



Appeal Decision

Site visit made on 27 September 2022

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st November 2022

Appeal Ref: APP/D0650/W/22/3300096

Cartref House Nursing Home, 61 Derby Lane, Widnes WA8 9LG

- 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 Crosshill Property Partners against the decision of Halton Borough Council.
 - The application Ref 21/00408/FUL, dated 17 June 2021, was refused by notice dated 18 February 2022.
 - The development proposed is described as 'full planning permission to change use from Care Home (C2) to 3 no. self contained HMO's (sui generis) with associated infill extension, lay out of car park and landscaping'.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from Care Home (C2) to 3 no. self contained Houses in Multiple Occupation (sui generis) with associated infill extension, lay out of car park and landscaping at Cartref Nursing Home, 61 Derby Lane, Widnes WA8 9LG in accordance with the terms of the application, Ref 21/00408/FUL, dated 17 June 2021, subject to the conditions identified in the attached Schedule.

Applications for costs

2. An application for costs was made by the appellant against Halton Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. Since issuing its decision on the appeal proposal, the Council has adopted the Delivery and Allocations Local Plan 2022 (LP) replacing the Halton Unitary Development Plan 2005 (UDP). As a result, the UDP policy cited in the decision notice has been superseded and no longer forms part of the development plan. The Council has confirmed that the relevant policy for consideration in this appeal is now LP Policy GR1. The appellant has had the opportunity to comment on the implications of this for the appeal. I have, therefore, assessed the proposal against this policy.
4. I have amended the description of development in the decision above from that set out in the last bullet point of the heading, which has been taken from the planning application form. The amended description leaves out wording that is unnecessary to describe the development and makes reference to HMO in full for the avoidance of doubt.

Main Issue

5. The main issues are:

- Whether the proposal makes adequate provision for off-road parking and the effect of any lack of provision on highway safety; and
- The effect of the development on the living conditions of neighbouring occupiers, with particular regard to overlooking and noise.

Reasons

Adequacy of parking provision

6. The Council consider that there is a lack of off-street parking provision for the proposed development that would impact negatively on highway safety and congestion, citing conflict with LP Policy GR1. LP Policy GR1, however, makes no reference to parking provision or highway safety in setting out requirements to ensure that development is of an appropriate high quality design. Nonetheless, the Council have assessed the proposal against adopted parking standards. The Council consider that for the proposed Houses in Multiple Occupation (HMO) the adopted parking standards recommends a parking ratio of 0.5 spaces per bedroom which equates to 14.5 spaces for the proposed development.
7. Considering the parking standards provided, to have calculated a requirement of 14.5 parking spaces the Council appear to have treated each proposed bedroom as a 1 Bed Apartment in a Town Centre location, and view this to be a smaller apartment scheme. I have no reason to disagree with that interpretation. The proposed 13 parking spaces is therefore below the number that the adopted standards recommend.
8. The site is in an accessible location with several local amenities within easy walking distance. In addition, the site offers good access to bus and train services. I also note that the proposal includes secured, weatherproof storage for 20 bicycles. This suggests that the occupants of the proposed HMOs would not necessarily be reliant upon the private car, having access to alternative modes of transport. Furthermore, it does not suggest that the proposal would lead to an unacceptable increase in traffic.
9. Given such factors, the limited shortfall in on-site parking below the adopted recommended standards would not be significant. I therefore find that the proposed 13 off-road parking spaces are sufficient to meet the needs of the proposal.
10. On my site visit I noted that there are parking restrictions on Derby Road in the vicinity of the site. I saw that the nearby roads were busy and that there appeared to be some on-street parking pressure close-by. Nevertheless, whilst I acknowledge such a visit is a snapshot in time, I also saw there was some on street parking capacity on some residential streets off Derby Road in the vicinity of the appeal site.
11. I note that representations, including those from the Police's Designing Out Crime Officer (DOCO), have referred to historic issues of vehicle congestion in the area which could cause potential danger and inconvenience to local residents. However, no compelling case has been given that indicates that any

insufficiency of on-site parking would lead to occupants of the appeal proposal choosing or being forced to park in a manner that is either antisocial or that leads to highway safety concerns. Therefore, even if the development were to result in more people parking on nearby streets, I am unconvinced that the situation would be detrimental to highway safety or result in antisocial parking. Moreover, I note the comments of the DOCO that local police officers are regularly on duty in the area and that enforcement notices are issued where appropriate. Such police activity would act as a deterrent to inappropriate on street parking.

12. Consequently, the proposed development would make adequate provision for off-road parking and so would not harm highway safety. It would not conflict with LP Policy GR1 which seeks to achieve high quality. It would accord with the guidance set out in the Design of New Residential Development Supplementary Planning Document 2009 (SPD) in so far as it requires development to consider the wider highway network of the area. In addition, it would also accord with the National Planning Policy Framework (the Framework) which has similar aims.

