
Appeal Decision

Site visit made on 27 March 2018

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 April 2018

Appeal Ref: APP/U2370/W/17/3192023

**Former site of Lakeland View, Laidleys Walk, Fleetwood, Lancashire
FY7 7JL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Wylie (TAS Limited) against Wyre Borough Council.
 - The application Ref 17/00745/FULMAJ is dated 4 August 2017.
 - The development proposed is the erection of a three storey residential care home for use within Use Class C2.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a three storey residential care home for use within Use Class C2 at Former site of Lakeland View, Laidleys Walk, Fleetwood, Lancashire FY7 7JL in accordance with the terms of the application, Ref 17/00745/FULMAJ, dated 4 August 2017, subject to the following conditions set out in the attached schedule.

Procedural Matters

2. The appeal is against the non-determination of the application for the development detailed above. However, the Council has explained that, had it determined the application, it would have refused planning permission for three reasons. Two relate to the living conditions of existing residents, and the other to the increase in traffic and the effect of this upon the safety of pedestrians and road users.
3. The description of development in the heading above has been taken from the planning application form. However, I have removed the last sentence as it is unnecessary.
4. Policies CDMP3 and CDMP6 of the Wyre Council Submission Draft Local Plan are referred to in the submitted reasons for refusal. The purpose of a Local Plan examination is for the Examiner to consider whether the plan is 'sound'. Accordingly, it is possible that a policy could be amended or deleted as a result of the examination or that the plan is withdrawn or found unsound. As these policies have not yet been examined, little weight can be given to them.
5. An additional plan (drawing No A109) has been presented with the appeal that sets out accurate measurements of interface distances between the buildings surrounding the site and the proposal. The Council has raised no comment on this plan. As there are no changes to the proposal, I am satisfied that no party

would be disadvantaged by me taking account of this plan in my overall consideration of the appeal.

Main Issues

6. Based upon the evidence before me, the main issues are the effect of the proposal on:
 - i) the living conditions of existing occupiers of nearby residential dwellings; and,
 - ii) the safe and efficient operation of the highway network in the vicinity of the appeal site.

Reasons

7. The site is a flat, open, rectangular parcel of land located to the north of Fleetwood. It is relatively undeveloped, save for an electricity substation. The site was historically occupied by a residential care home and the area is residential in character. Laidleys Walk is typically characterised by a mixture of 2, 3 and 4 storey buildings. Directly to the rear of the site are a number of 2 storey semi-detached residential dwellings, specifically 5-8 Malcolm Place and 62 and 64 Macbeth Road.
8. The proposal is for a 3 storey residential care home. It would provide 80 bedrooms and associated facilities. First and second floor bedroom windows and communal lounge windows of the proposal would be sited in both the front and rear elevations. The building would front northwards on Laidleys Walk, overlooking the model yacht pond and coast line.

Living conditions

9. When measured directly from the rear wall of the dwellings on Malcolm Place and Macbeth Road to the rear wall of the proposal, the evidence before me indicates the interface distances between the building and the dwellings would be around 28m at a minimum. The Council advise the distances would be in excess of 21m. The advised interface distances vary. However, as the existing dwellings to the rear are off-set and sited at varying positions around the cul-de-sac of Malcolm Place or on Macbeth Road, the location of the interface measurements could have taken place at various positions.
10. Nonetheless, the building would be to the north and thus would not adversely affect light to dwellings. Furthermore, whilst the building would have an elongated and tall form; this would be broken up by stepped elevations, varying materials and breaks in the roof line. These design features would reduce its perceived mass.
11. Taking account of these matters and the observations from my visit; I am satisfied that the separation between buildings would be sufficient to ensure adequate living conditions of the existing occupiers were maintained with regard to privacy, light and physical dominance. I am also satisfied that views of the sky from neighbouring dwellings would still be available.
12. Some mutual and passive overlooking of gardens may occur, but this is not unusual for urban areas. Additionally, owing to the tall and solid boundary treatment and the distance between, overlooking of gardens would not lead to an undue loss of privacy.

