

Appeal Decision

Site visit made on 9 January 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 1st February 2017

Appeal Ref: APP/P4225/W/16/3159868

Parklands, 87-89 Falinge Road, Rochdale, Lancashire OL12 6LB

- 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 and H Vincent LLP against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 15/00874/FUL, dated 23 July 2015, was refused by notice dated 6 April 2016.
 - The development is described as 'convert Parklands house from a care home to a H.M.O.'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council altered the description of development on their decision notice to 'Change of use of care home to 57 bed House of Multiple Occupancy'. The appellant also used this description on their appeal form. As this more accurately describes the nature of the proposal before me I have determined the appeal on this basis.
3. Since the submission of the appeal the Council has adopted the Rochdale Core Strategy (CS) which partially replaces the Rochdale Unitary Development Plan. The Council has confirmed within their statement that the policies referred to in their decision notice have been replaced by those in the CS. The 'final comments' stage gave the appellant the opportunity to address any implications arising from the adoption of the CS. I therefore have to determine the appeal on the basis of the national and local policies adopted at the present time.

Main Issues

4. The main issues are:
 - (i) The effect of the proposal on the living conditions of the occupiers of adjacent properties with particular regard to noise and disturbance;
 - (ii) The effect of the proposal on the character of the area; and
 - (iii) Whether the proposal would provide adequate living conditions for future occupiers with particular regard to external space.
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Reasons

5. The appeal property is a substantial detached building fronting onto Falinge Road opposite a large public park. The building is currently vacant but was previously used as a nursing home in 2015. The surrounding area is predominantly residential comprising in the main of homes in single family occupation although there are a small number of other houses in multiple occupation (HMO) and flatted developments present in the locality.

Living conditions

6. There is some dispute between the parties as to the exact nature of the previous care home. The Council refer to the use as a care home for the elderly whereas the appellant states that the home was a mental health facility with the majority of occupants under pensionable age. Whilst I noted at my site visit, that the care home was previously known as 'Parklands House Nursing Home', from the information before me, I am unable to definitively conclude on the exact nature of the nursing care.
7. Regardless of the exact nature of the facility, the use of the building as a care home would have generated a level of noise and activity through comings and goings. Even taking into account staff changing shifts, in my view, by the very nature of nursing care, the comings and goings would have mainly been staff, visitors and deliveries during working or early evening hours.
8. In contrast, the proposed HMO would have the potential to accommodate 57 occupiers, all of whom are likely to have active and independent lifestyles. Despite the fact that the care home could also accommodate 57 residents, regardless of who those residents might have been, the proposed use would give rise to very different routines and movements. Consequently, there would be a qualitative change in the level of activity. This would be beyond that experienced from the previous use as a care home, where it would be reasonable to expect fewer comings and goings, especially late at night. While there is nothing to prevent such late night activity occurring in any residential setting, the opportunity for that to happen is increased where 57 independent occupiers live together.
9. The proposal would, in my view, result in a noticeable change in the number of comings and goings both on foot and by car. In that the building is detached, located on a main road and separated from the nearest properties on Falinge Road by Chaseley Road, the potential disturbance by those coming and going on foot would be mitigated to a degree. However, I have particular concerns regarding the increase in noise and disturbance from the car park on the living conditions of the occupiers of the properties to the rear on Chaseley Road, in particular No 39 whose side windows and rear garden adjoin the site. The adjacent car park has 15 spaces with 8 of them directly opposite No 39 and set at a higher level. Whilst I acknowledge that this is an existing car park which was used by the care home, the general intensification of activity including the potential increase in the number of parked vehicles, increased vehicle movements, occupiers arriving or departing late at night or early in the morning has a greater potential for noise and disturbance caused by the occupiers. The change would be perceptible and would result in material harm to the living conditions of neighbours when compared to occupation as a care home.

10. In reaching my finding I have noted that the appellant would target professionals working in the locality, students and retired people to occupy the HMO. Whilst I appreciate that prospective tenants would have to undergo an application process, there is no surety that the appellant would manage the property or that the property would not change hands in the future. There is therefore no guarantee of who would live at the property and how the property would be managed. This matter does not therefore alter my findings above.
11. I therefore conclude that the proposal would have a detrimental impact on the living conditions of the occupiers of adjacent properties and find conflict with Policies DM1 and G9 of the CS which seek, amongst other things, that development does not adversely affect the amenity of residents and does not lead to an increase in noise.

