



Appeal Decision

Site visit made on 16 January 2025

by **J Smith MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5th February 2025

Appeal Ref: APP/Y2003/W/24/3351629

**Budleigh House, Messingham Ings Road, Messingham, North Lincolnshire
DN17 3AS**

- 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 Jumaa Al Karaki against the decision of North Lincolnshire Council.
 - The application Ref is PA/2023/1177.
 - The development proposed is described as: *change of use of an existing building from use as a Guest House (Use Class C1) to a Children's Home (Use Class C2) comprising 6 suite rooms to provide short break and respite accommodation for children and young people aged 0-25 years.*
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Decision

1. The appeal is allowed and planning permission is granted for change of use of an existing building from use as a Guest House (Use Class C1) to a Children's Home (Use Class C2) comprising 6 suite rooms to provide short break and respite accommodation for children and young people aged 0-25 years at Budleigh House, Messingham Ings Road, Messingham, North Lincolnshire DN17 3AS in accordance with the terms of the application, Ref PA/2023/1177, subject to the conditions in the attached schedule.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2024. Comments have been requested from the parties, insofar as they relate to the matters raised in this appeal. I have had regard to these comments during the consideration of this appeal.
3. The Council had regard to the emerging North Lincolnshire Local Plan (2020-2038), which had been submitted to the Secretary of State for Independent Examination on 11th November 2022. In the time between the decision being made on this planning application and the subsequent submission of this appeal, the Council has withdrawn the emerging local plan. I have therefore not had regard to the emerging policies discussed in the Officers Report.

Main Issues

4. The main issues are:
 - Whether the development would be in an appropriate location with regard to the Council's spatial strategy for development; and,
 - whether the development would be in an appropriate location with regard to flood risk.

Reasons

Appropriate location

5. The appeal site is a property which is currently used as an existing bed and breakfast guesthouse, located in the open countryside to the west of Messingham. It is a large, detached and isolated property, set within landscaped grounds, with a high boundary wall to the front boundary which faces towards the highway and the River Trent. The other boundaries comprise of strong hedgerows and mature lines of trees to the rear. The wider area hosts a mixture of isolated residential and farm buildings which are located along Messingham Ings Road. There are no immediate services, or adequate facilities which promote the use of sustainable transportation from the site to the nearest towns of Messingham and Scunthorpe.
6. Policy CS1 of the North Lincolnshire Local Development Framework Core Strategy 2011 (CS) provides the spatial strategy for development. Part C of Policy CS1 notes that development in the countryside will be supported where it would promote rural economic diversification and small-scale employment opportunities which would utilise previously developed land or in existing rural buildings. Development will also be limited and should take into account levels of local service provision, infrastructure capacity and accessibility.
7. The proposal would utilise an existing rural building and create two full time employment positions. However, whilst the development would be limited to a change of use of the premises, the site is located in the countryside and a considerable distance away from the neighbouring towns of Messingham and Scunthorpe. As such, travel to and from the premises would require the use of private vehicles, as the use of sustainable modes of transport are not easily available due to the distance required to travel to and from the closest bus stop. In addition, the building is sited in an isolated position. Neighbouring properties are a significant distance away and take the form of residential or farm buildings. Therefore, service provision is extremely limited and the future users of the proposal would be required to travel by private vehicle to access any services.
8. Policy CS2 of the CS notes where development should be focused, following a sequential approach. Policy CS2 and CS3 of the CS further state that any development outside of the defined limits, or in rural settlements in the countryside will be restricted to development which is essential to the functioning of the countryside. This includes uses such as that related to agriculture, forestry or other uses which require a countryside location or that which will contribute to the sustainable development of the tourist industry.
9. The proposal would be located outside of the defined limits of the Scunthorpe urban area, and the defined development limits of North Lincolnshire's market towns. The proposal would not relate to agriculture, forestry or another use which requires a countryside location. It would also fail to contribute to the sustainable development of the tourist industry. A set of sustainable development principles are also engaged in Policy CS2 of the CS. The proposal would not meet these principles.
10. Policies CS1, CS2 and CS3 of the CS do not specifically relate to the provision of children's care homes or residential care institutions. As such, an interim planning policy (IPP) which relates to residential care homes/institutions. The IPP does not form a part of the development plan, but is a material consideration.

11. The IPP states that proposals for the conversion of properties to residential care homes will not be permitted unless they comply with specific criteria. One of these criterion notes that residential care homes must be in sustainable locations with good access to schools, leisure and community facilities, shops, healthcare provision and public transport. Owing to its isolated position, the proposal would not be in a sustainable location. The IPP notes that all criteria must be met and therefore, the proposal would conflict with the IPP in this regard.
12. To conclude on the first main issue, the proposal would not be sited in a suitable location, in having regard to the CS. Therefore, it would conflict with Policies CS1, CS2 and CS3 of the CS for the reasons set out above. The proposed development would not meet criteria (a) of the IPP due to its location which does not have good access to schools, services and other services.

