The Planning Inspectorate

Appeal Decision

Site visit made on 27 February 2017

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 16th March 2017

Appeal Ref: APP/E2734/W/16/3165301
56 and 57 Harlow Moor Drive, Harrogate, North Yorkshire HG2 0LE

- 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 (VVP LLP) against the decision of Harrogate Borough Council.
- The application Ref 6.79.2297.L.FUL, dated 23 March 2016, was refused by notice dated 5 September 2016.
- The development proposed is described as "change of use from a care home for HMO to provide for private residences to let."

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form refers to the property as 56 Harlow Moor Drive, whilst both the decision notice, and the appeal form, refer to both 56 and 57 Harlow Moor Drive. Although originally 2 properties, these now form one building and it is clear from the plans, and my site visit, that the appeal relates to both of Nos 56 and 57. Accordingly, I have referred to both properties in the above banner heading.

3. The description of development in the banner heading is taken from the application form. Both the decision notice and the appeal form describe the development as the "change of use of Care Home (Use Class C2: Residential Institution) to House in Multiple Occupation (Use Class C4 Houses in Multiple Occupation)." However, the Council acknowledge in their appeal statement that as the proposed House in Multiple Occupation (HMO) would be for more than 6 residents it would be a Sui Generis Use Class not C4. The appellant has not disputed this, and it is clear that third parties were aware that the proposal would be for more than 6 residents. Thus, I consider no party would be prejudiced by my determination of the appeal on this basis.

Main Issues

4. The main issues in the appeal are:

   - whether the proposal would result in the unacceptable loss of a community facility; and
   - the effect of the proposal on the living conditions of nearby residents with particular regard to noise and disturbance.

Reasons

Loss of community facility

5. The appeal property is a former care home that occupied what were originally two substantial semi-detached houses set over 4 floors. Policy CFX of the *Harrogate District Local Plan (adopted February 2001)* (HDLP) identifies that care homes are a community facility, and seeks to protect such facilities unless certain criteria are met. These being that: continued community use would cause unacceptable planning problems; or a satisfactory replacement facility is provided; or there is no reasonable prospect of the existing use continuing on a viable basis, with all options for continuance having been fully explored as a priority, and thereafter securing a satisfactory viable alternative community use.

6. This is supported by Policy C1 of *Harrogate District Core Strategy (adopted February 2009)* (HDCS) which amongst other things seeks to protect, and enhance, the supply of community facilities and local services.

7. These policies both predate the *National Planning Policy Framework (the Framework)*. Paragraph 70 of this indicates that to help deliver facilities and services the community needs, planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs.

8. In that the local policies seek to protect all community facilities rather than "valued", they are not fully consistent with the Framework. No guidance is provided as to how to determine what makes a community facility "valued", but I agree with the Council, that in providing care and accommodation for members of the community who are no longer able to live independently, care homes can be considered to be a valued facility, which provide for the day to day needs of residents.

9. Although it is stated that there is a new purpose built care home being built in the area, I have not been provided with any detailed information regarding the demand for, or the level of, care home provision within the area. Nevertheless, from the evidence before me, it would appear that it was largely matters relating to staffing and finance that resulted in closure of the care home last year, rather than a lack of need for care home places. In the light of this, I consider that the proposal stands to be considered in the context of paragraph 70 of the Framework, and that Policy CFX provides a relevant framework to establish whether the loss of this facility is unnecessary.

10. It is disputed between the parties as to whether the continued community use of the building would be likely to result in unacceptable planning problems. However there is nothing to suggest its use as a care home caused any planning problems. Furthermore, although I accept some community facilities may not be suitable in this largely residential area, despite the fact that the property has no off-street parking, I am not persuaded that all other community uses would necessarily result in unacceptable planning problems. Moreover, no replacement facility has been provided. As a result, the proposal needs to be considered against the third criteria of Policy CFX.

11. The appellant's evidence sets out the process that led to the closure of the care home in March 2016. These relate mainly to staffing issues and the impact this

had on the financial stability of the business. It is stated that the property is no longer fit for purpose as a care home and would need considerable investment to bring it up to an adequate standard. However, the concerns raised in the *Care Quality Commission* report following an inspection in January 2016 predominantly relate to staffing issues. In respect of the physical environment concerns related to the uneven nature of some of the corridor floors, and a lack of signage. There is nothing therefore to indicate that the building was not fit for purpose for use as a care home, or that it would require considerable investment to enable its future use for such purposes.

12. The property was not marketed before it closed, but has been marketed since May 2016. Whilst the appellant's evidence states there has been little interest to date, it appears from the website, and the signage on the site, that it is being marketed as "suitable for residential development" rather than a care home or other community uses. Moreover, the asking price (£1.6m) is considerably higher than the valuation price mentioned in the Design and Access Statement (£0.5m).

13. I note the views of the marketing agents regarding the demand for care homes, and that once closed, it is rare for one to re-open. However, at this stage, I am not persuaded that adequate marketing has been carried out to show that there is no reasonable prospect of the building being used for a care home or another community use.

14. Consequently, I consider that the proposal would result in the unacceptable loss of a community facility which would be contrary to both Policy CFX of the HDLP and Policy C1 of the HDCS outlined above, as well as the Framework.

Living Conditions

15. Whilst the former care home had a similar number of occupants as the proposed HMO, the main activity would have resulted from the comings and goings of staff and visitors, rather than the residents. Whilst the total number of staff employed by the care home may have been significant, at any one time staffing levels in the building would have been more limited, and overall the level of activity would have been unlikely to have been significantly greater than that associated with the surrounding residential properties.

16. The proposed use of the building as an HMO for 24 people would in my view result in a considerable increase in the level of activity in comparison to the former use. In addition, the amount of comings and goings would be significantly greater than associated with the surrounding residential properties, notwithstanding that many houses in the area have been converted into a small number of flats. As such, I consider the proposal would result in an intensification of the use of the building, which would result in a significant increase in the general activity, and noise and disturbance, associated with it.

17. The property is located in a residential area, opposite a wooded valley. Noise levels in the area are therefore low. As a result, I consider that the significant increase in noise and disturbance would be harmful to the living conditions of adjacent occupiers. My conclusion in this regard is supported by the fact that since the care home closed a year ago, and the building has been occupied by a number of "guardians", the Council have already received a number of complaints from local residents regarding noise and disturbance from the property.

18. Consequently, I consider that the proposal would be detrimental to the living conditions of nearby residents, with particular regard to noise and disturbance. Therefore, it would be contrary to Policy SG4 of the HDCS and Policy HD20 of the HDLP which, amongst other things, seek to ensure that new developments respect and protect the amenity of nearby residents.

Other Matters

19. The appeal property is located within Harrogate Conservation Area. I have therefore had regard to the special duty placed on decision makers in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. I note that the Council concluded that the proposal would not have a significant impact on the heritage value of the conservation area.

20. The proposed conversion of the building would not result in any external alterations to the building, and the proposed use of the building for residential purposes would not, in itself, be out of keeping with the residential nature of the surrounding area. As such, I am satisfied that the proposal would preserve the character and appearance of the conservation area.

21. It is not disputed that the property is in an accessible location with good access to a range of services and facilities. Whilst this favours the scheme, it does not outweigh the harm I have identified it would cause. It is suggested that the proposal would provide affordable housing for which there is currently a shortage in the area. However, there is no mechanism before me to secure the provision of affordable housing as defined by the Framework; as such I give this little weight.

Conclusion

22. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR