



Appeal Decision

Site visit made on 22 January 2020

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 April 2020

Appeal Ref: APP/E2001/W/19/3236395

137-143 ATM, Queen Street, Withernsea HU19 2DJ

- 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 Micheal Junaid against the decision of East Riding of Yorkshire Council.
 - The application Ref 19/01579/PLF, dated 10 May 2019, was refused by notice dated 14 August 2019.
 - The development proposed is Proposed Change of Use A2 > C2 (Proposed Supported Accommodation for 16-21 year olds) and A1 (Retail).
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Decision

1. The appeal is allowed and planning permission is granted for the Proposed Change of Use A2 to C2 (Proposed Supported Accommodation for 16-21 year olds) and A1 (Retail) at 137-143 ATM, Queen Street, Withernsea HU19 2DJ in accordance with the terms of the application, Ref 19/01579/PLF dated 10 May 2019, subject to the following conditions:
 - 1) The development hereby permitted shall be begun not later than 3 years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plan 1274-H15_101 Rev B – Existing and proposed plans; block plan and site location plan.
 - 3) The ground floor of the premises shall be used for Class A1 and for no other purpose in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) other than the following areas shown on the approved plan as the entrance, shared kitchen and dining area and sealed unit cash machine.

Application for costs

2. An application for costs was made by Mr Micheal Junaid against East Riding of Yorkshire Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposal is in a suitable location for C2 supported accommodation for 16 – 21 year olds, having regard also to the absence of provision for open space or outdoor recreation provision within the property.

Reasons

4. The property is located within the town centre of Withernsea. It is a 3 storey building, part of a row of other premises with commercial uses at ground floor and some residential accommodation in upper storeys. The property was formerly a bank, and in part of the ground floor there is an ATM. The property adjacent to the ATM is a convenience store and newsagent.
5. The property faces onto a small roundabout. Opposite are two public houses, a hot food takeaway, some shops and other town centre uses. There are other public houses, shops, hot food uses, amusement arcades and betting shops in the surrounding area. To the rear of the property on Bannister Street there is a bus depot, beyond which the area is residential. A short distance from the property is the seafront promenade and a park, Withernsea Valley Gardens, close to which are bus stops.
6. The part of the proposal which is in dispute would provide specialist accommodation (the accommodation) for up to 6 young adults between the ages of 16 to 21. They would be on placement in the accommodation and receive assistance in taking care of themselves and specialist support and advice and complementary health services. The accommodation would also provide kitchen and lounge facilities, a meeting room and office and sleeping accommodation for 2 staff to be present at the property at all times.
7. There are concerns that the location of the proposal is unsuitable due to the nature of the town centre and the consequent proximity to uses such as public houses, amusement arcades and betting shops. The Humberside Police do not support the proposal and are of the view that the location in an area which is subject to incidents of anti-social behaviour, violence, drug and alcohol disorder runs the risk that the young adults within the accommodation could become involved in such behaviour or could be affected by the fear of such problems. The Police have advised that the Queen Street area has the highest crime statistics for the whole of the East Riding. Attention is drawn to Section 17 of the Crime and Disorder Act 1998 which requires a local authority to consider the crime and disorder implications of a planning decision.
8. Other parties, including the Withernsea Town Council, have suggested other factors which could make the location unsuitable for such a proposal. These include lack of local employment and apprenticeships; the absence of a hospital or social services facilities; the absence of a permanent police presence within the town; the cost of travel to areas such as Hull for employment, training or higher education; and the presence of at least 3 existing similar units in Withernsea.
9. A number of interested parties question how wide the catchment area for the proposal would be. They mention that the appellant is based in Northampton, and question whether taking young vulnerable adults to a location a long way from home, with access to licensed premises, amusements and betting shops and in area where drugs can be available, would be in the best interests of their health and well-being.
10. Nevertheless, the proposal would be run by appropriately qualified and experienced staff¹ and would be equipped with modern security arrangements

¹ I refer to paragraph 4.5 of the appellant's Planning Statement

with the aim of ensuring that that the young people feel, and are, safe during their stay.

