



Appeal Decision

Site visit made on 7 January 2025

by **L C Hughes BA (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 January 2025

Appeal Ref: APP/M2325/W/24/3352767

189 St. Andrews Road South, Lytham St. Annes, Lancashire FY8 1YB

- 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 Creative Living Care Limited against the decision of Fylde Borough Council.
- The application Ref is 23/0812.
- The development proposed is change of use of dwellinghouse (Use Class C3) to a residential children's care home for three young people (under 18 years of age) with non-resident carers including conversion of attached garage to a habitable room, addition of pitched roof above converted garage to side elevation and erection of single storey side/rear extension.

Decision

1. The appeal is allowed and planning permission is granted for change of use of dwellinghouse (Use Class C3) to a residential children's care home for three young people (under 18 years of age) with non-resident carers including conversion of attached garage to a habitable room, addition of pitched roof above converted garage to side elevation and erection of single storey side/rear extension at 189 St. Andrews Road South, Lytham St. Annes, Lancashire FY8 1YB in accordance with the terms of the application, Ref 23/0812, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Creative Living Care Limited against Fylde Borough Council. The costs application is the subject of a separate decision.

Preliminary Matters

3. On the 12 December 2024 the Government published a revised National Planning Policy Framework (the Framework). The revised Framework is a material consideration which should be taken into account from the day of publication. As the changes do not materially affect the main issues in this case, the parties have not been invited to comment further.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the living conditions of neighbouring occupiers, particularly the neighbouring occupiers of 187 St. Andrews Road South (No 187) with regard to disturbance;
 - parking and highway safety; and
 - the character and appearance of the area.

Reasons

Living conditions

5. The appeal property, 189 St. Andrews Road South (No 189) is a detached dwelling with gardens to the front and rear, on a road which is residential in character. No 189 has no direct neighbours to one side, and abuts a railway line. To the other side is No 187, a detached property. Due to the orientation of No 189, the two dwellings are slightly offset from each other.
6. The proposed care home would accommodate a maximum of three children with non-resident carers on site both during the day and night. The carers would rotate in accordance with shift patterns. In this sense, the proposed use would function much like a typical family home with older adults caring for children.
7. The evidence indicates that there would normally be a minimum of three staff on site at any one time. Notwithstanding this, there would be more staff members present on site during changeover times or when others visit. However, it is likely that changeover times would be short in duration and unlikely to cause any significant noise and disturbance. Shift changes would likely be at 8.00am (8.30am on weekends), and 2pm, with staff working sleep-ins to reduce disturbance.
8. There would be comings and goings associated with the children attending school or college, and general after school and leisure activities, along with occasional visits from social care professionals. However, such activities are not unusual in quiet residential areas, and comings and goings associated with a family dwelling would likewise have the potential to generate activity and associated noise and disturbance including residents using the garden, arriving to and from work or school, and from visitors attending the property.
9. The front garden area of the appeal property would be modified to provide 3 off-street car parking spaces. These spaces are located at the opposite side of the property to No 187. Any noise and disturbance associated with the extension and vehicular movements associated with the proposal would therefore be unlikely to impact No 187, particularly as the front of the two dwellings are separated by their side gardens. Moreover, passing traffic noise and the manoeuvring of vehicles would not be uncommon in the area, owing to the residential nature of the street and the inevitable variation in neighbouring occupiers' work patterns and social activities.
10. Due to the detached nature of the property, interactions within the appeal property itself would be unlikely to result in undue noise and disturbance when considering the number of residents, the members of staff and occasional visits by other professionals.
11. Despite the proposed small extension, the proposal would retain a rear garden which would be appropriate for recreational purposes and would be comparable to the gardens of many other residential properties. The use of the rear garden would be similar to if it was used by a family with three children, and as such would not cause undue noise and disturbance or lead to a lack of privacy over and above that which would be expected in a residential area.

12. The other nearest properties are situated on the opposite side of the road to No 189. With this separation there would not be harm to the living conditions of their occupiers with regard to noise and disturbance.
13. The proposed extension and external alterations would be at the opposite side of the property to No 187, and would not be untypical or more intensive than physical works that are commonly undertaken to residential dwellings. I find that the comings and goings along with any potential additional visitors would not be significantly greater or more intensive than those associated with a family carrying out their day-to-day activities.
14. I conclude that the proposal would not harm the living conditions of neighbouring occupiers, particularly the occupiers of No 187, with regard to disturbance. As such, it would comply with Policy GD7 c) of the Fylde Local Plan to 2032 (incorporating Partial Review) (2021) (LP) which seeks to ensure that amenity is not affected by neighbouring uses.

