



Appeal Decision

Site visit made on 6 January 2020

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th February 2021

Appeal Ref: APP/E2001/W/20/3261125

Redcliffe House, Redcliffe Road, Hessle, East Riding of Yorkshire HU13 0HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mrs Sally Skiba and Miss Mia Skiba against the decision of East Riding of Yorkshire Council.
 - The application Ref 20/01141/PLF, dated 31 March 2020, was refused by notice dated 22 July 2020.
 - The development proposed is described as the change of use from a domestic dwelling / guest house / bed and breakfast accommodation to a children's home / institution.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a domestic dwelling / guest house / bed and breakfast accommodation to a children's home / institution at Redcliffe House, Redcliffe Lane, Hessle, East Riding of Yorkshire HU12 0HA in accordance with the terms of the application 20/01141/PLF dated 31 March 2020, subject to the conditions set out in the attached schedule.

Application for costs

2. Mrs Sally Skiba and Miss Mia Skiba have made an application for the award of costs against the Council. This is subject to a separate Decision.

Procedural Matters

3. The proposed development comprises a change of use from a domestic dwelling / bed and breakfast to a children's home / institution. Domestic dwellings and bed and breakfast facilities fall into 2 separate categories within the Town and Country (Use Classes) Order 1987 (as amended September 2020). A dwelling house with up to 6 people living as a single household is categorised as Use Class C3(a) whilst a bed and breakfast falls into Use Class C1. The Appellants contend that the building is mixed use.
4. A children's care facility would fall into the category of a Residential Care Home (Use Class C2). Since the facility would involve a group of more than 6 people it cannot be construed as falling within Use Class C3(b) (a single household of up to 6 people with care needs living in a dwelling house). Thus, for the avoidance of doubt, the proposed facility would comprise a change of use that requires planning permission. This Decision Letter proceeds on this basis.

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of the future occupants of the property and those of the neighbouring dwellings.

Reasons

6. The appeal property is a large 3-storey detached dwelling on Redcliffe Road in Hessle. It includes a very long garden which leads in the direction of the shore of the Humber Estuary. On one side of the property is a rugby pitch. On the other side is a row of 3 large detached dwellings, each with quite extensive gardens which adjoin the Appellants' garden. Opposite the appeal property are some office blocks with car parking. Just beyond these offices are the A63 road and a railway line. The area can be described as having a mixed-use character.
7. The appeal property has been used as a bed and breakfast guest house for around 20 years. In recent years trade has dropped due to increased competition from AirBnB. The facility currently provides 3 bedrooms to let although some objectors contend that there might be as many as 12 bedrooms available, including 2 in an outbuilding to the front. The remaining rooms are used by the Appellants for their private use.
8. The appeal proposal comprises the change of use of the property from domestic dwelling / bed and breakfast / guest house to a children's home / institution.
9. The children would be accommodated in 4 bedrooms and it is understood that the total number of children being looked after would not exceed 4. They would be between 8 and 16 years old. A team of qualified, skilled and experienced specialists in children's care would manage and operate the facility in partnership with the Appellants.
10. One of the rooms on the ground floor would be available for any child with a mobility disability with the other children being accommodated in rooms on the first floor.
11. It is likely that the children would be accommodated for up to around 2 years each. In addition, there would be between 4 and 6 full-time and part-time staff employed working across 3 eight-hour shifts. It is understood that the Appellants would also be involved on a full-time basis. There would be some overnight accommodation within the building for evening staff.
12. Objectors have suggested that there might be as many as 6 children being looked after and have questioned whether the intended staffing level would be sufficient to manage this number. There is the possibility that without an appropriate condition the number of children staying in the facility could increase which could be detrimental to the living conditions of neighbouring occupants.
13. The children would be referred to the Appellant by East Riding of Yorkshire Council who have a duty to care for children under the Children's Act 1989 and the Children's Act 2004. The children are likely to have had difficult backgrounds, and some might have behavioural problems. At present there is a shortage of facilities for children with these issues in the greater Hull area.

