



Appeal Decision

Site visit made on 8 May 2018

by **Sarah Colebourne MA, MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 May 2018

Appeal Ref: APP/Y2003/W/17/3190916

31 Low Street, Haxey, South Yorkshire, DN9 2LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Esland Care against the decision of North Lincolnshire Council.
 - The application Ref PA/2017/1007, dated 21 June 2017, was refused by notice dated 2 October 2017.
 - The development proposed is described as 'Change of use from dwelling house (Use Class C3) to residential care home (Use Class C2)'.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from a dwelling house (Use Class C3) to residential care home (Use Class C2) at 31 Low Street, Haxey, South Yorkshire, DN9 2LE in accordance with the terms of the application, Ref PA/2017/1007, dated 21 June 2017 and the plans submitted with it, subject to the following 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 the following approved plans: site location plan; ground floor, first floor and second floor layout plans.
 - 3) The development hereby permitted shall not at any time have more than three children or young people in residence.

Main Issues

2. The main issues in this case are:-
 - whether the site represents a sustainable location for the proposed use; and the effect of the proposed development on:-
 - the character of the area and the living conditions of neighbouring residents, in terms of noise and disturbance.

Preliminary matter

3. I have noted the planning history of the site and that the use of the care home has already commenced and I have considered the proposal on this basis.

Reasons

Sustainable location?

4. The development plan includes policies CS1 and CS2 of the adopted Core Strategy which set out the spatial strategy for North Lincolnshire and steers development to the most sustainable locations. Haxey is not one of the market towns referred to in the policy and is therefore classed as a rural settlement where development will be limited, taking into account services, infrastructure and accessibility.
5. It also includes policy H16 in the North Lincolnshire Local Plan (LP) (2003) which seeks to restrict residential, nursing, rest homes and similar establishments to the Scunthorpe and Bottesford Urban Area, Barton upon Humber and Brigg. Its intention is to steer residential care homes to sustainable settlements where key facilities and services are available.
6. The LP was adopted in 2003 before the National Planning Policy Framework (the Framework) and the Planning Practice Guidance which seeks to create sustainable, inclusive and mixed communities. It recognises that small scale residential development in rural settlements serves to support local services and community facilities. In particular it cautions against prohibiting development in rural settlements unless there is good reason for doing so. It also recognises that opportunities for travel by sustainable means will be more limited in rural than urban areas.
7. The Council's Interim Planning Policy for Residential Care Homes / Institutions points towards policies CS1 and CS2 of the CS and LP policy H16 but is less restrictive and requires that proposals have good access to services and facilities including public transport. It does not form part of, or supersede, the development plan but is a material consideration in this appeal. In the North Lincolnshire Sustainable Settlement Survey which forms part of the evidence base for the emerging local plan and is also a material consideration, Haxey was ranked 9th of the 79 settlements and is classified as a market town/large service centre.
8. I agree that there are inconsistencies between policy H16 insofar as it refers to medium growth settlements (MGS) set out within a deleted local plan policy (ST2) and the settlement hierarchies within the adopted CS and the evidence base for the emerging local plan. The Council has acknowledged this by not including the term MGS in its reason for refusal. However, whilst it narrows the scope of the policy and the term MGS does not exist in either of the later settlement hierarchies, it does not follow that the restriction to the three main settlements referred to by the Council is inconsistent with policies CS1 and CS2 or with the Framework and it remains relevant to this appeal.
9. The proposed use is for a residential care home for three young people. I saw that Haxey has a number of facilities including a primary school, playing fields with a good range of sport and play facilities, shops including a small convenience store close to the appeal site and a doctor's surgery. There are regular bus services to nearby towns, schools and colleges, some of which I noted during my visit. Although the care home's three residents may require access to other services in nearby towns, that is no different from the case if the dwelling were used as a family home.