Parking and highway safety

15. There are bus stops and bus routes in nearby proximity to the appeal site, with railway stations within approximately 1km. The town centre and facilities are accessible on foot, being an approximately 15 minute walk from the property. As a result, a number of the comings and goings in relation to the proposed development could be by foot or public transport, which would limit the amount of vehicular movements to and from the site. However, it is likely that some staff members would use a car to travel to and from work.
16. Despite the proposed loss of the garage for parking, the submitted plans indicate that there would be three off-street parking spaces provided at the front of the property, which would be sufficient for the proposed members of staff.
17. There may be more vehicles at the property during shift handovers. However, the evidence indicates that shift handovers would not be a frequent occurrence, and not all staff would change over at the same time. This would limit the amount of time that more than three car parking spaces at No 189 would be required.
18. Moreover, many properties in the vicinity have off-street parking and there are no on-street parking restrictions at this location on St. Andrews Road South. I noted from my site visit that there were ample opportunities to park on the street without blocking neighbouring dwellings' drives, which could accommodate any extra parking required at shift changeovers, or by visitors to No 189. I have no substantive evidence to indicate that any parking overspill would be parked illegally or dangerously, particularly in light of the evidence of availability of on-street parking in the vicinity. There are sufficient off-street parking options away from the double bend in the road to ensure that any cars needing to park on the street can do so safely.
19. The comings and goings associated with the proposal would not be markedly different to that of a family who could have three or four cars. A typical family home could include parents with cars and offspring who may own a car whilst residing at home. Visits, lifts, and deliveries to family dwellings would be undertaken by vehicles. Consequently, any requirement for on-street parking in the area associated with the proposed use would be little different to the requirement for on-street parking associated with a residential property.

20. Whilst the car parking arrangements indicated on the submitted plans would necessitate vehicles temporarily manoeuvring into the highway to make space for the other parked cars to leave the property, this would be for a short period of time, and again would be no different to the vehicular manoeuvres which could be regularly undertaken by occupiers of residential dwellings. I note that the speed limit is 20mph, and there is no substantive evidence to suggest that such manoeuvres would have an unacceptable impact on visibility, highway safety or lead to cars being parked on the double bend.
21. The Framework states that developments should only be refused on highway grounds if there would be an unacceptable impact on highway safety or residual cumulative impacts would be severe. I note concerns that the road is used as a rat run, and that there have been a number of accidents close by. However, I have not been presented with any substantive evidence that the vehicular movements or parking arrangements of the proposal itself would lead to harm to highway safety of a magnitude that would warrant withholding permission.
22. Consequently, the proposal would not have a harmful effect on parking or highway safety. The proposal would, therefore, comply with Policy GD7 j) of the LP which seeks to ensure that parking areas are safe, accessible and sympathetic to the character of the surrounding area and that highway safety is not compromised. Furthermore, it would comply with guidance contained within Fylde Council's Parking in New Development Supplementary Planning Document (2023) which seeks to ensure that development does not conflict with local or national planning policies in relation to parking standards and highway safety.

Character and appearance

23. No 189 has a fence which separates its garden from the railway track which abuts the property.
24. No 189 has long been in use as a typical family dwelling with no requirement for additional security fencing. The proposed use would allow for a similar number of residents at the property. Resident children would be looked after by trained staff, who would provide appropriate care and supervision. No substantive evidence has been submitted to demonstrate that the residents at the appeal property would be likely to trespass on the railway line.
25. I therefore do not think it necessary or reasonable to impose a planning condition requiring the provision of an industrial style, steel palisade trespass proof fence at the appeal property.
26. The proposal would, therefore, not harm the character and appearance of the area. It would conform with Policy GD7 h) of the LP which seeks to ensure that development is sympathetic to surrounding land uses and avoids demonstrable harm to the visual amenities of the local area.

Other Matters

27. Interested parties have raised concerns that the proposed development would be an inappropriate business use. However, the proposal is for a residential care home which would be appropriate in a residential area. Whilst the majority of neighbouring occupiers may be of an elderly demographic, there are no restrictions which would prevent people of different age groups from residing on

the street. I have not been presented with substantive evidence relating to specific housing needs or the requirement to prevent the extension or loss to the general market of smaller properties.

