

Appeal Decision

Site visit made on 6 September 2016

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3rd October 2016

Appeal Ref: APP/A4710/W/16/3153098

Inglewood, 116 Green Lane, Greetland, Halifax, HX4 8BL

- 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 Brian Vincent (B & H Vincent LLP) against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 15/01599/COU, dated 7 December 2015, was refused by notice dated 15 April 2016.
 - The development proposed is described as change of use of a care home to HMO, aside from internal room refurbishments there is no development externally or internally on the site.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from care home (C2) to House in Multiple Occupation (No.30) (Sui Generis) at Inglewood Nursing Home, 116 Green Lane, Greetland, Halifax HX4 8BL in accordance with the terms of the application, Ref 15/01599/COU, dated 7 December 2015, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr Brian Vincent (B & H Vincent LLP) against Calderdale Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The Council changed the description of Ref: 15/01599/COU from that provided on the planning application form to 'change of use from care home (C2) to House in Multiple Occupation (No.30) (Sui Generis)'. This is a more accurate description of the development which I have used in this appeal.
 4. The Council also changed the address of the appeal site from that provided on the application form. However, the appellant has continued to use the address as provided on the application form in the appeal documents but has used the Council's amended postcode. I have no evidence to indicate which address may be correct. Consequently, I have used the address provided on the planning application form subject to the change to the postcode.
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Main Issue

5. The main issue is the effect of the proposed change of use on the living conditions of the occupants of neighbouring buildings with particular regard to noise and disturbance

Reasons

6. The appeal property comprises a two storey detached stone building set in its own grounds and sited in an elevated position set back from the Stainland Road frontage from where vehicular access to a car park with 22 spaces would be obtained. The area is predominantly residential with dwellings to the west, south and east of the site. To the north, and on the opposite side of Stainland Road, are commercial premises and a large medical centre.
7. The property was formerly in use as a care home with 30 bedrooms having en-suite facilities as well as recreational areas, additional bath and shower rooms and cooking facilities. The proposed change of use to a house in multiple occupation (HMO) would retain the number of bedrooms with an upgrading of facilities to increase the number of rooms with showers. No external alterations to the building are proposed.
8. The Council indicate that the nearest licensed HMO is approximately 440m to the north east of the appeal site and four unlicensed HMO's are located on Dean Street and Saddleworth Road over 360m away. Given the distance between these existing HMO's and the appeal site, I do not consider that this represents an over concentration of HMO's in the area.
9. The appeal property is set within relatively large grounds with mature landscaping. This provides adequate separation to neighbouring properties. Although the occupation of HMOs may generally be more transient in nature than C3 dwellinghouses, I have not been made aware of any technical evidence that indicates that this causes a specific issue within the immediate locality. In my view, the appeal building is relatively contained within its grounds and its occupation as a HMO would not be inconsistent with the residential density of the area.
10. Although there are access doors to the rear of the building onto Green Lane, the primary frontage, car parking and access is towards Stainland Road. I therefore consider that the intended use of the building is more likely to be associated with the Stainland Road frontage rather than the residential area on Green Lane. However, I do not consider that the occupation of the property as a HMO would not be inconsistent with the residential character of the area.
11. The Council is concerned that the use of the appeal building as a HMO would give rise to noise and disturbance that could harm the living conditions of nearby residents. This concern appears to be based upon a general position that occupiers of HMO's could create noise and disturbance above that of other residents. However, in this case there is no technical evidence before me that indicates that there is a particular proliferation of such problems within this area or that the proposed HMO would demonstrably give rise to any noise or disturbance issues. As such, there is no substantive basis to conclude that the provision of a HMO in this case would necessarily result in a material nuisance or demonstrably harm the living conditions of the occupants of nearby properties.

