

Appeal Decision

Site Visit made on 15 June 2021

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 July 2021

Appeal Ref: APP/J2373/W/20/3261988

7 Alwood Avenue, Blackpool FY3 8NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 for the use of premises as a children's home for up to 4 children (between the ages of 6-18) for which a previous planning permission was granted for a limited period.
 - The appeal is made by Mr Peter Watson of Cherish Children's Care Ltd against the decision of Blackpool Borough Council.
 - The application Ref 20/0425, dated 23 July 2020 was refused by notice dated 5 October 2020.
 - The application sought planning permission for the removal of condition 1 (temporary permission) attached to planning permission 20/0096 to operate no later than 1 year from the date of permission granted planning permission for a limited period Ref 20/0096, dated 28 May 2020.
 - The permission is subject to a condition requiring the cessation of the use on or before 28 May 2021.
 - The reason given for the condition is: *The proposal would result in an undue concentration of such uses in the local area but meets an urgent need during the exceptional circumstances arising from the covid19 crisis. A temporary permission is therefore appropriate to meet this need but in order for the Local Planning Authority to retain long-term control over the use of the site and because the use proposed would not be approved on a permanent basis in accordance with Policy BH24 of the Blackpool Local Plan Part 1: Core Strategy 2012-2027 and Blackpool Local Plan 2001-2016.*
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Decision

1. I allow this appeal and grant planning permission for the use of premises as a childrens home for up to 4 children (between the ages of 6-18) at 7 Alwood Avenue, Blackpool FY3 8NG effective from 28 May 2021 in accordance with application Ref 20/0425 is dated 23 July 2020 subject to the following conditions:
 - 1) The use hereby permitted shall be for a limited period being the period of 2 years from 28 May 2021.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Proposed Layout Plan.
 - 3) The use hereby permitted shall at all times operate in accordance with the Management Plan received by the Council on 27 February 2020 which includes the following provisions:
 - Therapy to be provided by in-house staff;
 - No education in lieu of mainstream schooling to be provided on-site;
 - Shift changeovers to be staggered to ensure that off-street parking provision is not exceeded;

- Neighbouring properties to be advised of management contact details in case of complaints; and
 - Children to abide by Household Rules to be made available in writing upon request.
- 4) The property shall only be occupied on a residential basis by no more than 4no. children aged 6-18yrs either:
- placed by Blackpool Council;
 - placed by another Authority with the prior written agreement of Blackpool Council.

Preliminary Matters

2. A temporary one-year planning permission was granted by the Council on the basis that there was an accepted need for children's home provision in the area emphasised by the pandemic. The Council came to a view that the urgent need for this type of accommodation outweighed the concentration of children home provision in the local area for a time limited period. This temporary planning permission expired on 28 May 2021 which is after the date on which the Council refused the application to vary the disputed condition.

Main Issue

3. The main issue is the effect of the continued use of the appeal property as a children's home having regard to the character of the area, living conditions of neighbouring residents and the provision of children's homes.

Reasons

4. Saved Policy BH24 of the Blackpool Local Plan 2001/2016 (Local Plan) sets out that development of residential institutions, community care residential developments and other similar uses will be permitted in appropriate premises and locations subject to a number of criteria. The policy also explains that to protect the character and amenities of residential areas and to avoid any undue concentration no community residential uses meeting specialist needs will be permitted within 400 metres of existing properties meeting similar needs. A similar approach is proposed in the emerging plan, but I attach little weight to this given its stage of preparation and as I do not know whether there are any unresolved objections to it. This does not, however, change the development plan status of the Local Plan.
5. The general location of the property, outside of the defined Inner Area and in a settled residential area is suitable for use as a children's home. The property is also of a suitable size and format to accommodate up to 4 children. While residents are concerned about the proposed uses effect on the amenity of the local area, and the incident reported, planning conditions could be used to prevent unacceptable impact. It would also be for the Council to ensure children are suitably placed with their best interests in mind. Regardless, the proposal breaches saved Local Plan Policy BH24 as there is already a property in a similar use within 400 metres of the appeal site. The proposal would therefore result in an over concentration of this type of housing which would be detrimental to the character of the area when judged against this policy even if they are regulated by OFSTED and provide for children of Blackpool.
6. Existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the of the National Planning

Policy Framework (the Framework). In my view, saved Policy BH24 is broadly consistent with Framework paragraphs 61, 91 and 92 given what it seeks to support and deliver. This is the provision of residential institutions, community care residential developments and other similar uses considering local need, the suitability of the premises and location, the character of the area and living conditions of residents. Whilst the wording differs, the objectives of the policy and Framework broadly align.

