



## Appeal Decision

Site visit made on 11 August 2020

by **Diane Cragg DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 September 2020

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**Appeal Ref: APP/P2935/W/20/3252959**

**East Farm Cottage, Off the A196, Choppington NE62 5PS.**

- 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 Mrs Sandie Bailey (Action for Children) against the decision of Northumberland County Council.
  - The application Ref 19/03768/FUL, dated 5 September 2019, was refused by notice dated 19 February 2020.
  - The development proposed is change of use from residential (Class C3) to residential home for children and young people (Class C2).
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### Decision

1. The appeal is allowed, and planning permission is granted for change of use from residential (Class C3) to residential home for children and young people (Class C2) at East Farm Cottage, off the A196, Choppington NE62 5PS in accordance with the terms of the application, Ref 19/03768/FUL dated 5 September 2019 subject to the conditions set out in the attached schedule.

### Application for costs

2. An application for costs was made by Action for Children against Northumberland County Council. This application is the subject of a separate Decision.

### Main Issues

3. The main issues are the effect of the development on:
  - highway safety, and;
  - the living conditions of adjacent residents with particular regard to parking and manoeuvrability, noise and disturbance and fear of crime.

### Reasons

#### *Highway Safety*

4. The appeal property is a four bedroomed detached house accessed via a private road from the A196. It currently has two vehicular access points, one at the southern side that serves an integral garage and one to the northern side which provides access to an informal parking area. The vehicle access to the south would be removed. To the north side the parking would be extended to provide 5 spaces, 4 of which would be laid out in two sets of two tandem

spaces. The Local Highway Authority has not objected to the change of use and the parking provision does not conflict with the Northumberland County Council vehicle parking standards.

5. The use would generally have 3 staff on site during the week and 2 at weekends. The parking arrangements would allow the staff to park within the site. The staff would be on a shift pattern and the submitted information indicates that additional visits to the premises would vary in frequency and would generally be by appointment. One vehicle for use by staff to transport children would be kept at the site. With the staff shift patterns and visitors by appointment, it is unlikely that the car parking arrangements would result in any significant shunting of vehicles to let staff in and out of the site and the car parking would be adequate for the development.
6. In addition, the appeal site is located close to bus stops that provide frequent services to the wider area. There is an option for some staff and visitors to arrive via public transport or by walking or cycling, even though car parking would be sufficient to accommodate all staff members. A travel plan to require consideration of modes of transport other than the car for staff would be appropriate in this case.
7. Children being provided with care would be encouraged to go to school independently and the site is sufficiently accessible for independent travel to be possible. However, the assessment of traffic generation submitted by the appellant includes traffic generated by transporting children to school.
8. I appreciate that there may be deliveries to the site, however, there is no evidence before me that deliveries will be other than may be expected at a normal domestic property. There is no indication that a dedicated disabled space would be required at the site.
9. The access road is a private road from its junction with the A196. It also carries a well-used public footpath that accesses the open countryside to the south of the appeal site. The access road serves approximately 11 other dwellings and a farm with associated farm traffic.
10. I saw during my site visit that the road is of limited width and does not have any pavements or streetlighting. The access point is approximately 40 metres from the junction with the A196 and 30 metres from the bend in the road towards the south. Given the relatively close proximity of these points traffic is unlikely to be travelling at any speed and, given the existing public footpath along it, likely to be proceeding with caution.
11. According to the appellants evidence there has been a small number of minor accidents on the A196 near to the junction of the access road in the last 20 years, two of which were prior to the development at East Farm. I find that the accident records for the extended length of the road provided by the objectors is of limited relevance to the localised issue of access and egress from the private road. The exit from the site on to the A196 has good visibility in both directions and is wide enough to accommodate two vehicles next to each other on its entrance which would limit waiting on the A196.
12. I appreciate that with some frequency, particularly in the summer, farm vehicles use the road. However, the additional traffic associated with the use, over that which would be generated by a four-bedroom dwelling, would not be

significant and would not exacerbate any existing tensions between residential and farm use of the private road.

