



Appeal Decision

Site visit made on 5 December 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2024

Appeal Ref: APP/Y2003/W/23/3315947

**Foresters Hall, High Street, Barrow-Upon-Humber, North Lincolnshire
DN19 7AA**

- 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 R Keyworth against the decision of North Lincolnshire Council.
 - The application Ref PA/2022/858, dated 5 May 2022, was refused by notice dated 2 December 2022.
 - The development proposed is change of use from four dwellings to a children's care home.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in my banner heading above is taken from the application form, excluding words that are not acts of development. Following clarification by the appellant, I am satisfied that the property name is as it appears above, rather than as indicated on the application form.
3. The National Planning Policy Framework (the Framework) was revised in December 2023. In the interests of natural justice and to ensure neither of the main parties were prejudiced by this matter, I consulted both parties on the revised Framework, and this has informed my determination of the appeal.
4. The Council does not rely on the policies of the emerging North Lincolnshire Local Plan 2022 (ELP) in its reason for refusal, but it has submitted policies of the ELP to the appeal. The ELP has reached submission stage, and there is no evidence before me as to whether there are any unresolved objections to it. Consequently, policies of the ELP attract little weight in my determination of the appeal.
5. The Council's statement of case raises further concerns beyond those in the reason for refusal, with reference to additional development plan policies, and the appellant has had the opportunity to comment further on these matters. In light of these matters, it is reasonable that the appeal includes an assessment of these further concerns. The Council's Interim Planning Policy for Residential Care Homes / Institutions 2014 (IPP) is included in the reason for refusal. The IPP does not form part of the development plan but is a material consideration.
6. As the proposal is within the Barrow-Upon-Humber Conservation Area (CA), I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

7. I have had regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which includes the need to eliminate unlawful discrimination and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. In this case, the intended occupiers would, in part, share the protected characteristics of age and disability.

Main Issues

8. Having regard to all of the evidence before me, the main issues are:
- whether the site is a suitable location for the proposed use;
 - whether the proposal would provide acceptable private amenity space, cycle parking, bin storage and arrangements for the collection of waste;
 - the effect of the proposal upon the character of the area, and the living conditions of neighbouring occupiers, with particular regard to levels of noise and disturbance; and
 - the effect of the of the proposed parking arrangements upon highway safety.

Reasons

9. It is necessary for me to set out some details regarding the nature of the appeal site and the proposal, as these matters affect my consideration of the main issues.
10. The appeal building comprises four dwellings with 2/3 bedrooms such that they serve as family sized dwellings. They form a terrace perpendicular to the street, with one flank facing a public park (Midby Park). Three of the existing dwellings are accessed via the entrance to the park, while the remaining unit is accessed from the street. There is no off-street parking provision to serve the existing dwellings.
11. There are no proposed internal or external alterations to the building. The existing rear enclosure would serve as a play area, with an adjacent area proposed for enclosure by tall fencing with secure gate to form an area for the storage of bins and cycles, with a further gate to the proposed play area.
12. The details accompanying the application set out that the proposal would provide full time residential accommodation for 8 children aged 8-16 with mental and physical needs. There would also be two day-spaces for respite. Therefore, the children would reside in separate dwellings with staff in attendance on a shift pattern. Having regard to the nature of the proposal, the level of occupancy would be similar to that of the existing use.

Location

13. Taken together, Policies CS1, CS2 and CS5 of the North Lincolnshire Core Strategy 2011 (CS) seek to manage development in accordance with a spatial strategy and settlement hierarchy to ensure that development is directed to the most sustainable locations.
14. Saved Policy H16 of the North Lincolnshire Local Plan 2003 (LP) seeks to restrict the development of both new and converted properties for residential, nursing and rest homes and similar establishments to certain settlements which occupy a higher position in the settlement hierarchy than the rural

settlement of Barrow-upon-Humber, where the appeal site is located. The Council's IPP refers to policies of the CS and LP (including Saved Policy H16) and sets out a less restrictive approach which, among other things, requires that such establishments are sustainably located.