10. I accept that it is likely that the majority of journeys by the eleven members of staff will be undertaken by private motor vehicle but as the shift working patterns could mean that public transport is not always available and that walking may not be a preferred option, it is likely that most staff would choose to drive to and from work late at night or early in the morning wherever the proposal was located.
11. I conclude that although the proposal would conflict with policy H16, material considerations including the Council's Interim Planning Policy, the North Lincolnshire Sustainable Settlement Survey together with the appellant's submissions and my own site visit impressions clearly outweigh this policy conflict and indicate that Haxey is a suitable and sustainable location for the small scale residential home proposed and that it would accord with the Framework. For these reasons, I find no conflict with policies CS1 and CS2.

Character of the area and living conditions

12. The appeal site comprises a large modern, detached three storey house with six bedrooms on a predominantly residential road, the main road through Haxey. It is located opposite a busy, T junction. Between the appeal site and the junction with Lowcroft Avenue, there is also a guest house, a vacant public house, a convenience store, a hair salon and an estate agency. There is therefore a mix of uses and a moderate level of traffic and pedestrian movement in the immediate area. Although the application does not give staff rotas, it is clear from the information that there is a shift pattern of working with changeover taking place around 8am and that not all eleven staff are there at the same time. The additional movements resulting from staff changeover and visitors would not be disproportionate in this context and would not result in significant harm to the character of the area in terms of noise and disturbance.
13. Vehicular access to the appeal site is via a drive shared with one other property. It is sited to the side of the site leading to parking at the rear. There is a double garage and parking area providing space for several cars. On street parking is available nearby. The property is separated from its three neighbouring properties by access drives and the garage block and whilst it is overlooked by a first floor window in the rear of no 33, the boundaries and garage block generally provide a good level of screening of the parking area. This and the generous separation distances with the neighbouring properties mean that the proposal would not cause unduly harmful levels of noise and disturbance or cause significant harm to the living conditions of neighbouring residents in terms of vehicle movements or the use of the property. I conclude that it would accord in this respect with LP policies H16 and DS1 and policy CS5 in CS which seek to protect such matters.

Other matters

14. Local residents and the Parish Council have raised a number of other matters to which the Council has not objected.
15. The Highways Authority has raised no objection in terms of parking provision or highway safety and I am satisfied from what I have seen that the proposal would make adequate provision for parking and access and would not cause a danger to road users or pedestrians or result in an unacceptable increase in on-street parking.


16. I understand that some residents wish to have peace and quiet. However, some of the examples of incidents experienced by residents are no different from what can be experienced in any residential area and it is not the purpose of the planning system to regulate or impose unduly restrictive standards of behaviour. The appellant accepts that some instances of anti-social behaviour have occurred since the use began but says that there have been no emergency visits to the site by the police. I have insufficient compelling evidence that anti-social behaviour is a significant problem at the property or that the relevant services would be unable to cope with any incidents arising. The proposed development will provide secure, managed accommodation for the young people and all of the six homes managed by the appellant have been judged by Ofsted as 'good' or 'outstanding'. On this basis and due to the small number of residents, I consider that these incidents are unlikely to be of such a significant degree to justify dismissal of this appeal.
17. Objections that the young people are not integrated within the community are unsubstantiated and could in any case be a reflection of the community rather than the young people. Indeed this might be the case for many people of all ages in many different areas.
18. I saw that the garden area accommodates a lawn, a trampoline, rabbit hutches and a picnic table and am therefore satisfied that it provides a good level of outside amenity for the three residents.
19. Complaints regarding refuse have been dealt with by the appellant through the removal of waste items and the relocation of the refuse container to a more suitable position and the property was in very good condition at the time of my visit.
20. I conclude then that there are no other matters that would persuade me to dismiss the appeal.

Conditions

21. Other than the standard time limit and accordance with the plans conditions which are necessary to provide certainty, a condition limiting the number of residents is necessary because additional residents may require additional staffing which would need to be assessed by the local planning authority in terms of parking provision and noise and disturbance.

Conclusion

22. For the reasons given above, I conclude that although the proposed development would conflict with part of policy H16, it would accord with policies CS1 and CS2, DS1 and CS5 and with the development plan as a whole. There are no material considerations which would justify a different outcome. The appeal should be allowed.


Inspector