
Appeal Decision

Site visit made on 2 February 2024

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 April 2024

Appeal Ref: APP/R2330/W/23/3329448

100 Thwaites Road, Oswaldtwistle, Lancashire, BB5 4QU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr E Smethurst of Trinity Care and Education Services Limited against the decision of Hyndburn Borough Council.
 - The application Ref is 11/22/0487.
 - The development is described as proposed change of Use Class from C3(a) to C2.
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Decision

1. The appeal is allowed and planning permission is granted for the proposed change of Use Class from C3(a) to C2 at 100 Thwaites Road, Oswaldtwistle, Lancashire BB5 4QU in accordance with the terms of the application, Ref 11/22/0487, subject to the following 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:
 - Drawing Nos: - 22-035-001; 22-035-100; and 22-035-300.
 - 3) The building shall be used as a Children's Care Home (which may include provision of accommodation for a resident mother and baby) and for no other purpose including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Preliminary Matters

2. Although the planning application form refers to the proposal as I have described above, the decision notice states change of use from dwelling Class C3(a)¹ to a Children's Care Home Class C2. This is consistent with the evidence submitted and therefore I have referred to it as such. The appeal documents also refer to the premises being used as a residential care home for a mother and baby or for two children. Although the proposal is not specifically this explicit in its description, from the evidence submitted, it

¹ C3 is sub-divided into (a), (b) and (c) – sub-division (a) is use as a dwellinghouse by a single person or a single household - (Town and Country Planning (Use Classes) Order 1987 (as amended)).

would appear that is what is intended. In the interests of clarity, I have included this in my assessment. I do not consider that any injustice to any relevant party would arise from my approach.

3. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023 and is a material consideration in this appeal. Having considered the revisions to the Framework, as well as the principles of natural justice, together with the nature of the determining issues in this appeal it is clear to me that there are no material changes in the revised Framework relevant to the substance of this appeal. Therefore, I do not consider it necessary, in this instance, to invite any submissions from the parties on the revised Framework.

Main Issue

4. The main issue is the effect of the proposed use on the living conditions of local residents in relation to vehicular activity and parking.

Reasons

5. The appeal site comprises a mid-terraced two-storey house and its gardens. There are a number of rows of similar terraced properties which share a parking area which terminates close to the rear of the appeal site and is accessed from a vehicular access to the south. This terrace fronts Thwaites Road on the other side of which is a public house and a convenience store together with their car parks.
6. As indicated above, from the information submitted, two children would be accommodated here plus carers. Alternatively, the property may also be used to accommodate a mother and baby also with carers. The main difference between the existing use of the premises therefore would be its occupation.
7. The property has no off-street parking provision although the area to the rear of the house offers some opportunities for parking other than on Thwaites Road. This area was well used at the time of my site visit. There are no parking restrictions on Thwaites Road but there is a lay-by that allows vehicles to park and which I observed was also well used with a considerable number of vehicles coming and going. Although the road is a fairly busy one, no substantive evidence has been submitted that on-street parking currently causes congestion or parking problems that is significantly harmful to the living conditions of occupiers of the surrounding properties. I accept however, that the lack of dedicated parking spaces may cause inconvenience to existing residents.
8. The level of care provided to support the occupiers of the property would be dependent on individual requirements at any given point in time. From the information submitted regarding the small number of children or just one mother and baby and the likely scale of care (up to three carers is referred to), there is no substantive evidence that staff and visitors would cause extra traffic, congestion or parking problems that would be noticeably greater than that of a family occupying this three bedroomed house.
9. The appellant has submitted a Travel and Parking Management Statement. However, this document has been submitted to support the planning

application regarding the likely vehicle use at the property. It sets out the company's expectation for car sharing and outlines a handover arrangement between shifts of carers. However, this is submitted as an indication as to possible arrangements only and therefore I afford it limited weight.

10. The number of occupants would be small and the comings and goings associated with the proposed use would not result in a substantial increase in parked vehicles or vehicle movement. For the reasons given above, the proposed use would have an acceptable effect on the living conditions of local residents in relation to vehicular activity and parking.
11. Consequently, the proposal would not conflict with Policy Env 7 of the Hyndburn Core Strategy². This states, amongst other things, that new development will be permitted only if it can be demonstrated that the material impacts arising by reason of traffic or other nuisance will not give rise to unacceptable adverse impact or loss of local amenity. Furthermore, the proposal would not conflict with Hyndburn Development Management DPD³ Policy DM29 which seeks to protect and where possible, improve the amenity of surrounding existing and future residents.
12. DPD Policy DM32 requires, amongst other things, development to meet local parking standards but adds that the Council may apply these standards flexibly where specific circumstances are justified. In this case, dedicated parking space is not available but this is no different to the existing house and the others in the terrace and I have explained why I do not consider that this lack of provision would be unduly harmful. I do not therefore find any conflict with this policy.

Other Matters

13. Lancashire County Council (LCC) does not support the proposal and indicates that it is very unlikely that Lancashire children would be offered a home here. This is based on whether the property would be Ofsted registered and the lack of engagement between the appellant and LCC. However, whilst LCC's comments are noted, the provision of care homes for children is subject to regulations outside that of planning controls and there is no substantive evidence that the matters raised should override the planning policies set out in the development plan and the Framework.

Conditions

14. The Council has suggested conditions which I have considered in light of Planning Policy Guidance (PPG) and the Framework. In addition to the standard time limit condition a condition requiring the development to be carried out in accordance with the approved plans is necessary for the avoidance of doubt and in the interests of proper planning.
15. A condition restricting the use to a children's care home, including a mother and baby, and no other use within Use Class C2 of the Use Classes Order⁴. is reasonable and necessary. This is because other uses within this use class

² Hyndburn Borough Council Local Development Framework The Core Strategy, Adopted January 2012.

³ Hyndburn Borough Council Local Plan Development Management DPD, adopted 2018 (minor typographical corrections made October 2018).

⁴ Town and Country Planning (Use Classes) Order 1987 (as amended).

have not been assessed and may have different implications for the property itself and the surrounding area which given the residential character of the area may not be appropriate.

16. A condition is also suggested that the home should be operated in accordance with the terms of the submitted Travel and Parking Management Statement. However, the document is not precise in its proposed arrangements and consequently a condition requiring the development to adhere to it would also be imprecise and unreasonable. This would not therefore satisfy the tests set out in the PPG or the Framework. In any event, I have found that no harm would arise with regard to my main issue as identified above.

Conclusion

17. For the reasons given above the appeal should be allowed.

J D Clark

INSPECTOR