13. The west facing side elevation would feature secondary bedroom windows. These windows would directly face living and bedroom windows of properties on Macbeth Road. As the distance would be around 21m away, a condition to require obscure glazing is necessary to mitigate any loss of privacy.
14. Noise from the air source heat pump is likely to be negligible. However, a condition to secure submission and approval of its details would ensure that the technical specification can be examined by the Council's Environmental Health team in order to mitigate any effect upon neighbouring residents.
15. Noise from other sources, for example, car doors slamming or deliveries may cause some minor disturbance to neighbouring residents. I note the Council's suggested condition to control cumulative noise levels from the site, however, I also note suggested conditions relating to kitchen extraction systems and the air source heat pump. In this instance, disturbance from the comings and goings of the site is unlikely to be adverse owing to the size of the car park, the distance between built forms and the residential nature of the use. For these reasons, I do not consider that a condition to restrict cumulative noise levels would be reasonable or necessary.
16. Internal light from bedrooms and living areas of the building is unlikely to be so bright that it would cause harm to neighbouring dwellings. It would be reasonable to assume that curtains or blinds would be provided in both bedroom and living areas and I am content that light spillage would be kept to a minimum.
17. Consequently, the proposal would have an acceptable effect upon the living conditions of existing occupiers. I find compliance with Policy SP14 of the Wyre Borough Local Plan 1991-2006 (July 1999) (LP) which seeks to ensure that development is compatible with adjacent existing land uses.

The safe and efficient operation of the highway network

18. The vehicular access for the proposal would be from Macbeth Road. This would provide a service yard, bin store, 15 car parking spaces and 4 cycle parking spaces. I have seen the comments from Lancashire County Council Highways (LCCH) with regard to the effect of the development upon highway and pedestrian safety. I have also had regard to the Transport Assessment¹ (TA) and the National Planning Policy Framework (the Framework), which sets out that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
19. Macbeth Road is a 2 way residential street with footpaths to either side lit by street lighting, and from my visit, I disagree with the Council that the road is narrow or the site would be difficult to access. Indeed, I would agree with LCCH comments that the recommended sightlines from the access would be fully achievable over the existing adopted highway. I also note the area has a good accident record and the internal highway layout would provide suitable access for service and delivery vehicles to safely turn within the site.
20. The expected increases in traffic, set out in the TA, uses TRICS data to calculate predicted trip generation. It is estimated that the proposal would generate 164 two way vehicular movements per day during the week and 95 at weekend. During weekdays, the TA provides an estimated peak flow of 12 two

¹ Prepared by WYG, Job No: A104710, dated August 2017

way vehicular movements between 08.00 and 09.00 and 9 two way vehicles between 17.00 and 18.00. At weekends, this is predicted to be 13 two way vehicular movements between 07.00 and 08.00 and 10 two way vehicles between 14.00 and 15.00. Even considering the maximum number of vehicle flows, both total per day and peak flows, the increase in traffic would not be severe, or indeed significant, and I am satisfied that this could be accommodated within the existing local highway network. Accordingly, I also find that the increase in traffic would not compromise pedestrian or highway safety.

