



Appeal Decision

Site Visit made on 16 February 2021

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2021

Appeal Ref: APP/J0540/W/20/3263346

85 Oxney Road, Peterborough, PE1 5NG

- 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 Mr Karim Lalani (The Beeches UK Ltd) against the decision of Peterborough City Council.
 - The application Ref 20/00527/FUL, dated 6 April 2020, was approved on 18 September 2020 and planning permission was granted subject to conditions.
 - The development permitted is Change of use from C3 (single dwelling) to C2 (residential care accommodation) for a maximum of 2 x persons in care.
 - The condition in dispute is No 2 which states that: The site/building as shown on drawing 151-02-DD01 Rev C (Location, Block and Floor Plan) shall be used for the provision of residential care (Class C2 - Residential Institutions) for a maximum of 2 children only and for no other purpose (including any other purpose within Class C2 of the Schedule to the Town & Country Planning (Use Classes) Order 1987) (or any provision equivalent to that class in any statutory instrument revoking and reenacting that Order with or without modification), notwithstanding the provisions of the Town & Country Planning (General Permitted) Development Order 1995 (or any statutory instrument revoking and re-enacting that Order), or used as a dwellinghouse (Class C3 Dwellinghouses).
 - The reason given for the condition is: In the interests of highway safety and to protect and safeguard the amenities of the adjoining occupiers, in accordance with Policies LP13, LP16 and LP17 of the Peterborough Local Plan (2019).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The reason for Condition 2 includes reference to protecting and safeguarding the amenities of the adjoining occupiers. However, the Council has not substantiated this part of the reason in its appeal statement. From the information before me and my own observations during my site visit, I find no reason to consider that the addition of one extra child at the property would have a harmful impact upon the amenities of the adjoining occupiers. In light of this, I will confine my consideration of this appeal to matters relating to highway safety only and against the relevant development plan policy in this respect.

Background and Main Issue

3. Planning permission has been granted for the use of the appeal property as a residential institution within use class C2. Condition 2 restricts the number of children who can receive care at the property to a maximum of 2. The appellant seeks to vary the wording of Condition 2 to allow for a maximum of 3 children.

4. The main issue is the effect that the varying of Condition 2 to allow a maximum of 3 children would have on highway safety.

Reasons

5. The maximum standards set out in Appendix C of the Peterborough Local Plan 2019 (LP) require one parking space per full time member of staff. The swept path submitted demonstrates that vehicles would not be able to leave in a forward gear if there were 3 vehicles present on the site, as for this to be achieved for the vehicle in bay 1 there would need to be no vehicle present in bay 2. In any event, the manoeuvring that would need to take place would be awkward to execute, to the extent that it is reasonably likely that the alternative option of reversing out of the site onto Oxney Road would be frequently preferred.
6. Oxney Road is a busy main road and the appeal site is located directly opposite the junction with Marriott Court, which is a residential cul-de-sac. The site entrance is also immediately adjacent to a bus stop. A vehicle leaving the site in a reverse gear would therefore be reversing onto a road that is not only busy, but on which there are other features that would make reversing more difficult and hazardous. In the interests of highway safety it is therefore necessary that vehicles are able to leave the site in a forward gear and, if this is to occur, only 2 vehicles can be accommodated on-site.
7. If the condition was varied as proposed, there would be three staff members at the site. Although there is public transport provision in close proximity to the appeal site and it is within an area in which there are other residential properties from which staff members could potentially walk, I have no information before me as to the likelihood that staff members would arrive by alternative means other than private vehicles. Furthermore, there would be periods of staff changeover when any vehicles of the staff already at the property and those of the replacement staff would be present at the same time.
8. Whilst parking is available on street, it is restricted in the areas closest to the appeal property by the presence of the bus stop, by highway restrictions and by the driveways of nearby properties. Any parking on Oxney Road itself would serve to impede the flow of traffic along it and given its busy nature it is not desirable to promote such parking. Marriott Court is a relatively narrow road and parking on it would too have an impact on the movement of traffic. Whilst there are opportunities in the wider area for on street parking, these are further away and therefore would be a less attractive proposition for staff members.
9. It is suggested that planning permission would not be required for the property to be used as a House in Multiple Occupation (HMO) or for an element of care to be provided to such households. These are not however the proposals before me and it is not suggested that either scenario is one which the appellant may pursue if this appeal is unsuccessful. Therefore, this consideration can carry only very limited weight. It is further suggested that the planning application was only made to provide certainty. However, whether planning permission is required is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply to have the matters determined under sections 191 or 192

of the Act. Any such application would be unaffected by my determination of this appeal.

10. I am also mindful that use as a residential dwelling would too bring a likelihood that private motor vehicles would be present at the property. The proposed use however operates in a different way to a domestic household, in that members of staff are present on the site and there is change over periods between individual staff members, making management of parking arrangements more difficult. Therefore, I am not persuaded that this is comparable to the proposal that is before me.
11. Accident data has been referred to in the submissions and by the highway authority. Whilst only one of these accidents occurred immediately adjacent to the appeal site, this does not justify permitting a proposal which would cause harm to highway safety. Examples of other cases that have been permitted by the Council have been provided but I do not have any specific details relating to these cases or their circumstances and, in any event, I must consider the proposal before me primarily on its own merits.
12. Taking all of these considerations together, the ratio of one on-site parking space per staff member is required in the interests of highway safety, given the characteristics of the surrounding highway network and the use of the property, including that there would be periods of staff changeover. I therefore conclude that the restriction of the use to a maximum of 2 children is reasonable and necessary to prevent an unacceptable impact on highway safety and is therefore required to ensure that the development accords with Policy LP13 of the LP and the National Planning Policy Framework (The Framework). Furthermore, the condition is also enforceable, relevant to planning, relevant to the development permitted and precise, meaning that it meets all of the tests set out in paragraph 55 of The Framework.

Other Matters

13. The National Planning Practice Guidance refers at Paragraph: 028 Reference ID: 21b-028-20150901 to children's best interests and there are also obligations under the Public Sector Equality Duty contained in the Equality Act 2010 (PSED). However, my decision will not change the current situation where 2 children are permitted to reside at the property, which is the basis on which the appellant is aware that the use can currently take place.
14. Furthermore, I have no substantive evidence before me to demonstrate how refusing to permit 3 children to reside specifically at the appeal property would serve to act against the best interests of children. For the same reasons and having due regard to the duty set out in the PSED, my decision would not have a negative impact on a protected group, given that the current use for 2 children could continue with the benefit of the planning permission that has already been granted.

Conclusion

15. For the reasons given above, I conclude that the appeal should be dismissed.

Graham Wraight

INSPECTOR