7. Applying a buffer around certain uses and preventing the addition of further uses within that buffer will, at some point, limit how many similar uses can 'fit' within a particular spatial area. The Council's map generally shows greater provision of children's homes in the south of the Borough. While the appellant makes a point about the potential effect of planning permissions being granted in the north of the Borough, there is no reason why, looking at the 400 metre rule in isolation, the Borough's accepted need for this type of housing could not be met or aided by provision outside of the Inner Area in the North or in areas unaffected by the 400 metre buffer even if the scope for this is more limited in the south. At present, the 400 metre rule does not seem to be preventing the Council from meeting its duty to place children within the local area.
8. I am mindful that uses of the nature applied for should be located within stable and secure neighbourhood environments. This, alongside other factors such as the geography of Blackpool, existing provision of homes across the Borough, compatible land uses and potential deprivation, could, notwithstanding the 400 metre rule, mean that Council's policy approach is inflexible and would not address the accepted need for this type of housing. However, there is no substantive assessment to show how these factors and any others could collectively affect the provision of such uses across the Borough. Without this I cannot agree with the appellant that saved Local Plan Policy BH24 is out of date or inconsistent with the Framework given other areas could potentially accommodate this use in Blackpool without contravening the 400 metre buffer.
9. While the appeal property may not have been used extensively over the temporary period granted by the Council, the evidence before me points to a clear and demonstrable need for this type of housing provision in Blackpool as it has the highest number of looked after children per 10,000 people in the country. Added to this, not every existing provider in Blackpool works with the Council to offer places to children. The upshot is that around 75% of children are placed in homes outside of Blackpool. This is recognised by the Council who outlines that it has a multi-pronged strategy to address the need for childcare. Time will tell whether this strategy brings about the change being sought whilst meeting the need for childcare provision as it will take time to achieve so that children's welfare and upbringing is not compromised.
10. There are no details before me of how quickly the Council anticipates seeing results of their efforts, and I am mindful of the complex challenges that face the care system and of the present day accepted need. Furthermore, the pandemic is still ongoing and its effects fluctuate, even if the general picture has shifted compared to when the Council granted planning permission in 2020. It is also unclear at this stage whether the pandemic will have any greater bearing on the need for childcare provision in the Borough.
11. Therefore, the continued use of the appeal property would help meet this need albeit modestly even if it wouldn't necessarily bring children with a Blackpool connection currently placed elsewhere back to Blackpool or addressing the

need of children with the most complex and challenging requirements and behaviours. Any future placement at the site would be made by, and in conjunction with, the Council.

12. Balanced against this is the conflict that the proposal would have with saved Local Plan Policy BH24 due to the concentration of uses within a relatively small area, which affects the balance of dwelling houses and children homes in the local community. This leads me to consider that the proposal could harm the character of the area. Hence, a permanent planning permission for the use would not be appropriate. However, I conclude that this conflict would be outweighed to the extent that it would be appropriate to grant a further temporary planning permission. The reasons for this are due to the uncertain effects of the pandemic, the need for this type of accommodation, the time that the Council's strategy could take to come to fruition, and for the appellant to secure appropriate alternative premise.
13. No specific period of time has been suggested by either party, but it seems reasonable and proportionate to me to grant a 2 year permission to allow for progress on all these matters whilst providing stability for the appellant and children. I note the appellant's point about being unable to secure full registration with OFSTED without a permanent planning permission, but the Council's Advice Note states that OFSTED requires an operator to demonstrate that planning permission is either granted or not required before it will register a property. While a temporary planning permission may not be what the appellant has sought through this appeal, it is a planning permission.

Other Matter

14. While personal details of a previous occupier such details should be handled with care and sensitivity, any issues relating to this lie outside of the scope of this appeal.

Conditions

15. A condition limiting the length of the planning permission is necessary for the reasons set out above and in the interests of certainty. The start of this period is backdated from the date on which the temporary planning permission previously granted expired. An approved plans condition is necessary also in the interests of certainty. To ensure residents living conditions are not adversely affected a condition to secure the Management Plan is necessary as is a condition limiting how the use can operate and at what scale. The latter is also necessary to ensure the scheme helps meet the identified need.

Conclusion

16. For these reasons, the proposal conflicts with the development plan as a whole but the material consideration relating to need indicates that I should take a different decision other than in accordance with this. While my decision does not follow that of the Council, I have considered the appeal on its planning merits alone which has required careful consideration and balancing of the effects of the proposal against the need for this type of accommodation.
17. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission subject to conditions. The permission will take effect from the date when the previous permission expired.

Andrew McGlone

INSPECTOR