



Appeal Decision

Site visit made on 14 March 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2022

Appeal Ref: APP/B2002/W/21/3281712

College House, 85-87 College Street, Cleethorpes DN35 8BN

- 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 DBG Contractors Ltd against the decision of North East Lincolnshire Council.
 - The application Ref DM/0821/20/FUL, dated 25 September 2020, was refused by notice dated 13 August 2021.
 - The development proposed is the change of use of former care home to 15 bedroom HMO (House in Multiple Occupation).
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of former care home to 15 bedroom HMO (House in Multiple Occupation) at College House, 85-87 College Street, Cleethorpes DN35 8BN in accordance with the terms of the application Ref DM/0821/20/FUL, dated 25 September 2020, and the plans submitted with it, subject to the attached schedule of conditions.

Preliminary Matters

2. I have used the address provided on the appeal form in the heading above as this more accurately describes the site location. In addition, the proposed development was amended during the course of the application, and I have determined the appeal accordingly.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of nearby residents, having regard to noise, disturbance and anti-social behaviour.

Reasons

4. The appeal site is located in a high density, residential terraced street with guest houses, flats and an HMO nearby. College Street is situated close to the town centre, Cleethorpes train station, public car parks and the designated resort area. It has been drawn to my attention that these uses result in noise and nuisance for residents.
5. I understand that there have been a number of HMO applications within the local area, and I have regard to the planning history of the site. I also recognise that the Management Plan predominantly focuses on matters relating to the physical maintenance of the building.

6. The site contains courtyard areas which are in close proximity to neighbouring buildings. Future occupiers could use the side passage to access their bedrooms. The proposed development proposes a communal kitchen/ diner room which would adjoin 83 College Street. However, the building would contain three kitchens and there is nothing before me to demonstrate that this is more harmful than the previous layout of the former care home.
7. Although the building has been vacant for a number of years, the building could still be lawfully used as a residential care home. The number of proposed bedrooms is comparable with the lawful use. Nevertheless, I recognise that the nature of the activity generated from a care home compared to an HMO would be different. For example, there would be more comings and goings from an HMO occupier, who could have visitors, compared to a care home resident. Nonetheless, a care home would also have comings and goings from staff, visitors and deliveries.
8. Given the nearby uses and urban location, there is already a degree of background noise. There is no clear evidence before me to demonstrate that the proposed HMO would significantly increase the level of activity and associated noise and disturbance compared to a care home. In addition, it cannot be presumed that potential occupiers would behave in an anti-social manner or increase opportunities for crime and fear of crime. There is no robust evidence to demonstrate that the proposed use would result in an increase in anti-social behaviour and would result in an unsafe area for the public.
9. Parking has also been raised as an amenity issue. There are concerns that nearby residents may not be able to find a parking space close to their home which could cause distress and annoyance. For part of the day a parking permit scheme is in place on College Street. Whilst only a snapshot during the day, at the time of my site visit there were numerous on-street parking spaces. Having said that, I am mindful that residents have highlighted that there are parking issues, particularly in the evenings.
10. On occasions residents may not be able to park close to their home, however that would not be uncommon in an urban area such as this. It is likely that the lawful use of the building would generate the need for parking. Occupiers of the HMO would not be reliant on a private motor vehicle to access services and facilities given the sustainable location of the site and provision of a bike store. In addition, they would be aware of the parking constraints prior to choosing to live there. No compelling evidence has been submitted to demonstrate that the scheme would result in the displacement of vehicles in the vicinity of the site which would in turn cause substantial amenity issues.
11. Consequently, based on the information presented, and having regard to the lawful use of the building, the location of the site and nearby uses, the proposed development would not adversely affect the living conditions of nearby residents. Accordingly, the proposal would not result in an intensification of the site to warrant planning permission being refused.
12. For the reasons given above, the proposed development would not have an unacceptable effect upon the living conditions of nearby residents, having regard to noise, disturbance and anti-social behaviour. Consequently, it would not conflict with Policy 5 of the North East Lincolnshire Local Plan 2013 to 2032 (2018). This policy states that consideration will be given to the proposals

impact upon neighbouring land uses by reason of noise, air quality, disturbance or visual intrusion. It would also not conflict with the National Planning Policy Framework. This states that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Other Matters