Character of the area

12. The surrounding area is predominantly residential with a high proportion of dwellings in single family occupation with a small number of HMOs and flatted development. Whilst I accept that the proposal would result in a large HMO I am not persuaded that the use would be incompatible with the character of the area simply by its nature. HMOs are residential developments. The use of the building as a care home, and the level of occupation, would have resulted in a relatively high level of activity compared to most nearby dwellings. Comings and goings to the care home would have become part of the character of the area. The appeal use would be high density in the context of the locality, but the same was true of the former care home. Whilst I have concluded above, that the change in type and level of activity around the building would create unacceptable noise and disturbance to nearby residents, this harm would be localised and I am not persuaded that the character of the wider area would be materially changed in this regard.
13. From the evidence before me, I do not consider that there is a high percentage of existing HMOs in the locality. Moreover, I note that the Council's Community Safety Officer states that the existing HMOs are well managed and from my observations on site I do not consider that their presence has materially changed the character of the area, although I acknowledge they are of a much smaller scale. Despite the size of the proposed HMO, it is evident that family houses would remain the predominant house type within the local area. As a consequence, I do not consider that the prevailing residential character or the balance of the local community would be harmfully altered by the proposal.
14. I therefore conclude that the proposal would not have a detrimental impact on the character of the surrounding area and find no conflict with Policies C2, C3 and DM1 of the CS in this regard, which seek, amongst other things, high quality housing, to widen housing choice, and to ensure that development reflects local character and is compatible with surrounding uses. The proposal also accords with the Framework which sets out that planning authorities should create sustainable, inclusive and mixed communities.

Living conditions – future occupiers

15. The Council contends that there would be a lack of serviceable amenity space. I note from the plans and my observations on site, that a small area of existing amenity space between the proposed 5 car parking spaces and 26 Clarkes Lane would be retained. Whilst this area is on the small side, the property is directly

opposite Falinge Park, a large municipal park of approximately 11 hectares to which residents would have easy access. Taking this into account, I consider that the proposal would provide adequate external space.

16. I therefore conclude that the proposal would provide adequate living conditions for future occupiers. The proposal therefore accords with paragraph 17 of the Framework which seeks to ensure a good standard of amenity for all future occupants of buildings.

Other Matters

17. The appellant has stated that the Council cannot definitively confirm a housing supply level of 5 years. The Council state that upon adoption of the CS, the most recent information indicates that the Council can currently demonstrate a five year housing land supply. There is insufficient evidence before me to enable me to conclude on this matter. That said even if, in accordance with paragraph 49 of the National Planning Policy Framework (the Framework), relevant policies for the supply of housing are out of date, the adverse impacts that I have identified in relation to the living conditions of adjacent residents and the conflicts with the development plan in this respect would significantly and demonstrably outweigh the benefits. These benefits are primarily the contribution that a residential development in an accessible location would make towards housing supply. Thus it is not the sustainable development for which the Framework makes a presumption in favour.
18. I note that there are no issues raised with respect to flood risk, contaminated land, unstable land and landfill gas. I also accept that the site is well located in relation to services, facilities and employment by modes other than the private car. However, these matters do not outweigh the harm I have found above in relation to living conditions.
19. There are a number of Grade II listed buildings within Falinge Park opposite the site. I note that the Council has not raised any concerns in relation to their setting. Given the minimal external changes and the intervening distance to the listed buildings, I do not consider that the proposal would materially harm the setting of the nearby listed buildings which would therefore be preserved.

Conclusion

20. I have found that there would be no material harm to the character of the area and that the proposal would provide adequate living conditions for future occupiers with particular regard to external space. However, these findings do not outweigh the conclusions that I have reached with regard to the living conditions of neighbouring residents.
21. For the reasons given above and taking all other matters into account, I conclude that the appeal should be dismissed.

Caroline Jones

INSPECTOR