15. The Framework seeks to create sustainable, inclusive and mixed communities and to ensure that the housing needs of different groups are met. It recognises that in rural areas, planning policies and decisions should be responsive to local circumstances and support housing development that reflects local needs. In addition, the Framework seeks to support a prosperous rural economy, by enabling the sustainable growth and expansion of all types of businesses in rural areas and recognises that opportunities for travel by sustainable means will be more limited in rural than urban areas. Consequently, the policy approach I have set out above does not fully conform to the Framework.
16. As a rural settlement in the development plan, smaller scale development to meet identified local needs is acceptable. There is no compelling evidence to demonstrate that the proposed care home is not necessary to meet any identified need either within North Lincolnshire or beyond it. In this regard, I note that the proposal is supported by neighbouring North East Lincolnshire Council.
17. The settlement includes a range of local facilities including convenience store, butcher, pharmacy, hot food takeaways, village hall and places of worship. While the settlement is not well served by schools according to the Council, this is commensurate with its position in the settlement hierarchy. Residents of the care home are therefore likely to require access to other services and facilities in nearby towns.
18. The area scores high on transport and access to employment in the Council's Settlement Survey 2019 (SS). The evidence before me (some of which is supported by my own observations) is that the site is within reasonable walking distance of a bus stop, with services to other settlements that offer a wider range of services and facilities. There is little evidence to demonstrate likely travel to work patterns for staff. Nevertheless, such movements would not be significantly different to those that might arise from the existing use in travelling to and from places of work.
19. Overall, the proposal would be similar to the existing situation whereby families with children would have the same need to travel, even at some distance.
20. The existing access to each dwelling would not significantly impair access by those with disabilities or limitations to mobility. Furthermore, the care provider would be required by other regulatory frameworks to ensure safe and suitable access for users.
21. Although the proposal conflicts with Saved Policy H16 of the LP, material considerations including the IPP, SS, the existing use and my own observations indicate that the proposed use would be in an accessible location, and it would accord with the provisions of the Framework. For these reasons, it would not conflict with Policies CS1, CS2 and CS5 of the CS.

Private amenity space, cycle parking, bin storage and collection of waste

22. There is no compelling evidence to demonstrate that the proposed play area would not be fit for purpose or use by children, staff or visitors. Given the

proximity to Midby Park, there would also be easy and convenient access to outdoor amenity. This would be similar to the existing situation. Consequently, I am satisfied that the proposal would provide acceptable private amenity space.

23. There is some confusion regarding the intended layout of the proposed area for bin storage and cycle parking, which differs between various plans, and a lack of clarity about proposed bin sizes and arrangements for collection.
24. The arrangement for the existing use is such that domestic sized bins are stored in the rear amenity space (now proposed as a play area) and are presented for kerbside collection via a kissing gate near the street, which also serves as an entrance to Midby Park.
25. Plan ref: *PL(A)150* details a proposed bike/bin store, with parking for five cycles, but does not indicate any bins. The proposed cycle parking would obstruct the access to the proposed play area, with little space remaining for bins. Moreover, any bins would obstruct the parking of cycles. Plan ref: *PL(A)010 Revision 2* details a proposed bike and bin store to include three commercially sized bins but does not indicate any cycle parking.
26. My attention is drawn to the Design and Access Statement first submitted with the application, which includes plan ref: *PL (A)150-Revision 3*. This plan details six domestic sized bins and parking for five cycles. I note that the three cycle parking spaces would be blocked by the other two spaces.
27. The use of domestic sized bins would be similar to the existing arrangements. However, commercial bins could not be presented to the kerbside via the kissing gate due to their size. Furthermore, commercial bins would be highly likely to obstruct or impede pedestrian access towards the kissing gate and along the footway. The wider gates adjacent to the kissing gate were padlocked at my visit, and there is no substantive evidence before me to demonstrate that these gates could be used to enable the movement of commercially sized bins.
28. Regardless of bin size, the proposed area would be required to accommodate sufficient bins, cycle parking spaces and space for their manoeuvring. In my judgement, an arrangement where cycles are parked such that they block other cycles or access to the play area would not be convenient. The opening of the gate and proximity to bins (whether domestic or commercial) would impede the parking and retrieval of cycles from any parking stand.
29. The proposal would provide care for children with disabilities and employ staff. Therefore, the nature of the proposed use is materially different to the existing situation, despite similar levels of occupancy.
30. Consequently, the ease of access to cycling and the ability to accommodate adaptive or larger cycles is important. The provisions of the Framework in terms of promoting sustainable transport and healthy and safe communities are highly relevant in this regard, not just for residents, but also for staff and any visitors.
31. Paragraph 108 of the Framework sets out that transport issues should be considered from the earliest stages of development proposals, so that opportunities to promote cycling are identified and pursued. Paragraph 114 is clear that in assessing applications, appropriate opportunities to promote

sustainable transport modes can be taken up, given the type of development and its location; and that safe and suitable access to the site can be achieved for all users.