13. I have had regard to the other matters raised by residents. These include highway safety concerns relating to traffic, pedestrians and parking, litter, pollution, impact on character, impact on viability of resort and house prices.
14. Highways did not object to the application. Given the scale of the proposed development and lawful use of the building, I am satisfied that the development would not have an unacceptable impact on highway safety, litter, pollution and viability of the resort. Furthermore, the proposed development does not include any external alterations and would not have a harmful impact on the character of the area. In terms of impact on property values, it is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property. The Council did not refuse the planning application on the other matters raised, and I see no reason to disagree with that assessment.

Conditions

15. I have assessed the Council's suggested conditions in light of guidance found in the Planning Practice Guidance and where necessary the wording has been amended for clarity and precision.
16. In addition to the statutory commencement condition, a condition is necessary in the interests of certainty to ensure that the development is carried out in accordance with the approved plans and management plan. In the interests of protecting residential amenity, conditions relating to construction hours and sound insulation are necessary. In addition, a condition relating to bicycle and refuse bin storage facilities is necessary in the interest of promoting sustainable transport options, protecting residential amenity and visual amenity.

Conclusion

17. For the reasons given above, the appeal succeeds.

L M Wilson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and supporting documents: Floor Plans as Proposed (2101 003), Elevations as Proposed (2101 004) Site Plan as Proposed (2101 006) and Management Plan.
- 3) Construction works shall take place only between 0800 - 1800 on Mondays to Fridays, 0800 - 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 4) The development hereby permitted shall not be occupied until an insulation scheme between individual bedrooms; and bedrooms and communal facilities has first been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed in full before the property is first occupied and retained thereafter.
- 5) The development hereby permitted shall not be occupied until the bicycle and refuse storage facilities shown on the approved plans (Floor Plans as Proposed (2101 003) and Site Plan as Proposed (2101 006)) are provided and available for use by residents, and thereafter permanently retained to be used as such.



Appeal Decision

Site visit made on 14 March 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2022

Appeal Ref: APP/B2002/W/21/3284085 184 Waltham Road, Grimsby DN33 2PZ

- 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 Keys Group Limited against the decision of North East Lincolnshire Council.
 - The application Ref DM/0650/21/FUL, dated 24 June 2021, was refused by notice dated 9 September 2021.
 - The development proposed is change of use of dwelling to a residential care home for up to 5 young people.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of dwelling to a residential care home for up to 5 young people at 184 Waltham Road, Grimsby DN33 2PZ in accordance with the terms of the application Ref DM/0650/21/FUL, dated 24 June 2021, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 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, Site Plan and Proposed Plans.

Application for Costs

2. An application for costs was made by the appellant against the Council. This application is attached as a separate Decision.

Main Issues

3. The main issues are the effect of the proposed development on:
 - The living conditions of the occupiers of neighbouring properties, having regard to noise, disturbance and anti-social behaviour; and
 - Highway safety.

Reasons

Living conditions

4. No 184 is a large two-storey, detached dwelling which is located within a predominantly residential area. There is a reasonable gap between the appeal