Living conditions

13. The proposed side extension would have kitchen windows at the ground and first floor. Given the proximity to the shared boundary with No 59 there is the potential for overlooking of the rear garden of that property, which would lead to an unacceptable loss of privacy for the occupants. However, the proposed fence on top of the existing wall to create a 2 metres high boundary feature would prevent any direct overlooking from the ground floor kitchen windows. In addition, a requirement that the first-floor kitchen windows are obscured glazed and fixed to a height of 1.7 metres would also prevent unacceptable overlooking from the first floor. Such matters could be secured by condition.
14. The door in the side elevation of the appeal property provides a secondary entrance to the proposed ground floor 8-bedroom HMO and the only entrance to the proposed first floor 9-bedroom HMO. As the door is towards the rear of the appeal property the occupants using it will walk along the entire side boundary of the rear garden of No 59. Nonetheless, the appeal site is in a densely developed mixed use area on a busy road on the edge of the centre of Farnworth. In the absence of any evidence to the contrary, given such background noise levels and the noise mitigation given by the fence, I am not persuaded that the level of noise and disturbance arising from the proposal would be at an intensity that would materially reduce the living conditions of occupiers of No 59 or other neighbouring properties.
15. Concern has been expressed about refuse storage and its impact on living conditions. However, I have no evidence before me that residential accommodation would have a greater impact on living conditions than a care home.
16. I therefore conclude that the proposed development would not unreasonably harm the living conditions of the occupiers of 59 Derby Road. It would therefore not conflict with LP Policy GR1 which seeks to achieve high quality design which, amongst other things, has an appropriate relationship to neighbouring properties. In addition, it would not be contrary to the SPD

guidance or the Framework in so far as they seek to safeguard residential amenity.

Other Matters

17. There is no evidence to demonstrate that there is a lack of need for HMOs, that there are too many in the area, or that the introduction of such a use would be harmful to the historic village of Farnworth. The Council has not drawn my attention to any adopted policy that seeks to restrict the number of HMOs in this area. In addition, there is no specific evidence that demonstrates that an increase in the number of HMO's will result in an increase in criminal or antisocial behaviour. Further, the DOCO did not raise such concerns when commenting on the proposal.
18. I note the concerns regarding the size of the property and the adequacy of bathroom provision and other accommodation, but the Council has raised no specific objections to the proposal on this basis. Internal space standards can only be applied if there is a relevant plan policy and I have seen no evidence to suggest that there is such a policy. Furthermore, the property would need to be licensed by the Council's Environmental Health Team under separate legislation with respect to maintaining minimum standards of accommodation, facilities provision and fire safety and the grant of planning permission does not alter this requirement.
19. For the reasons set out above, I consider that the scheme is acceptable, and I can see no reason why it would set a precedent leading to harmful developments on other sites. Moreover, each case should be assessed on its own merits.
20. I have had regard to the concerns raised about the potential for the appellant to flout planning laws and policy, however no evidence has been provided in that regard. Even if evidence had been provided, breaches of planning control on other sites are a matter for the Council to address and do not relate to the merits of this scheme.
21. I note the comments of residents in relation to local health provision and difficulties with drainage. However, I have no evidence before me that the replacement of a care home with residential accommodation would lead to greater difficulties in securing a doctor's appointment or an increase in drainage issues.
22. The potential for the applicant to make a profit from the development and property devaluation are not material considerations to which I can attach significant weight in making my decision.
23. Overall, I find no harm in regard to the matters I have referred to in this section and such matters don't provide reason to withhold planning permission

Conditions

24. The Council has suggested a number of conditions which I have considered against the Framework and Planning Practice Guidance. As a result, I made some amendments for clarity and consistency.
25. In addition to the standard time limit condition limiting the lifespan of the planning permission I have also, in the interests of certainty, attached

conditions specifying that the development is carried out in accordance with approved plans.

26. I have considered it necessary to attach conditions relating to the materials to be employed in construction of the extension and boundary treatments to ensure the satisfactory appearance of the proposed development. For the same reason, I have also included a condition requiring the protection of retained trees which, in my view, should be a pre-commencement condition in order to provide protection over the full course of construction.
27. As set out above, conditions are necessary requiring approval and implementation of the close boarded fence adjoining 59 Derby Road, and fixed and obscure glazing to the first floor kitchen windows in the extension to safeguard the living conditions of neighbouring residents. I don't consider it necessary to require that the ground floor kitchen windows in the extension are also obscure glazed as the requirement to provide the close boarded fence will address issues of overlooking from such windows.
28. A condition restricting hours of construction is also required to safeguard the living conditions of neighbouring residents.
29. In the interests of highway safety, I have attached a condition concerning the provision of the access and parking area. Furthermore, a condition to require bicycle storage is required in order to provide adequate facilities and reduce reliance on private car transport.

Conclusion

30. For the reasons given above I conclude that the appeal should be allowed.

Elaine Moulton

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: A001, A006, A007, A008, A009, A010 Amendment C, and A011.
- 3) Prior to the commencement of any development, a tree constraints/protection plan including details of tree protection measures during construction shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) The external surfaces of the development hereby permitted shall be constructed in materials that match, or closely harmonise with, the existing building.
- 5) There shall be no construction work audible at the site boundary, or deliveries within the application site, outside of the following hours:

- 07:30 – 19:00 Monday to Friday
 - 07:30 – 13:00 Saturday
 - There shall be no construction work or deliveries within the application site on Sundays or Bank Holidays.
- 6) The extension hereby permitted shall not be occupied until the windows serving the kitchen area at first floor have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 7) Prior to first occupation of the premises a close boarded fence shall be affixed to the top of the existing wall, in the position identified in blue on drawing no. A010 Amendment C, to a total height of 2 metres above ground level in accordance with details that shall have first been submitted to and agreed in writing by the local planning authority. The fence shall be retained for the lifetime of the development.
- 8) Prior to the erection of any fence, gate, wall or other means of enclosure (boundary treatment), additional to that specified in condition 7, a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) Prior to first occupation of the premises cycle parking facilities shall have been provided in accordance with the approved details and shall thereafter be retained for the parking of bicycles for the lifetime of the development.
- 10) Prior to first occupation of the premises, the vehicle access and parking areas shall be laid out and surfaced in accordance with the approved plans, and shall be retained at all times thereafter for those purposes and for use exclusively in connection with the approved development.