



Appeal Decision

Site visit made on 11 June 2024

by Helen Hockenhull BA (Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th August 2024

Appeal Ref: APP/B2355/W/24/3339637

North Point, Burnley Road, Bacup, OL13 8RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant [outline] planning permission.
 - The appeal is made by Mrs Ataka Anas against the decision of Rossendale Borough Council.
 - The application Ref is 2023/0392.
 - The development proposed is an Ofsted registered children's home for up to 3 children with additional needs.
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Decision

1. The appeal is allowed, and planning permission is granted for an Ofsted registered children's home for up to 3 children with additional needs at North Point, Bacup, OL13 8RE in accordance with the terms of the application, Ref 2023/0392, subject to the conditions in the attached schedule.

Preliminary Matters

2. The original description of development on the application form states that the property would be converted to a children's home for up to 4 children. However, the Council's Decision Notice and report to Committee state up to three children will be accommodated. I note that the proposed floorplans illustrate 3 bedrooms. In the submitted documentation I have no confirmation that the description of development has been changed by agreement. Nevertheless, as the Council's documentation refers to three children, I will assess the proposal on this basis.

Main Issue

3. The main issue raised by this appeal is whether the site forms a suitable location for a children's home, having regard to national and local planning policy.

Reasons

4. It is proposed to change the use of North Point, a residential property located in the countryside to the north west of Bacup, to a children's home for children between the ages of 8 and 17 years old. There would be a maximum of three resident at any one time with three members of staff present at most times, sometimes two overnight. There are two outbuildings on the site, one of which would be converted to a staff bedroom, the other to a meeting room.
5. The appeal site lies approximately 1.57 miles from the nearest primary school in Bacup and 5 miles from the nearest secondary school. The Council's

Committee report suggests that the site is around 1.8 miles from the nearest bus stop. However following my site visit, I estimate the bus stop to be around 0.8 mile away. I have no evidence before me about the routing or frequency of bus services. Given the nature of the area, I consider it likely that at best it would be an hourly service between Bacup and Burnley and very limited at evenings and weekends. Consequently, staff at the premises would be dependent on the private car and the children, even those who may not need to be accompanied to school or to the shops for example, would be reliant on staff to transport them.

6. The existing dwelling has two bedrooms and could be occupied by a family of up to four persons. The proposed use however would involve a staffing level of up to 18 full time equivalent employees (14 full time and 8 part time) working on a shift basis. There would also be visits by social workers and other professionals. Whilst there would be an option to cycle, it would be most likely that staff and visitors would have little option but to use the car rather than a sustainable means.
7. I note the appellant's intention to minimize car use by providing a company travel scheme, sustainable travel incentives and the purchase of an electric vehicle for use by staff. Whilst these measures would be helpful for employees at the property and for transporting residents, it would not address the car use by visiting professionals.
8. I acknowledge that there has been no objection to the proposal from the Highway Authority and that the level of traffic generated by the use would not cause harm to highway safety. Nevertheless, given the above, the location of the property would not be suitable for the use proposed and would be contrary to the objectives of the National Planning Policy Framework (the Framework) and Rossendale Local Plan Policies SS, SD1, HS10 and ENV1 which all seek to promote sustainable development well located in relation to public transport and accessible to those without a car.
9. I must now give consideration to whether there are any material considerations in this case which would justify the development contrary to the development plan.
10. I recognise that a rural location, away from the noise, activity and temptations of a town, may be beneficial to some children depending on their individual needs. Equally, there may be other children where a degree of independence would be appropriate. Despite the rural location however, this does not mean that opportunities cannot be provided for children to interact with the community, go shopping on their own etc. The appellant has outlined the advantages of the location, providing opportunities for children to develop agricultural skills, though no details are provided. It would also help some children to connect with nature in a tranquil environment.
11. I have had particular regard to the comments of Lancashire County Council Children's Services. They explain that there are significantly more children's homes in Lancashire than in any other local authority in England. However over 60% of these homes do not care for Lancashire children. This means that if children are from a distance away, social workers and families need to travel long distances. Additionally, there are many Lancashire children who are living outside the County because there are insufficient homes in Lancashire.

