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# Appeal Decision

Site visit made on 4 December 2024

**by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23<sup>rd</sup> December 2024**

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**Appeal Ref: APP/R2330/W/23/3335566**

**7 Bluebell Way, Huncoat, Lancashire BB5 6TD**

- 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 [Trinity Care and Education Services Limited] against the decision of Hyndburn Borough Council.
  - The application Ref is 11/23/0068.
  - The development proposed is the change of use to form a household comprising of a resident Mother and Baby or two children, supported by up to 3 carers in line with use class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended).
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. An earlier Decision for this scheme was quashed in relation to the Inspector failing to have regard to a previous appeal decision relating to No 49 Bluebell Way for similar development<sup>1</sup>. The parties have commented on material changes that have occurred in the intervening period. The quashing of the decision in and of itself does not indicate that this appeal should automatically be allowed. Rather it falls to be re-examined afresh, in light of all the evidence presented.
3. The appellant's supporting documentation simultaneously suggests that one full-time resident would occupy the property and that the use would provide accommodation for up to two children in need of support or care<sup>2</sup>. This contradiction provides some ambiguity on the proposed occupancy of the care facility. However, the description of development indicates that planning permission is sought for the change of use of the property to a Class C2 residential institution<sup>3</sup> for a mother and baby, or two children supported by up to 3 carers. I have therefore determined the appeal on this basis.
4. Interested parties refer to the property being operated as a care home and as a school. It would appear from my observations during my visit including comings and goings, that the property is already being operated as some kind of Class C2 use with children and carers present. Although the precise arrangements are unknown, it seems to me that the proposal could be retrospective, or at least it is being operated on a very similar basis to that proposed.

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<sup>1</sup> Appeal decision APP/R2330/W/23/3329512.

<sup>2</sup> Paragraphs 2.0 and 4.1 of the appellant's supporting statement and section 6 of their final comments.

<sup>3</sup> The Town and Country Planning (Use Classes Order) 1987 (as amended) (UCO).

## **Main Issues**

5. The main issues in relation to this appeal are i) the effect of the proposed development on highway and pedestrian safety, and ii) the living conditions of neighbouring occupiers, with regard to vehicular activity.

## **Reasons**

### *Highway Safety*

6. The appeal site comprises a detached dwelling occupying a corner plot at the junction of Bluebell Way and Sedum Gardens. It includes an integral garage and an external car parking space for one vehicle. The appeal property forms part of a modern housing estate with other similarly designed dwellings that have small front gardens, narrow plot widths and typically one on-plot car parking space.
7. The proposal includes the provision of one further parking space within the front garden<sup>4</sup>. The Council's standards for 2 on-plot car parking spaces for a Class C2 use would be met and I note that the Highway Authority has not raised any objection to the proposal. However, the Council acknowledges that a small children's home differs from the wide range of Class C2 uses that the car parking standard has been derived from. In doing so it recognises that the staff to occupant ratio is significantly higher for the care of children<sup>5</sup>.
8. Policy DM32 of the Hyndburn Borough Council Local Plan; Development Management Development Plan Document (DPD) 2018, suggests that the local parking standards will be applied flexibly where specific circumstances are justified. It contains criteria which amongst other things, seek to place pedestrians and cyclists at the top of the user hierarchy and require development to ensure that the safety of highway users is properly taken into consideration, with new development not having an adverse impact on highway safety.
9. I observed some on-street parking availability but my visit was a snapshot in time, during a quieter part of the day. Further evening demand is likely to occur from residents returning from work, particularly given a large proportion of houses have only one on-plot space. Photographic evidence from interested parties indicates that significant on-street parking does occur at times in the vicinity of the appeal site. This was also the experience of the previous Inspector<sup>6</sup>.
10. Bluebell Way is the main road for accessing the majority of homes on the housing estate. Meandering in nature and with numerous junctions and driveways, there are few places for safe on-street parking. These factors appeared from my observations to contribute to a number of vehicles already parking partially on the pavements, including one in use by a carer at the appeal site.
11. The appellant suggests via the Travel and Parking Management Strategy (TPMS) that carers would car share to limit the number of vehicles being parked at the property. At the time of my visit, I observed 3 staff members leaving the premises in 3 separate vehicles. As suggested earlier it would

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<sup>4</sup> As shown in drawing number 23-015-301 within the appellant's Travel and Parking Management Statement.

<sup>5</sup> Page 7 of the Council's committee report.

<sup>6</sup> Paragraph 11 of appeal decision APP/R2330/W/23/3335566.

appear that the property is being operated on a very similar if not the same basis as the proposal.