21. The number of car parking spaces to serve the building would be one less than recommended by the Joint Lancashire Structure Plan, yet I note the appellant details that these are maximum standards. Notwithstanding this, I would agree with the comment from LCCH that staff members could double park in at least 2 locations without causing an obstruction to visitors or servicing.
22. Furthermore, the TA's parking accumulation calculations demonstrate that the maximum predicted car parking demand is 10 vehicles. This is based on output data for a care home and it would be reasonable to assume that this takes account of visits by staff, medical practitioners, and family and friends. Similarly, from the appellant's experience of running other care homes of this type, around half of the staff on shift at any one time will generally not use a car. This would amount to around 8 cars on site.
23. In terms of sustainable transport, nearby public transport would be in the forms of buses, where I am advised that a public bus service on Poulton Road is available and around a 10-15 minute walk away, offering 1 bus every 10 minutes. I consider this to be adequate access.
24. Additionally, I agree with the findings of the TA that cycling would be a viable option for both staff and visitors to travel to and from the site. The topography of the surrounding area is relatively flat and the local highway network is mainly made up of residential streets with speed limits of 20 or 30 mph. These conditions would encourage cycling.
25. While I accept that predicting traffic flows and visitors cannot be an exact science and is dependent upon matters such as the weather and the popularity of residents; little substantive evidence has been presented that would justify departing from the results of the TA, the car parking recommendations and the comments provided by LCCH.
26. Thus, on the basis of the information before me I find that the level of vehicle movements on surrounding local roads would not be unacceptable and the car parking spaces proposed would be sufficient to serve the needs of the development.
27. Consequently, the proposal would have an acceptable effect upon the safe and efficient operation of the highway network in the vicinity of the appeal site. I find compliance with Policy SP14 of the LP, which seeks to ensure developments enjoy satisfactory access, parking and servicing facilities, and the traffic associated with the development should not have any adverse impact on the local environs or on the local highway network generally.

Other Matters

28. Whilst not set out within the reasons for refusal, the Council and other parties refer to the design of the building and its effect upon the character and appearance of the area.
29. In the street scene there are several 3 and 4 storey buildings of traditional and modern design. Indeed, the adjoining building is a modern 3 storey apartment block. The existing site is large and prominent and the proposal would be of a considerable scale. However, the proposal contains architectural features that will reduce its perceived mass and add visual interest. Furthermore, the landscaping scheme is comprehensive and includes a number of trees around the site perimeter that will soften the built form over time.
30. Whilst the scale is considerably imposing, it is well-designed and justified in this conspicuous seaside frontage. As such, the proposal would have an acceptable effect upon the character and appearance of the area.
31. A construction traffic and management scheme would be required by condition to minimise the effect of the construction works on the living conditions of nearby residents and on the local highway network.
32. Outdoor space for the prospective residents is available to the front and rear of the building and I have no concerns that this would not be adequate.
33. The decision of the appellant to appeal against the non-determination of the planning application is their statutory right should the Council not make a decision with the given timescales.
34. Suggestions from neighbouring residents include various changes to the design and bedroom numbers. However, I am required to make a determination upon the plans before me.
35. The concerns about the demand for the use, smells from the bins, safety of evacuation methods and loss of view are not matters that would justify withholding planning permission.

Conditions

36. The approved plans are listed for certainty. A scheme for the site access is necessary in the interest of highway safety.
37. With regard to Condition No 3, I have combined 2 suggested conditions from the Council. However, I have only included details that meet the 6 tests set out in the Framework.
38. Conditions requiring the submission of materials and implementation of the landscaping scheme are necessary to ensure the proposal has an acceptable visual appearance.
39. A drainage condition is necessary to ensure a safe form of development that poses no unacceptable risk of pollution to water resources or human health; and to prevent an undue increase in surface water run-off to reduce the risk of flooding.
40. The submission of a kitchen exhaust / extraction system is necessary to minimise the risk of noise pollution to occupiers of nearby buildings. A sound

insulation scheme between the ground floor kitchen and bedroom No 20 is necessary to ensure the living conditions of this bedroom are satisfactory.

41. A condition to ensure the odour arrestment plant is installed and retained is necessary to minimise the risk of odour pollution to occupiers of nearby buildings. An external lighting scheme is required to ensure that any outdoor lighting has an acceptable effect upon neighbouring living conditions.
42. To safeguard the health of future occupants and given the previously developed nature of the site, a contaminated land investigation is necessary. The car parking is required to be laid out prior to occupation to ensure sufficient on site provision.
43. Conditions 3-9 are required to be pre-commencement conditions as it is fundamental to have these details agreed before development commences.
44. I have not required a condition for a highway condition survey as this is not directly related to the development and it would not meet the 6 tests set out in the Framework.