Flood risk

13. The appeal site is located within flood zone 3a and is therefore in an area which is at a high probability of flooding. The parties note that due to the limited nature of the development proposed, a sequential and therefore exceptions test is not required in an application to change the use of a building. The National Planning Policy Framework (the Framework) notes however that a site-specific flood risk assessment should be provided. Nevertheless, a flood risk assessment is absent from the application.
14. Policies CS2 and CS19 of the CS and Policy DS16 of the North Lincolnshire Local Plan 2003 (LP) seek to direct development to areas which have the lowest probability of flooding, taking into account the vulnerability of the development proposed, amongst other things. Furthermore, the IPP notes that proposals for the conversion of properties to residential care homes will not be permitted unless they would be located in areas at lower risk of flooding.
15. The Environment Agency (EA) do not object to the proposal, noting that the existing and proposed uses fall within the 'more vulnerable' category of flood risk, which is the same as those in the existing use of the building. Nevertheless, the proposal would conflict with Policy CS2 of the CS and the IPP as it would be located in an area, with vulnerable users as a result of the proposed development, where there is a high probability of flooding.
16. To conclude on this issue, the proposal would conflict with Policies CS2 and CS19 of the CS, Policy DS16 of the LP and the IPP.

Planning balance

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that in making any determination under the planning Acts, regard is to be had to the development plan and the determination shall be made in accordance with the plan unless material considerations indicate otherwise.
18. I am cognisant of the existing permitted use of the property as a bed and breakfast facility. As a bed and breakfast facility, it is anticipated that guests would utilise the building for short term stays. In addition, due to the notable absence of nearby services and facilities, guests would generally travel to and from the property by private vehicle to access the site and to undertake any activities or access services.

19. The proposal would offer short break, respite care to disabled children who would also require the use of a private vehicle to transport them to and from the building. Staff members would also be required to travel to and from the site, however, owing to the small number of child bed spaces, the number of staff would be limited. In consideration of these travel patterns, this would create a similarity of the comings and goings between the existing and proposed uses.
20. Therefore, the accommodation in either its existing or proposed use would offer similar numbers of short-term stays where travel to and from the site would be required by either use. As such, in terms of the proposal being contrary to the Council's spatial strategy, the sustainability of the location of the proposed use would not be too dissimilar to that of the existing use of the building. I do not find that the proposal would result in a material harm in this regard due to this similarity which attracts significant weight in favour of the proposal.
21. With regard to flood risk, whilst the future residents of the proposal would be vulnerable to flooding, the EA note that the users of the guest house as the existing use also fall within the 'more vulnerable' category of flood risk. Despite the absence of a floor plan and a site-specific flood risk assessment, the evidence suggests that the proposed bedrooms for the children would be located on the first floor of the building. The EA note that therefore, there is unlikely to be any increased risk to people. A suitably worded condition could be utilised to prevent bedroom accommodation being provided on the ground floor. As such, with the provision of bedroom accommodation at the first-floor level, the vulnerability of users of the building would remain unchanged. This is a consideration to which I assign substantial weight.
22. The proposal would conflict with the CS and the LP with regard to the location of the development in the open countryside and its implications on flood risk. However, the material considerations weighing in favour of the proposal, to which I have ascribed significant and substantial weight, indicate that a decision should be taken other than in accordance with the CS and the LP.

Conditions

23. The Council did supply a specific list of conditions for my consideration in the event that the appeal was allowed. I have consulted the parties on conditions based on these suggestions and any other comments and suggestions received from other consultees, ensuring that they meet the tests set out in Paragraph 57 of the Framework. I have taken their response into consideration.
24. In addition to the statutory time condition [1], although there were no floor or elevation plans included in the submission, I have attached a condition which specifies the approved plans [2] for those which have been submitted with the application.
25. Due to the absence of a floor plan, the EA requested a condition which would restrict the bedrooms for the children who would visit this premises to be located on the first floor. This is for safety in the event that the premises did flood. Therefore, I have included a condition which does so [3] which requires this accommodation to be provided on the upper floor and retained so long as the use permitted continues.

26. The Council requested that a condition be imposed which restricts the use class of the building, and care for up to six persons. As the Use Class C2 has been applied for, this condition is not necessary to restrict the use class. However, I have included a condition which restricts the use of the building as short break and respite accommodation, with a restriction on it being a main place of residence [4]. This would ensure that the site does not become a sole place of residence which would be a significant departure away from the similarity of the existing and proposed uses of the building. This condition is necessary to ensure that the building is used as such and not as a full-time residence.
27. I have also included a condition which requires the provision of a flood warning and evacuation plan [5]. This condition is necessary due to its location in a flood zone with a high risk of flooding.

Conclusion

28. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it.

J Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans:
 - Budleigh House Site Plan (dated 8th September 2023)
 - Drawing 3 Rev A – Site Boundaries
- 3) No bedroom accommodation shall be provided below first floor level.
- 4) The development shall be occupied as short break and respite accommodation for six persons maximum and shall not be occupied as a sole or main place of residence or by any persons, including that of members of staff. An up-to-date register shall be kept at the facility hereby permitted and be made available for inspection by the local planning authority upon request. The register shall contain details of the names of all occupiers of the accommodation, their main home addresses and their dates of arrival and intended/actual departure from the accommodation.
- 5) Prior to the first occupation of the approved accommodation as hereby permitted a flood warning and evacuation plan shall be submitted to and approved in writing by the local planning authority. The measures included in this plan shall be incorporated and adhered to throughout the lifetime of the development.

End of Conditions