joint Development Management Policies Document and the Forest Heath Core Strategy 2010 have been taken into account in the consideration of this application:

- Policy DM1 Presumption in Favour of Sustainable Development
- Policy DM2 Creating Places Development Principles and Local Distinctiveness
- Policy DM5 Development in the Countryside
- Policy DM13 Landscape Features
- Policy DM41 Community Facilities and Services
- Policy DM43 Leisure and Cultural Facilities
- Policy DM44 Rights of Way
- Core Strategy Policy CS1 - Spatial Strategy

## **8.0 Emerging Local Plan Policy**

8.1 The Proposed Submission Single Issue Review (SIR) and Site Allocations Local Plan (SALP) (Regulation 19 consultation) have been submitted for examination. The SIR hearing was held at the end of September and the Inspector's Report is awaited.

8.2 The SALP sets out the council's development sites across the district up to 2031. The SALP includes a Policies Map which defines the proposed settlement boundaries, sites and other policy constraints. The SIR and SALP can be given moderate weight in the decision making process.

8.3 The relevant policy from the SALP is policy SA4(a) – Land West of Mildenhall.

## **9.0 Other relevant Planning Policy and Guidance**

- Mildenhall Hub Development Brief – June 2016
- National Planning Policy Framework (2018)

- 9.1 The NPPF was revised in July 2018 and is a material consideration in decision making from the day of its publication. Paragraph 213 is clear however that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework, the greater weight that may be given. The key development plan policies in this case are policies DM41, DM42, DM43 and DM44 and it is necessary to understand how the NPPF deals with the issues otherwise raised in these policies, and to understand how aligned the DM Policies and the NPPF are. Where there is general alignment then full weight can be given to the relevant DM Policy. Where there is less or even no alignment then this would diminish the weight that might otherwise be able to be attached to the relevant DM Policy.
- 9.2 Paragraphs 91 and 92 of the 2018 NPPF promote the aim to achieve healthy inclusive and safe places and provide the social, recreational and cultural facilities and services that communities need. The principle of the construction of the Mildenhall Hub has already been agreed and this application seeks to make a minor amendment to the timing of the re-routing of two public footpaths that cross the site. Given that Policies DM41, DM42 and DM43 promote the provision of community facilities, open space, sport and recreation facilities and leisure and cultural facilities it is considered that there is no material conflict between these Policies and the provisions of the 2018 NPPF and as such full weight can be given to them.
- 9.3 Paragraph 98 of the 2018 NPPF states that planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users. This fully accords with Policy DM44, which resists development that would adversely affect rights of way and promotes improvements to rights of way as well as new and improved links and as such full weight can be given to it.

## **10.0 Officer Comment**

- 10.1 The main legal and legislative requirements applicable to this application have not changed since planning permission was granted for the Mildenhall Hub on 24 November 2017, except for the publication of the revised National Planning Policy Framework (NPPF). The revised NPPF promotes the principle of well-designed places and the conservation and enhancement of the natural environment and these principles have been taken into account in the assessment of the proposal as detailed below.
- 10.2 Mildenhall Public Footpath No. 25 currently bisects the site north-south, meeting the Bridleway that runs along the southern boundary of the site. Mildenhall Public Footpath No. 24 bisects the western half of the site in an east-west direction, turning at the western boundary of the existing school playing field to meet the Bridleway.

- 10.3 The existing east-west route is proposed to be diverted by relocating it further to the north, with a hedgerow and planting proposed on the southern side. The footpath that runs north-south through the site is also proposed to be partially diverted with the middle section sweeping around the western side of the Hub building. It is proposed that the north-south route will be upgraded to a footpath-cycleway and will connect with the Bridleway south of the site and the cycle route along Queensway.
- 10.4 At the time the 2017 application was determined Forest Heath District Council had completed a public path order to divert the affected rights of way under the Town and Country Planning Act 1990. It was intended that the legal order would be confirmed prior to any development commencing on site that affected the alignment of the public footpaths.
- 10.5 In order to complete the diversion of the public footpaths the work to create the new routes must be completed and the County Council are required to certify that the work has been carried out to an acceptable standard. In practice this would mean that the new routes would have to be completed prior to the works commencing on the remainder of the Mildenhall Hub proposal. The new routes would still need to be subject to a temporary diversion while construction works are undertaken on site and given that much of these works will take place on or close to the new routes the applicant is concerned that the surface of the new routes would become damaged and that the works would need to be repeated or remedial work undertaken.
- 10.6 Given that the public footpaths will be subject to temporary diversion while construction works take place the applicant is therefore seeking to amend the timing of the delivery of the new formal routes to prior to first use of the Mildenhall Hub. At this time all construction vehicles etc. should have left the site and the new public footpaths can be completed without fear of damage.
- 10.7 The Area Rights of Way Officer has had in depth discussions with the applicant and the proposed contractor and has confirmed that the proposed variation to condition 3 is acceptable. Suffolk County Council has received an application for the temporary diversion of the routes, which includes an alternative route. This application is currently being processed by Suffolk County Council's legal services team.
- 10.8 The principle of re-routing the existing public footpaths has already been agreed through the approval of application DC/17/1106/FUL. The consented scheme also secures improvements to other existing public rights of way. Policy DM44 states that development which would adversely affect the character of, or result in the loss of existing or proposed rights of way, will not be permitted unless alternative provision or diversions can be arranged which are at least as attractive, safe and convenient for public use. Given that the re-routed public footpaths will be subject to temporary diversions while construction work on the Hub takes place the timing of the opening of the formal public footpaths will not change. The proposed variation of condition 3 does not result in the loss of any existing or proposed rights of way and as such the proposal complies with Policy DM44.

## **11.0 Conclusion**

- 11.1 In conclusion, the principle and detail of the development is considered to be acceptable and in compliance with relevant development plan policies and the National Planning Policy Framework. The Area Rights of Way Team supports the proposal and continues to liaise with the applicant.

## **12.0 Recommendation:**

- 12.1 The proposal is recommended for **APPROVAL** subject to the conditions attached to planning permission DC/17/1106/FUL except for the variation of condition 3, which shall now read as follows:

### *3 PROW*

*Prior to the commencement of any development on site that would affect the current route of Mildenhall Public Footpath No. 25 and Mildenhall Public Footpath No. 24 details of the temporary diversion of both public footpaths shall be submitted to and agreed in writing by the Local Planning Authority. The temporary diversions shall be in put in place in accordance with a timetable to be agreed with the Local Planning Authority. Prior to first use of the development permitted the Town and Country Planning Act Diversion Order shall be confirmed and certified.*

*Reason: To ensure appropriate provisions are in place to redirect the footpath prior to any works that may disrupt its use.*

## **Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/18/1489/VAR](https://www.dorsetcouncil.gov.uk/DC/18/1489/VAR)