12. The Council's approach to the consideration of the acceptability of HMO's is set out in Policy H16 of the Replacement Calderdale Unitary Development Plan (amended 2009) (RCUDP). The supporting text to this policy recognises that HMO's have a role to play in meeting the District's future housing requirements and that a balance has to be struck between meeting this need and protecting existing residential amenity. HMO's are therefore expected to be located in urban areas and near to public transport.
13. The appeal property is located in an urban area, on a main road frontage with bus stops close by. In my view it is within a sustainable location. The property is relatively contained within substantial grounds with adequate separation distance to neighbouring properties. As with any residential development, there is a potential for noise and disturbance to be generated. However, given these locational factors and the lack of any demonstrable evidence that the proposal would harm the living conditions of the occupants of nearby properties I do not consider that there is any material conflict with the requirements of Policy H16.
14. The appellant has drawn my attention to the comments of the Council's Environmental Health Officer who considered the issues of noise and disturbance and found that the change of use from a care home to HMO are not too dis-similar as they are both residential. The Officer concluded that it would be very difficult to find policies to refuse an application of this nature.
15. Taking the above factors into account, I do not consider that the proposed change of use would cause demonstrable harm to the living conditions of the occupants of neighbouring buildings with particular regard to noise and disturbance. As such, there would be no conflict with Policy H16 (i.c.) of the RCUDP. This policy, amongst other things, is generally supportive of the use of a building as a HMO where there would be no harm to the amenity of the occupiers of neighbouring buildings.

Other matters

16. A number of appeal and planning decisions have been cited by both parties. I do not have the full details of the context of those schemes. Furthermore, they appear to relate to different developments, on different sites and in different districts or boroughs and as such I cannot be certain that they are representative of the issues in this case. In any event, it is well-established planning practice that each application is considered on its own merits, as I have done in this case. These examples do not therefore alter my overall conclusions on the case before me.
17. I have also taken into account the concerns of local residents regarding the potential for crime and disorder, overlooking and car parking problems. I note the comments from the West Yorkshire Police Crime Prevention Officer that there is no real evidence to suggest that there will be a significant increase in crime and disorder as a consequence of the proposals. I concur with this view.
18. As there are no external alterations proposed the extent to which neighbouring properties are overlooked would be no different to the occupation of the property by single persons or by the former persons in care. Moreover, the Council has not cited the potential for overlooking as a reason to refuse planning permission. Taking these factors into account the weight that I can attach to these concerns is limited.

19. With regard to parking, the appeal site is located in a sustainable location which appears to be close to bus stops and medical facilities. In such a sustainable location I do not consider that a high level of car ownership is likely. I also note that the Council's Highway Network Manager considers that the proposed parking is adequate and is compliant with the Council's relevant policies relating to parking. Similarly, the Council did not cite a lack of parking provision as a reason for the refusal of planning permission. Consequently, the weight that I can attach to these concerns is also limited.

Conditions

20. The Council has suggested two planning conditions which I have considered against the advice given in paragraph 206 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the government's Planning Practice Guidance. As a result, I have amended some of them for clarity and eliminated some elements for the reasons set out below.
21. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. The refuse collection and recycling arrangements for the building are likely to be different for the HMO than was the case when the building was used as a care home. Consequently I agree that a condition is required to provide details of the arrangements for waste storage and collection.

Conclusion

22. For the above reasons, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

1. The change of use hereby permitted shall begin not later than three years from the date of this decision.
2. The change of use hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Existing Floor Plan (Basement and Ground Floor Plan as existing) dated Oct 2015; Proposed Floor Plans and Parking Plan.
3. Prior to the first occupation of the building a scheme of the provisions to be made for the separate storage and collection of wastes, including recyclable wastes, arising from the development and compatible with the requirements of the Council's waste collection service, shall be submitted in writing to the Local Planning Authority for its approval. The scheme shall satisfy the requirements of British Standard 5906:2005 and shall account for;
 - Suitable location and provision of waste stores relative to all uses of the development hereby permitted. There shall be level accessways between waste stores and waste collection points, and unobstructed access for refuse collection vehicles to the waste collection points.
 - The design and construction of waste stores so as to minimise loss of amenity due to vermin, odour, flies and animal attack; and to provide sufficient space for different receptacles for the separate storage of recyclable and non-recyclable wastes.

The provisions shall be constructed in accordance with the scheme so approved prior to the first occupation of the development, and maintained thereafter.