
Appeal Decision

Site visit made on 25 October 2016

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 21 November 2016

Appeal Ref: APP/J2373/W/16/3153802

Rear of 6 & 8 Carlin Gate, Blackpool, FY2 9QX

- 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 Belsfield Care against the decision of Blackpool Borough Council.
 - The application Ref 15/0229, dated 15 April 2015, was refused by notice dated 9 February 2016.
 - The development proposed is use of land as communal garden in association with existing rest homes at 4 St Stephen's Avenue and 4 Carlin Gate following demolition of existing rear extensions at 6-8 Carlin Gate.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The appellant has confirmed that while the application was with the Council for consideration, the description of the proposed development was changed to that shown in the summary information above from that given on the planning application form: *use of part of private gardens to residential properties as garden used in association with adjacent care homes at 4 St Stephen's Avenue and 4 Carlin Gate*. I have taken this into account.

Main Issues

3. I consider that the main issues in this case are the effect of the proposal on: the living conditions of neighbouring residents, with particular reference to noise and disturbance; and, the character and appearance of the surrounding area.

Reasons

4. No. 4 St Stephen's Avenue and No. 4 Carlin Gate are detached care homes run by the appellant, which have a common rear boundary. The latter shares its eastern side boundary with No. 6 Carlin Gate, which is part of semi-detached pair of houses, the other house within the pair being No. 8. The appeal site comprises the rear sections of the back gardens of Nos. 6 and 8 Carlin Gate, and the proposal involves the change of use of that area from use class C3, to a garden use associated with the neighbouring care homes, use class C2.
 5. Immediately to the north of the site are the adjoining back gardens of Nos. 6 and 8 St Stephen's Avenue. The site shares its eastern boundary with the
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northern section of the curtilage of No. 10 Carlin Gate, which includes a small back garden area and part of the single storey rear annexe of the property, which contains a bedroom served by a large patio doorway that faces towards the appeal site.

Living conditions of neighbouring residents

6. The appellant has suggested that a resident of its care homes when using the proposed garden space would not be any more likely to cause nuisance than children playing in a garden. This is a matter disputed by a number of neighbouring residents, who have cited their own experience of noise arising from the care homes. Even if the appellant is correct, I understand that at present the two care homes neighbouring the site have capacity to accommodate up to 71 residents between them. Consequently, the appeal site may be occupied by a far higher number of people at any one time, and therefore generate more noise, than would be likely to be the case in relation to any of the neighbouring gardens, which serve modest sized semi-detached houses. Control over the number of residents who use the proposed garden area at any one time is not a matter that could be ensured through the imposition of a reasonable condition, as it would require an intolerable level of supervision.
7. I have particular concerns regarding the likely impact on residents of No. 10, as the site would be alongside the small back garden area of that neighbouring property and also close to one of its bedrooms. I consider that the likely routine use of the proposed garden area by a significant proportion, if not all, of the care home residents would be likely to greatly increase the levels of noise and disturbance experienced by residents of No. 10 when using those parts of their property. In my view, the potential effect on the environment enjoyed by residents of Nos. 6 and 8 St Stephen's Avenue, although noticeable, would not be as great, as the site adjoins the ends of their larger gardens which are furthest from those dwellings.
8. I give little weight to the appellant's contention, which is not supported by any compelling evidence, that neighbouring residents are more likely to be disturbed by activity associated with holiday uses, commercial hotels and a casino in the area. In my judgement, the rear garden environments of Nos. 6 and 8 St Stephen's Avenue and No. 10 Carlin Gate are likely to be screened by neighbouring buildings from noise arising from the wider area.
9. I conclude overall, that the proposal would be likely to cause significant harm to the living conditions of neighbouring residents, with particular reference to noise and disturbance. In this respect the proposed new use of the appeal site would conflict with: Policy BH3 of the *Blackpool Local Plan 2001/2016* (LP), which seeks to safeguard residential amenity; and, LP Policy BH24, which requires regard to be had to the intensity of use and its effect on adjacent properties, with the aim, amongst other things, of avoiding undue harm to amenity. The latter Policy is of relevance as the scheme involves the change of use of the land to use Class C2, unlike the scheme the subject of appeal Ref. APP/J2373/W/16/3153766, which involved development within the curtilage of an existing Class C2 use. It would also conflict with the aims of the *National Planning Policy Framework* (the Framework) insofar as it seeks to secure a good standard of amenity for occupants of land.

10. In my view, it is unlikely to be possible to reduce the harm that I have identified to an acceptable degree through the imposition of a condition requiring acoustic barriers to be put in place along the boundaries shared with neighbouring gardens. A barrier of a height which might be effective would be likely to be unduly dominant, particularly when seen from the small back garden and adjacent bedroom of No. 10.

Character and appearance

11. The appeal site is currently occupied by gardens and single-storey structures associated with Nos. 6 and 8 Carlin Gate. The application plan indicates that the appeal scheme involves the use of the space as a garden with a small shelter, the details of which could be controlled by condition. In my judgement this would not result in a significant change in either the character or the appearance of the site, which whilst visible from neighbouring properties, is unlikely to be visible from any public vantage points, due to its backland location.
12. Based on the location plan provided by the appellant, it appears to me that the appeal site forms part of a block of 20 properties, which is bounded by: St Stephen's Avenue to the north; Holmfield Road to the east; Carlin Gate to the south; and, a back lane to the west. Care homes, of which there are 2 within that block, comprise 10% of the properties. The planning application drawing indicates that the proposal would involve the use of the northern sections of the back gardens of Nos. 6 and 8 Carlin Gate by the care homes. The number of properties within the block in use class C2 would remain the same. In my judgment, it would not conflict with LP Policy BH24 insofar as it seeks to limit properties in class C2 use in a particular block to 'about 10%'.
13. I conclude that the effect of the proposal on the character and appearance of the surrounding area would be acceptable and in this particular respect it would not conflict with LP Policy BH24.

Other matters

14. The Council's decision to refuse planning permission in this case was against the recommendation of its officers. Nonetheless, this does not alter the planning merits of the proposal, upon which my decision is based.
15. Whilst I have had regard to the view that the proposed garden would be of amenity value to residents of the care homes, I saw that both have an area of external amenity space, in the form of hardstanding with seating. Although they lack planting, that is a matter within the control of the appellant. In my judgement, any benefits of the scheme in this regard would not outweigh the harm that I have identified.

Conclusions

16. Notwithstanding my finding that the effect of the proposal on the character and appearance of the surrounding area would be acceptable, this would not outweigh the significant harm that it would be likely to cause to the living conditions of neighbouring residents. I conclude on balance, having regard to the economic, social and environmental impacts of the scheme, that it would not amount to sustainable development under the terms of the Framework. I conclude overall, that the proposal would conflict with the Development Plan

taken as a whole and other material considerations do not indicate that a contrary decision would be justified in this case.

17. For the reasons given above, I conclude that the appeal should be dismissed.

I Jenkins

INSPECTOR