12. In a Ministerial Statement of March 2023, Rachel Maclean, Minister of State, the Department for Levelling Up, Housing and Communities, advised that the right homes should be in the right places with access to good schools and community support. She commented that it is not acceptable that some children are living far away from where they would call home, without a clear child protection reason for this.
13. The County Council advise that a smaller home with higher staff ratio would be the sort of home that Lancashire struggle to secure for local children. The proposal could therefore satisfy a local gap in provision.
14. Bringing all the above together, the appeal proposal is in a rural location where means of transport other than the car is not readily available. Staff and other professionals as well as family members would have little choice but to travel by car. However a countryside location may have benefits for some children, who would thrive to a greater extent in a quiet location away from a noisy and distracting urban environment. I am also advised that there is a need for this type of accommodation in Lancashire to serve local children.
15. In this case, I conclude that the proposal would be in an unsuitable location, contrary to national and local planning policy. However, having regard to the need for such accommodation for Lancashire children, and the advantages a rural location may have for some, I consider that these material considerations are of such weight that the proposal should be permitted contrary to the development plan.

Other Matters

16. I understand that the gates to North Point cross an existing public right of way. They have in the past been padlocked causing an obstruction. It is important that the route is not blocked in the future either by gates or the storage of materials. This matter can be the subject of an appropriate condition on any approval. Concern has been raised that the proximity of public rights of way to the site, could create a safeguarding issue for the children. Whilst fencing is proposed, safeguarding is a matter for the appellant and other agencies.
17. Interested parties have stated that another planning application has been submitted for the site for a commercial kennels, stables and menage. I have no information about this proposal. In any event, should the Council grant planning permission for this alternative use, it is for the landowner to decide the future of the site. This second application has also raised questions about the ownership of North Point. I have no evidence to suggest the application submitted is incorrect in this regard.
18. I am aware that the access off Burnley Road forms a private road leading to nearby farms. Rights of access are a separate matter for the appellant.

Conditions

19. I have had regard to the conditions suggested by the Council which I have considered against the advice of the Framework and Planning Practice Guidance.

20. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty (conditions 1 and 2).
21. Given the nature of the development, I impose a condition restricting the number of children resident at the property to three to ensure an acceptable level of occupancy (condition 3). In the interest of the character and appearance of the area, condition 4 is required with regard to boundary fencing. In order to ensure the provision of an electric vehicle charging point, condition 5 is required.
22. To ensure that the children's home makes provision for Lancashire children only and not for those from outside the county, condition 6 is necessary. Finally condition 7 requires the public right of way to be maintained clear of obstructions.

Conclusion

23. Given the above, and having had regard to all other matters raised, I allow this appeal.

Helen Hockenhull

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in complete accordance with the following approved plans:
Proposed Site Plan 2703_BUR_01Rev C
Existing and Proposed Elevations 2703_BUR_02
Proposed Ground and First Floor Plan PC/CH1/APRV/23/09 Sheet No, A102
Proposed Floor Plan (Building 2 and 3) PC/CH1/APRV/23/09 Sheet no, A103
- 2) The development hereby permitted shall begin not later than three years from the date of this decision.
- 3) The number of children resident in the property shall not at any time exceed 3.
- 4) The fencing as shown on the submitted site plan shall be as detailed in the photograph submitted to the Council on 29.11.23 and shall not exceed 1.2m in height.
- 5) Prior to first occupation of the approved development an electric vehicle charging point shall be provided in accordance with a scheme to be approved by the Local Planning Authority. The charge point must have a minimum power rating output of 7kW and be fitted with a universal socket that can charge all types of electric vehicle currently available.
- 6) The residential institution hereby permitted shall only be occupied by the following:
 - a) A child or young person (under 18 years of age) who has been living in Rossendale District for 3 or more years (other than an existing care home); or
 - b) A child or young person (under 18 years of age) with a local connection to Rossendale District (such as immediate family members or a long-term carer who have been living in Rossendale District for 3 or more years, but excluding an existing care home); or
 - c) A child or young person (under 18 years of age) with a local connection to another district within Lancashire (such as immediate family members or a long-term carer who have been living in Lancashire for 3 or more years but excluding an existing care home).
- 7) A 2m wide corridor for public right of way FP1404130 shall be clearly defined on the ground and approved by Lancashire County Council's Public Rights of Way prior to commencement of the works.