



Appeal Decision

Site Visit made on 26 October 2021

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2021

Appeal Ref: APP/N2739/W/21/3278325

Land to rear of bowling alley, Bawtry Road, Selby

- 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 Mrs Tracy Romaine of Sleepsafe against the decision of Selby District Council.
 - The application Ref 2020/1323/COU, dated 1 December 2020, was approved on 18 June 2021 and planning permission was granted subject to conditions.
 - The development permitted is the change of use of land for homeless accommodation/facilities (to make temporary consent 2019/1107/COU permanent) (Part retrospective - septic tank).
 - The conditions in dispute are Nos 1, 3 and 4 which state that:
 - (1) - The development hereby permitted is granted for a temporary period only and the permission will expire two year from the date of this permission by which time the use shall have ceased. The infrastructure brought onto the site in connection with the development shall be removed within two months of the expiration of this permission. The land shall thereafter be returned to its previous state prior to the first siting of the containers;
 - (3) - No individual shall be resident on the site for more than 56 days; and
 - (4) - The development hereby approved shall only be occupied by those defined as homeless as defined in the Housing Act 1996 (primary legislation) and the Homelessness Act 2002 or any equivalent legislation following the revocation and re-enactment thereof (with or without modification).
 - The reason given for the conditions are:
 - (1) - To avoid a significant adverse impact upon the local community, wellbeing of future residents, and the functioning of statutory consultees; and
 - (3) and (4) - in the interests of future occupants' health and wellbeing given the nature of the development.
-

Decision

1. The appeal is dismissed.

Background and Main Issues

2. Planning permission was granted in March 2020¹ for the temporary accommodation of homeless persons within converted shipping containers, consisting of a bedroom block, a living space block and other buildings for toilets/shower and storage. This permission was granted for 12 months to demonstrate whether the scheme is capable of functioning without causing a significant adverse impact upon the local community, wellbeing of future residents, and the functioning of statutory consultees.

¹ Permission reference 2019/1107/COU

3. In December 2020, the appellant, a charity, applied for permission to make the use permanent. Permission was granted for a further two years². This permission includes conditions limiting the length of time that residents can stay at the facility and restricting occupation to those that meet the statutory definition of homeless.
4. The appellant states that the conditions limit the ability to deliver the charity's services at the facility. The appellant is therefore seeking to vary conditions 1, 3 and 4 to extend the time period for the permission, give more flexibility on the length of time that residents can stay, and to take account of the time it can take for a person to be defined as homeless.
5. The main issues are therefore as follows:
 - whether the disputed conditions 3 and 4 are reasonable and necessary to protect the health and wellbeing of future occupiers; and
 - whether the temporary time period is reasonable and necessary given the nature of the accommodation.

Reasons

Health and Wellbeing of Future Occupiers

6. Condition 3 limits the time that a person can reside in the accommodation at the appeal site to no more than 56 days. From the information submitted, this is considered necessary due to the size and nature of the accommodation which the Council considers inappropriate to be used as long term residential accommodation. As there are occasions where a person will take more than 56 days to find more permanent accommodation, the appellant is seeking to amend the condition so that it is based on an average time period.
7. Although the size of the sleeping accommodation is small, it is clear that the appellant has sought to make it as comfortable, safe and welcoming as possible. This is also apparent for the shared living space which comprises a living area and kitchen as well as a laundry area and toilets/shower. However, given the size of the accommodation and the lack of outdoor amenity space, it would not provide an appropriate standard of accommodation for occupation on a long term basis. It appears that this was not the intention of the accommodation, with the application form stating that the facility is to provide temporary accommodation and the appellant's supporting statement setting out that the aim is to help people in the short term.
8. Given that the accommodation would not provide suitable living conditions for its occupiers on a long term basis, it is important that a limit is placed on the length of time that residents can stay at the facility to ensure that it is used only for short term needs.
9. I appreciate that it can take longer than 56 days to find a longer term accommodation solution for some residents. However, basing the time limit on an average length of time rather than an actual figure would allow for residents to potentially stay at the facility for a considerable period of time, which, for the reasons given above, would not be appropriate. Furthermore, this approach would make for an imprecise and unenforceable condition and so it would not

² Permission reference 2020/1323/COU

satisfy the tests for conditions set out in the National Planning Policy Framework 2021 (the Framework).

10. Condition 4 restricts occupancy of the accommodation to those defined as homeless in the relevant Acts. It can take some time to make a decision on a person's homeless application and therefore whether they qualify as homeless under the statutory requirements. This may in turn be affected by the time limit imposed by condition 3. Nevertheless, the purpose of the facility is to provide accommodation for those suffering from homelessness, which is reflected in the description of the development granted permission. As such, a condition is necessary to ensure that the facility is utilised for that permitted use. The condition does not require compliance with other regulatory regimes but makes use of the definition of homelessness in relevant legislation to provide a mechanism for achieving this.
11. The appellant disagrees with the Council's view that the charity is unwilling to comply with the disputed conditions. I note the information submitted to illustrate the situations where this has occurred, and the examples provided to demonstrate how the disputed conditions can affect the operation of the facility and the charity's aims. I have sympathy with the difficult position the charity finds itself in with regard to potential health and safety issues. However, as set out above, planning conditions must be precise and enforceable, and given the nature of the facility the disputed conditions are necessary.
12. In conclusion, the disputed conditions 3 and 4 are reasonable and necessary to protect the health and wellbeing of future occupiers. The variation of the disputed conditions 3 and 4 would therefore be contrary to the general aims of Policy ENV1 of the Selby District Local Plan, adopted 2005, which seeks to ensure good living conditions and standards of amenity amongst other matters.

Temporary Time Period

13. The Council did not grant permission on a permanent basis for the facility. This was based on continuing reservations about the facility's day to day operation in supporting people with potentially complex needs and avoiding significant impacts upon the wider public, including crime and the fear of crime, in addition to concerns about the long term use of the facility as residential accommodation.
14. The appellant has requested that the two year temporary period is extended to five years. This would allow the solar panels, for which funding has been secured, to pay for themselves. It is also of note that the appellant considers the charity has demonstrated its success with the facility and that there is support for the charity's work from Probation Services and the Selby District Neighbourhood Policing Team amongst others. The supporting comments identify the positive impact that the facility provides in offering temporary accommodation for people in need, in terms of both physical and mental wellbeing, and the living arrangements provided.
15. The Neighbourhood Policing Team highlights the processes in place for selecting residents, the good relationship it has with the charity, the small number of police incidents and the lack of noticeable increase in anti-social behaviour or increase in crime. The support the facility provides to Probation Services in helping to prevent further offending is identified.

16. It is clear that considerable effort has gone into the facility, including its management and organisation, making links with the wider community and other associated charities. It provides a clear benefit in providing a short term safe environment for residents. However, the accommodation is of a temporary nature and the temporary permission does allow the Council the opportunity to reconsider its ongoing appropriateness.
17. I note the implications that the temporary time period has for the charity. However, I am not convinced that the facility is of a quality suitable to provide long term accommodation, albeit on a temporary basis for individual residents. As such a five year permission would not be justified. Furthermore, it is open for the appellant to make a further application to extend the two year period should it be necessary.
18. I therefore conclude that the temporary time period is both reasonable and necessary given the nature of the accommodation. The variation of the disputed condition 1 would therefore be contrary to paragraph 92 of the Framework which states that, amongst other matters, decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

Conclusion

19. For the reasons given above, I conclude that the appeal should be dismissed and that conditions 1, 3 and 4 should be retained in their present form.

F Wilkinson

INSPECTOR