11. The provision of accommodation such as the proposal is an objective of the East Riding Housing Strategy 2017, which states that such accommodation is in limited supply. The Housing Strategy for Vulnerable People 2012 also refers to the identified need to provide specialist accommodation with support. The proposal is an opportunity to provide such supported accommodation, a point which must be given significant weight in the planning balance.
12. The same issue has been considered previously by the Inspector who decided the appeal for the change of use of the whole property to Class C2 use². In that decision, my colleague noted that there would be substantial benefits from the provision of such specialist housing in an accessible location. Residential uses in commercial areas are, in principle, supported by the Framework, and concerns that the property is within a high crime area, or the absence of private outdoor amenity space, were not reasons to find that the proposed C2 use would not provide safe, inclusive and accessible accommodation. In the absence of robust evidence to support the concerns which have been raised in relation to the health and well-being of the young adults who would be placed in the accommodation, I can see no reason to differ from the conclusions of the previous Inspector.
13. There is concern that the absence of open space/outdoor recreation for the young people makes the property unsuitable for the C2 use, part of the Council's reason for refusal. However, the property is close to the beach, sea front and a park, therefore there would be good access to open space and recreation areas. It has been suggested that the absence of a private amenity area could increase the likelihood of young adults from within the accommodation meeting those involved in anti-social behaviour. However, it would be unrealistic to expect persons on placement in the accommodation not to use the local amenities in the area, or to be supervised at all times.
14. I therefore conclude that the proposal would provide a suitable location for the C2 supported accommodation for 16 – 21 year olds, taking into account the absence of open space or outdoor recreation provision within the property. It would therefore be in conformity with Policy ENV1 of the East Riding Local Plan Strategy Document 2012 - 2029³ (the Local Plan) and the Framework which requires amongst other things, at paragraph 91, that proposals should aim to achieve healthy, inclusive and safe places, and at paragraph 127, that safe inclusive areas are created which promote health and well-being and high standards of amenity for the occupiers of development, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Other Matters

15. It has been suggested that the absence of car parking to serve the needs of staff could add to competition for on street spaces. However, the staff and visitors to the accommodation would be able to use available public car parking in the area, public transport, or if they were locally based be able to walk to the property. Concerns have also been raised on the cumulative strain on local

² Appeal Reference APP/E2001/W/18/3214240 dated 11 March 2011

³ Adopted April 2016

health services and policing of the area however the proposal is to cater for 6 persons and I can see no good reason to find that there would be any significant impact on these services.

16. Some interested parties have suggested that the proposal may not comply with the Care Standards Act 2000 and OFSTED requirements. Any such matters fall outside the scope of my decision.
17. The proposal encompasses both change of use to an A1 retail unit in part of the ground floor, and in the remainder of the building, change of use to a supported living accommodation for young persons, Class C2. The main parties do not dispute the proposed ground floor retail use and do not suggest that the proposal would be in conflict Policy EC3 of the Local Plan which seeks to support the vitality and viability of town centres.
18. Some interested parties have suggested that the whole of the ground floor accommodation should be in retail use in the interests of supporting the primary frontage. However, the proposed retail unit would occupy the major part of the street frontage and I am satisfied that this would cause no harm to the vitality of the town centre. It has also been put forward that a greater contribution would be made to the regeneration of the town if the upper floors were brought back into general residential use, and that the proposal could have an adverse effect on businesses in the town. However, these matters are not supported by any strong evidence and they must be weighed against the benefit that the proposal would provide in bringing the whole property back into use.

Conditions

19. The conditions suggested by the Council are reasonable and necessary in the circumstances of this case.
20. For certainty I attach the standard planning condition limiting the period of the consent to 3 years. In order to prevent any doubt over what is approved I attach a condition requiring the development to be carried out in accordance with the approved plan.
21. In order to protect the vitality and viability of the town centre I attach a condition limiting the non-retail areas on the ground floor to those shown on the approved plans. Although not mentioned in the Council's suggested condition, for the avoidance of doubt I include reference to the area housing the ATM.

Conclusion

22. For the reasons given the appeal is allowed.

Tim Wheeler

INSPECTOR