- building and properties on either side due to their associated driveways. The dwelling currently has 5 bedrooms so could be occupied by a large family.
5. The proposal would maintain a residential use in a residential area, albeit of a different use class. The appellant's case sets out the staffing levels during the day and night as well as the staff shift changeover times.
 6. No 184 benefits from a substantial rear garden and there are a number of properties which share a boundary with the appeal site. Young people occupying the home would be able to play inside and outside at any times of day which could result in noise. However, that could also occur with the existing lawful use of the building. In addition, staff would always be present at the care home whereas if the building was used as a family dwelling there might be times where children are left on their own without an adult.
 7. There is no substantive evidence before me to demonstrate that the comings and goings from the proposed development would be significantly more than that associated with a large family dwelling or that it would increase noise and disturbance, including car movements and people's voices, at unsociable hours. The changeover of staff would normally occur during the day when there would be a level of background noise. Having regard to the changeover times and staffing levels as well as the gap between the appeal building and neighbouring properties, I am satisfied that there would be sufficient staff to provide care and the proposed development would not result in unacceptable disruption.
 8. In terms of crime and anti-social behaviour, my attention has been drawn to the appellant's annual report, the suitability of the company and safeguarding issues. Furthermore, it has been highlighted that the Children's Services at the Council has recently been rated as inadequate by Ofsted and put into special measures.
 9. A registration process is required with Ofsted before the appellant can open a residential home. Part of the registration process involves staff assessments to ensure the manager of the home and the responsible individual are appropriately trained and experienced. The management of the home would fall under the responsibility of the appellant, who manages many other similar facilities, and would be overseen by Ofsted who would inspect the care home.
 10. The care home would be staffed 24 hours a day. The staff would be professionally trained in the supervision of young people. At the request of the Council, the appellant submitted a Location Risk Assessment which is a confidential document. The police's crime reduction officer raised no objections to the proposed development. Having regard to the above, there is no robust evidence to demonstrate that the proposed use would result in an increase in anti-social behaviour and would result in an unsafe area for the public or increase opportunities for crime and fear of crime.
 11. For these reasons, the proposed development would not have an unacceptable effect upon the living conditions of neighbouring properties, having regard to noise, disturbance and anti-social behaviour. Accordingly, it would not conflict with Policy 5 of the North East Lincolnshire Local Plan 2013 to 2032 (2018) (LP). This policy requires that consideration is given to the proposals impact upon neighbouring land uses by reason of noise, air quality, disturbance or visual intrusion. It would also comply with the National Planning Policy Framework (the Framework). This states that developments should create

places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Highway safety

12. The Council highlight that the B1203 Waltham Road provides a main route into Grimsby town centre from the villages to the south. Whilst only a snapshot during the day, I observed on my site visit that there was a steady flow of vehicles. I am mindful that the Council and residents highlight that Waltham Road is busy and have referred to accidents as well as drivers speeding.
13. The existing property benefits from two access points, with associated driveways and garages, which would not be altered. The access arrangement is reflective of other residential properties along this section of Waltham Road. Although the appeal site is close to a slight bend, the accesses benefit from good visibility in both directions due to the width of the grass verge and pavement. There would be sufficient space for up to 6 cars to be parked within the appeal site. In addition, there are no parking restrictions within the vicinity of the site.
14. No 184 is located close to the junctions of Heatherdale Close and Orchards Croft which are short cul-de-sacs. In addition, on the opposite side of the road is the junction with Southfield Road. Adjacent to the appeal site is a bus stop. I understand that an associated bus shelter has been approved. The bus stop could be used by staff, visitors and the young people occupying the care home to provide a sustainable mode of transport without the reliance on a vehicle. In addition, there are local services and facilities within walking distance.
15. There is nothing before me which demonstrates that the proposed development would significantly increase the use of the accesses and traffic movements compared to the existing use. Furthermore, the changeover of staff would normally occur outside peak times. Given that the building could be occupied by a large family and the speed limit of Waltham Road and the surrounding roads, width of the grass verge and pavement, I do not consider that the change of use and the nearby bus stop would unacceptably impede visibility and restrict traffic flow. The scheme would not substantially increase the traffic movements compared to those associated with a large dwelling. I am also satisfied that any resultant on-street parking would be minimal and could be accommodated without there being an unacceptable effect on the ability to navigate the surrounding streets safely.
16. For these reasons, the proposed development would not have an unacceptable impact on highway safety. Consequently, it would accord with Policy 5 of the LP which requires that consideration is given to access and traffic generation. It would also not conflict with the Framework which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other matters

17. I have considered in detail the other matters raised in the objection comments. These concerns relate to: property value, potential for expansion, litter, impact

on wellbeing, impact character of the area, planning procedure, alternative suitable buildings, misleading information, lack of need, property on the market, lack of public consultation as well as vulnerable residents living nearby.