14. It is understood that the Appellant would continue to live within the dwelling. To comply with the regulations and guidance issued by the Office for Standards in Education, Children's Services and Skills (OFSTED) the Appellant would need to install security cameras and introduce enhanced boundary fencing. However, the intention would be for the facility to retain the appearance and feeling of a family home rather than a secure institution.
15. The side elevation of the appeal property is about 10 metres from the side elevation of Riverwood, the neighbouring dwelling. A row of trees and thick shrubs provides a strong visual barrier about halfway between the two buildings.
16. It is likely that the comings and goings of the children would occasionally be heard by the next-door neighbour. There would also be vehicles belonging to staff arriving at different parts of the day. However, these occurrences would not result in an unacceptable level of disruption to the occupants of Riverwood or to any other neighbours within the vicinity.
17. The extensive area of garden to the rear of the property would be available for the children to play in. The boundary with the adjacent gardens is quite heavily screened. However, some objectors have referred to an incident when a child being looked after by the Appellants crossed into a neighbouring property and engaged in threatening behaviour and the use of bad language with the elderly occupant. It is also understood that the same youth directed foul language at neighbours from within the Appellants' garden.
18. The operators of the facility would be responsible for the behaviour of the children, including when outside of the property. Several of the neighbours within the area are elderly and so even more likely to feel intimidated by any form of threatening behaviour.
19. The possibility of repeated incidents of such behaviour might deny neighbours the right to the peaceful enjoyment of their homes, as protected under Article 8 of the European Convention on Human Rights. This right, however, is qualified and subject to meeting other needs within a democratic society. Consequently, the right must be balanced against the need to provide facilities for children with behavioural problems.
20. In the event that the children did engage in any form of anti-social or criminal behaviour, and present a threat to neighbouring occupants, then the matter would have to be dealt with by the operators, the Council's Anti-Social Behaviour Team and, ultimately, by the police. Neighbours would also be able to protect their own interests through actions in the civil courts.
21. Whilst the possibility of such behaviour cannot be entirely discounted it must be borne in mind that the facility would have to be operated within OFSTED guidelines and Council standards which, if breached, could result in the right to operate being withdrawn.
22. The level of crime within the immediate vicinity of the appeal site during June 2017 to May 2020 was low. However, Humberside Police have pointed to recent and historical incidents of rape, other sexual offences, grooming, arson and anti-social behaviour within the Humber Foreshore area which is very close to the appeal property.

23. Given these circumstances, there is the possibility that resident children within the home could be the targets of crime or drawn into criminal behaviour by existing offenders. However, if the facility is managed properly then the possibility of children either becoming the victims of crime or falling into criminal ways should be very low.
24. The existing dwelling would be large enough for the proposed use. If there were a desire to expand the building to accommodate more children this would, depending upon the details, require planning permission from the Council. Furthermore, it is understood that the accommodation of additional children would require approval by the Council.
25. Concern has been expressed by neighbours about the possibility of the outbuilding to the front of the property being used to accommodate children, since it might be less secure than the main house. The Appellants have given an undertaking that this outbuilding would not be used to accommodate children in the event of planning permission being granted.
26. For the above reasons the development proposal would respect the living conditions of the occupants of Redcliffe House and the neighbouring dwellings. Thus, it would accord with Policy ENV1(B4) of the East Riding Local Plan 2012-2029 Strategy Document 2016 (LP) which seeks to ensure that new development respects the living conditions of neighbours. It would also accord with Policy ENV6 of the LP which exempts the need for the preparation of a flood risk Sequential Test for changes of use.¹
27. Finally, it would accord with the advice set out in the National Planning Policy Framework at paragraphs 91, 127f) and 180 that new development should, respectively, not result in an increased fear of crime, should produce safe and inclusive communities and should mitigate any problems caused by noise.

Other Matters

28. The garden of the appeal property lies within Flood Zone 3 and the dwelling within Flood Zone 2. However, changes of use are exempt from the need for the preparation of a Flood Risk Sequential Test.
29. Several neighbours and Hessle Town Council submitted objections to the application. The contents of these objections have been considered in this Decision Letter.

¹ See paragraph 8.90 of the LP.

Conditions and Conclusion

30. In addition to the standard 3-year implementation condition, for the purposes of certainty a condition has also been attached requiring the scheme to be implemented in accordance with the approved plans. To protect the living conditions of neighbours and other local residents, a condition has been attached limiting the number of children that can be accommodated within the facility at any one time to 4 and prohibiting the use of the annex / outbuilding to the front of the dwelling as accommodation in connection with the operation of the children's home. For the avoidance of doubt, the number of children permitted to stay within the home excludes the Appellants' own children.

31. Accordingly, the appeal should be allowed.

William Walton

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The property shall be occupied on a residential basis by no more than 4 no. children referred to the Operator by appropriate outside authorities.
3. The converted annex / garage shall not be used as accommodation in connection with the Children's Home hereby permitted without the grant of a separate planning permission from the Local Planning Authority.
4. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan received 3 April 2020;

Block Plan received 3 April 2020;

Existing Elevations and Proposed Floor Plans and Sections received 3 April 2020;

Proposed Ground Floor Plan received 3 April 2020;

Proposed First Floor Plan received 3 April 2020; and

Proposed Second Floor Plan received 3 April 2020.

END