32. Paragraph 116 sets out that applications should address the needs of people with disabilities and reduced mobility in relation to all modes of transport. Paragraph 96 is clear that planning decisions should enable and support healthy lifestyles, for example, by layouts that encourage cycling.
33. Having regard to all of the above, I am not satisfied that the plans before me (and upon which the Council considered the application) clearly demonstrate the intended layout of the proposed area for the storage of both bins and cycles. Furthermore, I am not satisfied that any of the proposed layouts for the storage of bins and cycles would be fit for purpose, nor that the proposal would be adequately serviced for the collection of waste.
34. Even though I have found the provision of private amenity space to be acceptable, I conclude that the proposal fails to demonstrate acceptable cycle parking, bin storage and arrangements for the collection of waste. It conflicts with Saved Policy H16 of the LP, and the IPP, which when taken together seek to ensure that residential care homes (including those arising from conversion) are well designed to meet the needs of all users; that layouts for access and servicing are satisfactory; and that adequate refuse facilities are provided.
35. I also find conflict with Policy CS25 of the CS, which seeks to improve and encourage cycling and requires that transport provision is integrated into the design of all development from the start of any development project; and with the fundamental objectives of the Framework as referenced above.

Character of the area and living conditions of neighbouring occupiers

36. While there are some commercial uses and community facilities within the settlement, the character of the area is predominantly residential. The Council's reason for refusal is predicated on the introduction of a commercial enterprise to the appeal site. However, in planning terms the use class of the proposed development would be a residential institution (Use Class C2), and therefore the residential character of the appeal site would be maintained.
37. One flank of the appeal building is very close to a tall boundary wall, behind which are two single storey sheds serving an adjacent agricultural/commercial business which includes the repair and servicing of farm machinery. Residential properties are along the opposite side of the road.
38. The children would reside in separate dwellings with staff in attendance on a shift pattern. As such there is no need for a staff bedroom, and the children would be supervised at all times. The proposed areas for play, bins and cycles would not be significantly different to the present situation. Therefore, the residential character of the appeal site would not be significantly changed.
39. The children would visit their families after school and at weekends, with bedrooms provided in the care home for overnight family stays. Up to five staff would be present at any time, with a skeleton staff during school hours. Social worker visits would occur every six weeks, with the children otherwise attending appointments at their offices. The children would visit other healthcare providers such as GPs and dentists as other children do.

40. Having regard to all of the above, it seems to me that the comings and goings of the care home would be similar to that of four families undertaking day to day activities including going to school and travelling for work or leisure. The existing use would not preclude visitors and overnight guests, nor outdoor activities such as play or sitting outside.
41. It is unlikely that staff and visitors would behave in such a way as to generate significant levels of noise and disturbance. There is no substantive evidence before me to demonstrate that any noise generated by vehicles used by staff and visitors would be any higher or more frequent than that generated by the existing use. There is no substantial evidence before me to demonstrate that the needs or behaviour of children with mental or physical disabilities would generate any more noise or disturbance than that of other children, nor that there would be anti-social behaviour.
42. Consequently, I find that the proposal would not fundamentally change the level of noise and disturbance that would arise from the existing use. In such circumstances, there would not be any cumulative increase in noise and disturbance in combination with that which may arise from adjacent uses.
43. I note that it is not clear from the proposed plans nor from the description of development that occupancy levels would be limited to no more than eight resident children. In my judgement, this matter could be controlled by a suitable condition to ensure that any increase in occupancy was under the control of the local planning authority.
44. I therefore conclude that subject to a condition to control the level of residency, the proposal would not harm the character of the area or the living conditions of neighbouring occupiers, with particular regard to levels of noise and disturbance. It accords with Saved Policies DS1, DS4, and H16 of the LP. When taken together, these policies seek to protect the character of an area and the amenities of neighbouring occupiers, including from the effects of noise.
45. The Council's reason for refusal refers to Saved Policy C4 of the LP. However, having regard to the policy wording and its explanatory text, this policy refers to children's day care provision and seeks to protect neighbouring amenities in circumstances where the use of an existing dwelling house for day care is intensified and therefore this policy is not directly relevant to the proposal.

Highway Safety

46. The proposal does not include any off-street parking provision. I note that many properties in the vicinity rely on street parking, and as such, parking may be at a premium at weekends and evenings when people are generally at home. Parking for staff and visitors is likely to be reasonably available during weekdays, as I found during my visit, which I recognise is only a snapshot. While occasional events at local community venues would present further parking demand from other visitors, this would be no different to the existing situation.
47. Having regard to the level of occupancy, staffing arrangements and potential overnight stays by family, car parking demand would not be significantly different to that arising from the existing use. There is no compelling evidence before me to demonstrate any parking stress.