18. The Council did not refuse the planning application on these grounds. In terms of impact on property values, it is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property. Any future expansion would be subject to relevant planning considerations. The scheme would not have an adverse impact on the character of the area because the development does not propose any external changes to the building and the residential use is reflective of the area. The presence of alternative buildings and questioning whether there is a need would not represent reasons to withhold permission for the proposed development. There is no compelling evidence before me that would lead me to an alternative conclusion to the Council on the other matters raised, and they do not lead me to a different overall conclusion on the main issues.

Conditions

19. I have imposed the standard conditions relating to the commencement of development and specifying the relevant plans in order to provide certainty.

Conclusion

20. For the reasons given above, the appeal succeeds.

L M Wilson

INSPECTOR



Costs Decision

Site visit made on 14 March 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2022

Costs application in relation to Appeal Ref: APP/B2002/W/21/3284085 184 Waltham Road, Grimsby DN33 2PZ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Keys Group Limited for a full award of costs against North East Lincolnshire Council.
 - The appeal was against the refusal of planning permission for the change of use of dwelling to a residential care home for up to 5 young people.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The application for an award of costs will be familiar to both parties. Consequently, I shall not repeat the submission in full within this decision.
3. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). Paragraph 030 of that guidance notes that a party may have costs awarded against them in relation to appeal proceedings if they have behaved unreasonably and that behaviour has led another party to incur unnecessary expense. Those two matters are pre-requisites for an award; if there has been no unreasonable behaviour or no wasted expense an award will not be justified.
4. The applicant seeks an award of costs on the basis that the Council has not properly exercised their development management responsibilities and has relied on reasons for refusal which do not stand up to scrutiny. The applicant also states that the Council has prevented (or delayed) development that should clearly be permitted having regard to the proposal's compliance with both local and national planning policies. In addition, the applicant considers that the council has not determined similar cases in a consistent manner. They assert that the refusal of the application has led to unnecessary costs and avoidable delays.
5. The applicant considers that the Council has failed to produce evidence to substantiate each reason for refusal and vague, generalised or inaccurate assertions have been made about the proposal's impact, which are unsupported by any objective analysis. The local highway authority did not object to the proposal during the application stage and the committee report did not raise any concerns relating to highway matters. They assert that the Council, including the highways statement, has not provided any evidence to justify the change in stance.

6. The Council highlight that Council Members are entitled not to accept the professional advice of their officers so long as a case can be made for a contrary view and having made that decision it is proper for the Council to defend that decision. They also state that the approved planning application is some distance from the site and planning decisions are made on the individual merits of the case having regard to material planning considerations which pertain to it.
7. Council Members are entitled to go against the professional advice of Officers as long as it is clearly demonstrated why the proposal is unacceptable and clear evidence is provided to substantiate that reasoning. The Council's Statement of Case and reasons for refusal were clear and sufficient evidence was submitted to support the Council's stance. The application required an exercise of planning judgement. While I do not agree with the Council's decision, adequate evidence was submitted to show that the Council did not apply its judgement in an unreasonable manner.
8. Furthermore, the appeal scheme cannot be directly compared with the approved application at New Waltham due to the context of the site and number of young people occupying the home. Consequently, I do not consider that the Council has prevented development that should clearly have been permitted, having regard to its accordance with the development plan, national policy and other material considerations.
9. For the reasons set out above I conclude that, the applicant has not shown that the Council's refusal of planning permission was unreasonable and that no wasted or unnecessary expense has been incurred by the applicant in the appeal process. I conclude therefore, that the application for an award of costs should be refused.

L M Wilson

INSPECTOR