28. Concerns have been raised regarding the potential for anti-social and criminal behaviour, particularly in light of the possible emotional, social and behavioural difficulties of future residents, criminal activity within the area and incidents at other residential homes. Whilst these concerns can be viewed as a material consideration, in this case there is no substantiated evidence that the proposal would give rise to anti-social behaviour or criminal activity, nor impact the regeneration of the area.
29. There is no evidence that future occupants would be at any more danger from the mains gas pipe distribution hub than other neighbouring residents.
30. Comments have been made that there is an oversupply of children's homes within Fylde. However, the evidence before me indicates that the type of small children's homes, such as that proposed, is the type of accommodation that Lancashire County Council's Children's Services struggle to source for local children. Whilst comments have been raised that the proposal would be better located elsewhere, the proposal is for a residential children's home which would meet all appropriate internal space standards and which would be appropriately located within a residential area.
31. The impact on house prices, insurance premiums, breach of covenants, Ofsted criteria and the burden on public services are outside the remit of this appeal. I note that interested parties are aggrieved at both the handling of the case by the Council and the actions of the appellant. However, these are matters between the parties that likewise do not fall within the remit of this appeal, which I have considered on its planning merits.
32. Interested parties have raised concerns that the children living at the proposed facility would represent a safeguarding threat to local children and that the development would impact on vulnerable elderly residents. People within certain age groups have protected characteristics for the purposes of the Public Sector Equality Duty (PSED).
33. In my assessment of the effect of the development on local children and elderly residents I have therefore had due regard to the PSED contained in Section 149 of the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment and victimisation, 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 reaching my decision, I have kept these interests at the forefront of my mind. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.
34. I recognise the paramount importance of ensuring the safety of local children, and the well-being of elderly residents. These are primary considerations. Any adverse effects for local children or elderly residents would weigh against the proposal in these respects.
35. However, given that the appeal proposal only relates to three children and the high staff to child ratio that would be employed at the home, I do not consider that there is substantive evidence before me to draw the conclusion that allowing the

development would threaten the safety of local children or harm the living conditions of elderly residents. Therefore, even with additional weight applied to this effect, the development would not result in the increased exposure of vulnerable individuals to risk and would not result in significant harm.

36. The benefits of the development would be to provide residential care for vulnerable children, the needs of which I must also consider under the PSED, which weighs in favour of the proposal.
37. In view of this, and having regard to the legitimate and well-established planning policy aim of providing a sufficient number of homes for different groups in the community, a refusal of permission would not be proportionate and necessary. Allowing this appeal would be consistent with my PSED duty contained in Section 149 of the Equality Act 2010.

Conditions

38. I have considered the conditions suggested by the Council, having regard to the Planning Practice Guidance on conditions. For the sake of clarity, I have amended the conditions as necessary.
39. In addition to the standard timeframe condition, it is necessary to impose a condition requiring the development to be carried out in accordance with the submitted plans in the interest of certainty (conditions 1 and 2).
40. A condition regarding the external materials to be used is necessary to protect the character and appearance of the host property and the local area (condition 3).
41. Given that use Class C2 includes other uses, a condition to restrict the use to a children's home within Use Class C2 for up to three children is necessary to adequately control the use of the site and to protect the amenity of the area, given the potential of other uses within the class to give rise to other planning harms (condition 4).
42. It is necessary to attach conditions requiring the provision of parking spaces and to ensure that the proposal operates in accordance with the submitted planning statement and rota, in the interests of highway safety and to protect the living conditions of local residents (conditions 5 and 6).

Conclusion

43. For the reasons given above, I conclude that the proposal would comply with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
44. As a result, the appeal is allowed.

L C Hughes

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: Location Plan - 23136_LOC; Proposed Site Plan - 23136_11S Rev B; Proposed Plans and Elevations - 23136_110 Rev B.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no 23136_110 Rev B – Proposed Plans and Elevations.
- 4) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that order with or without modification) the premises shall be used only as a children's residential home for up to three children aged under 18 years of age, along with the appropriate care support staff, and for no other purpose (including any other use falling within Class C2 of the Order, or supported living accommodation solely for 16 – 18 year olds) but may revert back to C3 (dwellinghouse) on cessation of the use.
- 5) The development hereby permitted shall not be occupied until the vehicle parking spaces have been provided in accordance with drawing no 23136_11S Rev B. Thereafter those spaces shall be retained for the parking of vehicles only.
- 6) The use hereby approved shall at all times operate in accordance with the Planning Statement & Staff Rota recorded as received by the Council on 11 December 2023, unless previously agreed in writing by the local planning authority.

*****END OF SCHEDULE*****