48. The children's transport patterns would include travelling to school or visiting friends and family, and this would be similar to the existing situation where families could make similar trips by private car. Trips made by a minibus could also occur, but such a vehicle would not unreasonably disrupt traffic and any disruption would be temporary in nature. The local highway authority raises no objection to the proposal, and I find no reason to consider otherwise.
49. Paragraph 115 of the Framework makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
50. Saved Policy H16 of the LP requires adequate parking to be provided within the curtilage of the development. Saved Policy T19 also seeks provision for car parking under certain circumstances, including where it would meet operational needs of businesses, improve the environment or safety of streets, or meet the needs of people with disabilities. The purpose of these saved policies is to prevent detriment to the free and safe flow of vehicles using the public highway and to manage additional parking demand. Given my findings that the proposal would be similar to the existing use, I do not consider the proposal would undermine or conflict with these policy objectives.
51. I therefore conclude that the proposed parking arrangements would not have an unacceptable impact on highway safety. Although the proposal conflicts with Saved Policies H16 and T19 of the LP, material considerations including the Framework and the nature of the existing use indicate that parking arrangements are satisfactory. In such circumstances the proposal accords with the IPP.

Other Matters

52. The main parties have found that there would be no harmful effect to the character or appearance of the CA and I find no reason to consider otherwise.
53. The appellant suggests that the proposal would preserve previously developed land and buildings. However, the application form indicates the site is not vacant and there is no substantive evidence before me to demonstrate that the existing dwellings are unoccupied, nor that they are no longer fit for occupation.
54. There is no compelling evidence to demonstrate that the proposal would reduce opportunities for crime, nor that crime is presently a matter of concern within the vicinity.
55. A range of other matters have been raised by interested parties. However, as I am dismissing the appeal on a main issue, and consideration of these matters will not alter my decision, it is not necessary for me to address them directly.

Final Balance and Conclusion

56. I have found that the proposal would be acceptable in regard to three of the main issues. However, it fails to demonstrate acceptable cycle parking, bin storage and arrangements for the collection of waste. I therefore conclude that the proposed development conflicts with the development plan, read as a whole. I attach significant weight against the appeal to this conflict.

57. The proposed enclosure to the rear of the building is acceptable in its appearance. The absence of any alterations to the building by itself does not secure the preservation of a building. These matters, together with the absence of harm to the CA are neutral factors in my assessment, attracting no weight either for or against the proposal.
58. The proposal would provide employment opportunities in a rural settlement. The appellant suggests such opportunities would be 'local', but there is no mechanism before me to secure this. Nevertheless, such opportunities would benefit the wider area. As such, they attract limited weight for the proposal.
59. The appellant states that the proposal would support the protection and enhancement of local services in a rural settlement, but also somewhat conversely, that there would be a reduction in the need for services and facilities due to a smaller number of residents than the existing situation. In any event, the occupancy would be similar to the existing use, and therefore this matter attracts negligible weight in favour of the proposal.
60. The proposal would support the government's objectives for achieving inclusive communities and meeting the wider housing needs of particular groups. These matters each attract limited weight in favour of the proposal.
61. Drawing all of the above together, it is clear that the benefits of the proposal, either individually or cumulatively do not outweigh the significant harm I have identified.
62. I have also had regard to the Public Sector Equality Duty. The children would share the protected characteristics of age and disability. The proposal would allow children to be who require additional care to live in an acceptable location with reasonable access to services and facilities including those for health and education and for their individual care needs to be conveniently attended to.
63. The purpose of the proposal would therefore be a positive consideration, in terms of eliminating discrimination against persons with the protected characteristics of age and/or disability, advancing equality of opportunity for those persons, and fostering good relations between them and others.
64. While I am mindful of the benefits in favour of the proposal, I have found that the design and layout of the proposed development is such that it would not provide acceptable provision for refuse and cycling facilities. In such circumstances, there would be consequential effects, in part, on the ability of the care provider to store equipment and bins that would be deemed necessary for those occupying the care home.
65. Furthermore, it has not been demonstrated that the proposal is the only means of providing the care required, nor that it would represent the least harmful option.
66. I am therefore satisfied that the PSED considerations and personal circumstances do not outweigh the significant harm I have identified and that my decision to dismiss the appeal is a necessary and proportionate approach to the legitimate aim of ensuring good design in the layout of care facilities.
67. For the reasons given, I conclude that the development conflicts with the development plan, read as a whole. No material considerations have been

shown to carry sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal should be dismissed.

J Moore
INSPECTOR