



Appeal Decision

Site visit made on 18 November 2019

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 9 December 2019

Appeal Ref: APP/X1545/W/19/3234875

120 Maldon Road, Burnham-On-Crouch, Essex CM0 8DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by PSS Care Group against the decision of Maldon District Council.
 - The application Ref FUL/MAL/19/00465, dated 19 April 2019, was approved on 19 July 2019 and planning permission was granted subject to conditions.
 - The development permitted is the change of use from Class C3 dwellinghouse to a residential children's home Class C2 (residential institution).
 - The condition in dispute is No 5 which states that: *"Within twenty-eight (28) days from the commencement of the use of the premises as a children's home, a notice in writing shall be given to the Local Planning Authority to confirm the date the use commenced. The use of the premises as a children's home hereby permitted shall cease three years after the commencement of the use."*
 - The reason given for the condition is: *"It is not considered that the grant of a permanent planning permission would be appropriate and a temporary permission would enable the Local Planning Authority to re-assess the impact of the development upon the residential amenity of the neighbouring occupiers, the parking provision and the character of the area."*
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Decision

1. The appeal is allowed and the planning permission Ref FUL/MAL/19/00465 for the change of use from Class C3 dwellinghouse to a residential children's home Class C2 (residential institution) at 120 Maldon Road, Burnham-On-Crouch, Essex CM0 8DB granted on 19 July 2019 by Maldon District Council, is varied by deleting condition 5.

Main Issue

2. The main issue in this appeal is whether the relevant condition is necessary and reasonable taking account of the likely effects of the proposal on the area and the neighbours.

Reasons

3. The appeal relates to this large detached house which is located on Maldon Road, close to its junction with Southminster Road. The property has a large frontage which is mainly used to accommodate vehicles. The immediate area contains detached houses of varying styles. At the time of my site visit, the adjacent roads accommodated a not-insignificant number of vehicles, notwithstanding the residential character of the area.

4. Policy H3 of the Council's Local Development Plan (LDP) relates to accommodation for specialist needs. It indicates that support will be given to the provision of such facilities subject to criteria relating to: (1) a defined need; (2) being located in a sustainable area; (3) not leading to a concentration of similar uses; (4) not detrimentally affecting the capacity of public services; (5) close and safe access to everyday services; (6) it provides appropriate support for its intended residents; (7) it can be demonstrated that funding is available to secure its long term viability; (8) it is supported by statutory agencies.
5. Within the Council officers' report, an assessment was undertaken in relation to, amongst other things, the requirements of Policy H3. It confirmed that the proposal met the criteria and that the proposal is acceptable in principle.
6. No physical changes to the dwelling are proposed. The proposal would accommodate up to five children who will be living as a household and with care and supervision. There will be 2 or 3 members of staff on site. Additional staff may visit but this is usually during the day as part of the daily routine and weekly planned visits. The officers' report indicated that whilst the activity may be greater than a conventional household it will be only marginally so, considering that the current house is a five-bedroom dwelling where a large family with similar numbers of people to those that would normally be on site (children and staff) and live. Furthermore, due to the nature of the use, it is not expected that the development would encourage visitors or increased activity in unsocial hours. I have been given no additional information to call this conclusion into question, bearing in mind that the views of local residents would have been available to the officers when reaching this conclusion. Having taken account of the information supplied, I am satisfied that the proposal would not give rise to a harmful level of activity in this respect.
7. The Officers' assessment indicated that a maximum of 8 car parking spaces would be required for the proposed use and that these could be accommodated on the site frontage. From my own observations this would appear to be the case. It is worth bearing in mind that the requirement for 8 spaces was based on the maximum numbers of staff being at the site and also allowed for 2 spaces based on the number of residents. Given that fewer numbers of staff would be present for much of the time and it would be unlikely that any of the resident children (aged 10-18) would have use of a car, it seems highly likely that fewer vehicles would be present for much of the time.
8. Taking these factors into consideration, I am satisfied that there would be no unreasonable effects on the character of the locality or on neighbours. The appellant indicates that the disputed condition could mean that the proposal would not go ahead given the financial commitment necessary to commence with the proposed development which, with the disputed condition in place, could be required to cease a few years later.
9. My conclusion is that there is no need for the disputed conditions as compliance with the relevant local and National policies was demonstrated within the officers' assessment. Additionally, the condition would be unreasonable as it would involve the significant investment required to start the use, with a potential for it to cease after 3 years. On this basis, I find that the disputed condition is not reasonable and is not necessary.

Conclusion

10. As a result of my findings, the appeal is allowed and I shall amend the planning permission by deleting the disputed condition.

S T Wood

INSPECTOR