12. Even if I could accept that only 2 staff would be present at the property at one time, there would nonetheless be changeover periods where the evidence indicates 4 staff would be in attendance. The duration of handover periods is not explained. It is feasible that this would be longer than a few minutes as the incoming staff would need to be brought up to speed on any current or previous issues affecting the looked after persons. It seems to me that the type of parking observed and evidenced by residents would be likely to continue if the proposal was approved.
13. Irrespective of the above, the TPMS advises that the staffing levels will depend on the specific needs of the persons being cared for at the property. There could therefore be more staff and visitors than is suggested by the appellant, depending on the particular needs of the individuals that would be resident in the home. Indeed, the appellant's evidence makes no mention of the fact that there could be other people in attendance at the property, including external agencies such as social care, health or education providers<sup>7</sup>.
14. There is no evidence to indicate that a 17-year-old with a driving license could not legitimately occupy the property, as they would still be classed as a child at this age. Furthermore, it is not clear if a mother older than 18 but with a baby, could occupy the property. It could not be guaranteed that such persons would not have access to a car. It seems to me that the level of activity of the proposal has been downplayed, and the full extent of the trips and demand for car parking arising from the proposal has not been accurately presented.
15. For these reasons, a condition requiring adherence to the TPMS would not be reasonable, precise or enforceable sufficient to meet the 6 tests of conditions<sup>8</sup>, a concern I note is shared by interested parties. Moreover, I have no confidence that such a condition would not be breached straight away by staff arriving singularly, given my observations during my visit.
16. I acknowledge that the appeal site is located close to Huncoat railway station. However, I have not been furnished with any evidence to demonstrate the frequency of services or destinations provided by the rail service. Moreover, it is unknown whether it would be realistic for staff to arrive by public transport, and whether their roles require other trips within their working day to support the looked after persons. For example, supermarket, school and activity runs, that would be more conveniently undertaken by car.
17. Insufficient on-plot space would lead to a reliance on on-street/pavement parking around a junction. Increased pavement parking would compromise safety and cause inconvenience, hindering the free passage of pedestrians which is likely to include children walking to and from Huncoat Primary School, or those accessing nearby facilities such as the public house. Although I have not been presented with any formal accident records, I am advised by a number of parties that a collision has occurred nearby involving a child pedestrian. This indicates the need for careful consideration.
18. Visibility from Sedum Gardens onto Bluebell Way is already limited to the north due to the rising topography and curving nature of the road and to the

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<sup>7</sup> As suggested by the Senior Commissioning Manager of Lancashire Country Council.

<sup>8</sup> As set out in paragraph 56 of the National Planning Policy Framework and Paragraph: 003 Reference ID: 21a-003-20190723 of the Planning Practice Guidance.

south by the hedgerow to the side of No 2 Sedum Gardens. Cars from the appeal site parked on the pavement here would further hinder visibility to the north and force cars to pull further forward into oncoming traffic, as I experienced during my visit. This would be harmful to highway safety due to the short forward visibility for drivers travelling from the south.

19. The use of the appeal site as a 4-bedroomed house would generate its own car parking demand and visitors to the dwelling would be likely to park on the road. However, I find that the potential for visitors and external agencies to attend the site would be considerably greater and more frequent for the proposed use. There is no compelling evidence to lead me to a different view.

#### *Conclusion – Highway Safety*

20. Notwithstanding that the proposal was recommended to the planning committee for approval, on balance I find that the proposal would result in a greater demand for car parking that would not be met by on-site provision. This would result in an intensification of on-street car parking demand close to a junction, that would lead to an unacceptable impact on highway and pedestrian safety. Adherence to the TPMS would not meet the relevant tests for conditions and therefore not adequately mitigate the impact of the proposal. Consequently, the proposal would conflict with Policy DM32 of the DPD as set out above.

#### *Living Conditions*

21. The appeal site is located in a typically quiet, pleasant residential area. The occupation of a 4-bedroomed dwelling would naturally give rise to vehicular movements. This would result in comings and goings at various times of day on a reasonably frequent basis.
22. As discussed above, the proposed use of the property for Class C2 purposes is likely to lead to an increase in the number of vehicles parking at the property. However, there is no substantive evidence that the vehicle movements would generate noise and disturbance that would be harmful to the living conditions neighbouring occupiers.
23. I find that the proposal would not lead to unacceptable harm to the living conditions of neighbouring occupiers, with particular regard to vehicular activity. The proposal would therefore accord with Policy ENV7 of the Hyndburn Borough Council Adopted Core Strategy (2012). This policy seeks to prevent new development unless it can be demonstrated that the material impacts arising by reason of amongst other things, traffic and other nuisances, will not give rise to unacceptable adverse impacts or loss of local amenity.

#### **Other Matters**

24. An appeal was allowed for a Class C2 care home at No 49 Bluebell Way<sup>9</sup>. In that decision, the Inspector found that the TPMS was not sufficiently precise and that a condition requiring compliance with it would not be reasonable. This reflects my own findings. However, the Inspector considered that the vehicular activity associated with the proposal would not cause harm in relation to highway safety or the living conditions of neighbouring occupiers.
25. I observed that No 49 is situated within a row of properties further into the housing estate. It therefore has a different context to the appeal site which is

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<sup>9</sup> Appeal decision APP/R2330/W/23/3329512.

positioned next to a junction at the head of the estate, where the road leads uphill and where it would experience more passing traffic. It is not located on a corner plot where visibility around the junction is limited due to the alignment and topography of the road. The appeal site and No 49 are not therefore 'virtually identical' as suggested by the appellant.

26. The evidence before me also suggests that No 30 Bluebell Way is in use as a care home by the same care provider. Again, it is within a row of properties further to the south of the estate such that it differs in context to the appeal site.
27. The granting of approvals for the same development at other properties within the same road does not therefore lead me to reach a different conclusion regarding the impact of the proposal on highway safety. On the evidence before me, there are distinctions between the sites that indicate a different position would not be irrational. Moreover, I do not find the appellant's evidence clear and unambiguous.
28. I acknowledge that the proposal would provide housing to meet the needs of specific groups and that in turn it would support local employment opportunities. Supported accommodation may positively contribute to catering for housing needs in the borough. However, being a single care home for a limited number of occupants, it would make only a small contribution to such provision. I am also mindful of Lancashire County Council's Children's Services suggestion that the proposal would not be required to meet a specific need for such provision within the county. The suggested benefits would therefore attract no more than limited weight.

### **Planning Balance and Conclusion**

29. I have found that the proposed development would not be harmful to the living conditions of neighbouring occupiers with regard to vehicle movements. The absence of harm is however, neutral in the planning balance. The limited benefits of the scheme in this instance do not outweigh the harm identified in respect of highway and pedestrian safety. There are no considerations including the Framework or previous appeal decisions, that indicate a decision should be taken other than in accordance with the development plan. Accordingly, the appeal is dismissed.

*M Clowes*

INSPECTOR