Conclusion

45. For the reasons given above, I conclude that the appeal should be allowed.

Katie McDonald

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 A105, A107 Rev 1, A108, A110 Rev 1, A111 Rev 1, A112 Rev 1, A113, A115 Rev 1, A116, A101 Rev 2, 5541.01 Rev A, TR003 and 29179-650 Rev P1.
- 3) No development shall take place, including any works of demolition, until a Construction Traffic and Management Scheme has been submitted to, and approved in writing by the local planning authority. The Scheme shall provide for:
 - i) the parking of vehicles of site operatives, construction and delivery vehicles and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) measures to control noise and vibration;
 - viii) measures to control site lighting;
 - ix) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - x) delivery, demolition and construction working hours;

The approved Construction Traffic and Management Scheme shall be adhered to throughout the construction period for the development.
- 4) No development shall take place until a scheme for the construction of the site access has been submitted to and approved by the local planning authority. The relevant works shall be carried out in accordance with the approved details and retained thereafter.
- 5) No development shall take place until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;

- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 6) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 7) Prior to the commencement of development hereby approved, a scheme for separate foul and surface water drainage shall be submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to the hierarchy of drainage options outlined in the National Planning Practice Guidance and Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The relevant works shall be carried out in accordance with the approved details prior to occupation of the development.

- 8) Prior to the commencement of development hereby approved, a scheme for the kitchen exhaust/extraction shall be submitted to and approved in writing by the local planning authority. The details to be provided shall include:

- i) a full report and a detailed plan of the extraction flue to indicate how noise and vibration will be prevented from affecting nearby sensitive premises; and;
- ii) fixings used to attach any extraction flue to the wall of the building. The extraction flue/s shall be a minimum of 1m above the level of the eaves of the nearest sensitive premises.

The extraction system shall be designed in accordance with Defra's 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'. The relevant works shall be carried out in accordance with the approved details prior to occupation of the development.

- 9) Prior to commencement of the development hereby approved, a sound insulation scheme for noise mitigation measures between the ground floor kitchen and bedroom No 20 shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to occupation and thereafter retained in perpetuity.
- 10) No development above slab level shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details.
- 11) No development in relation to the air source heat pump shall take place until full details of the design and manufacturer's specification (including noise output levels) of the air source heat pump have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details.
- 12) The building hereby permitted shall not be occupied until the windows in the west facing side elevation have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 13) Prior to first occupation of the development, the odour arrestment plant as stated in the email dated 11 July 2017 from Darren Hall@kitchenequip.co.uk shall be installed. The plant will be in accordance with Defra: Odour Guidance for Local Authorities March 2010 and will be thereafter retained.
- 14) Prior to first occupation of the development, the bin store provision shown on the drawing No A108 shall be provided and thereafter retained.
- 15) Prior to the installation of any external lighting associated with the development, a scheme for the provision of external lighting together with an Artificial Lighting Assessment shall be submitted to and approved in writing by the local planning authority. The scheme shall demonstrate that light intrusion into the windows of any sensitive premises will not exceed 10 Lux before 23.00, and 2 lux after 23.00 (Environmental Zone E3) and will demonstrate that the lighting will be installed in accordance with the Institution of Lighting Professionals' Guidance Notes for the Reduction of Obtrusive Light GN01:2011 (or any subsequent replacement guidance). The lighting shall be installed and operated in accordance with

the approved scheme details, which shall be maintained and retained thereafter.

- 16) All planting, seeding or turfing comprised in the approved details of landscaping (drawing No 5541.01 Rev A) shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 17) The car parking, turning and access arrangements detailed on drawing No A107 Rev 1 shall be laid out and made available for use before the development is first occupied and thereafter retained in perpetuity.

*****End of Conditions*****