13. Overall, I conclude that parking provision and the movement of vehicles and pedestrians in association with the proposed development would be acceptable and would not lead to any issues of highway safety. As such the proposal would accord with Policies T6 and T7 of the Wansbeck District Local Plan which seek to ensure that development makes appropriate provision for parking and that the existing highway network is adequate to cope with any additional traffic resulting from development. In addition there would be no conflict with the National Planning Policy Framework (the Framework) which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

*Living conditions*

14. The appeal property would be occupied by 3 children supported by 2 or 3 staff at any one time. It is a detached house surrounded by open countryside on three sides and located opposite residential dwellings to the front across the private access road.
15. The existing garage at the appeal site would be converted to a quiet room and the utility room converted to an office. In all other respects the internal layout would remain similar. There is access to the rear garden area from the downstairs rooms and the bedrooms face the rear garden with a corridor running across the front of the building at upper level. The internal layout of the dwelling and the positioning of the external amenity space would ensure that the living conditions of the adjacent properties would not be affected by the occupation of the building, based on the limited number of children proposed.
16. The evidence indicates that there would be some limited additional traffic movements, over and above that associated with a four bedroomed house, connected to the changeover of staff and perhaps at the beginning and end of the school day. However, such movements would not be disproportionately large or significantly above that associated with the existing use as a dwelling. The car parking for the proposal would be concentrated to the north side of the property. The north side parking would be offset from the windows in the dwellings opposite so that the manoeuvring of vehicles would be away from their living areas. Given the limited change in traffic generation anticipated, I am satisfied that there would be no detriment to the adjacent residents living conditions associated with the manoeuvring of vehicles at the site.
17. The Framework seeks to ensure that development is inclusive, and the fear of crime does not undermine quality of life, community cohesion and resilience. The courts have held that the fear of crime can be a material consideration. However, there must be some reasonable evidential basis for that fear. In this respect I have had regard to the comments of the Northumbria Police Designing Out Crime Officer. I note in particular the reference to evidence from the Durham Constabulary who have established that there is some correlation between the number of residents and the impact of care homes. The Constabulary monitored their contact with the homes in their area and concluded that a home housing 3 or less residents has no more impact than any other family house. Whereas 5 unrelated people who have problems and

are remote from family and friends lead to tensions. It was also noted that the net result of frequent visits from the police had adverse effects on neighbouring amenity.

18. The proposal would provide residential care for 3 children who would be from Northumberland County Council area. I note the third-party representations with regard to the fear of crime and the evidence of other sites where development has been refused based on the fear of crime. However, the Northumbria Police evidence indicates that the use as a children's residential home at the level proposed would have no more impact than any other family home. Consequently, there does not appear to be any evidential basis to support the fear of crime.
19. My attention has also been drawn to an appeal decision relating to student accommodation in Blythe and the comments of the Inspector in relation to the fear of crime. I do not consider the comments made by the Inspector in that case are pertinent to the appeal site given the evidence before me. Nor are the details of the scheme or the sites location similar.
20. I also note the appeal case<sup>1</sup> referred to by the Council in its Statement of Case relating to a care home for 5 children. In that case, Police evidence was significant in assessing whether the development would likely result in the fear of crime. Further, as Northumbria Police confirm, there is more likelihood that a care home with 5 residents would be a concern.
21. As such, on the basis of the evidence, I find that the proposal would not have a detrimental effect on the living conditions of adjacent residents with particular regard to parking and manoeuvrability, noise and disturbance and fear of crime and is not therefore contrary to Policies T7 and H10 of the Wansbeck District Local Plan in so far as it seeks to protect the living conditions of adjacent residents. These policies are consistent with the Framework with which the proposal would also accord.

### **Other Matters**

22. I have had regard to the concerns that the wall adjacent to the parking area is not within the appellant's ownership. The planning application form indicates that the appellant owns all the land to which the application relates. The appellant has also clarified that they have ownership of the wall. Ownership issues are a private matter between the relevant parties and not within my jurisdiction.
23. There is a suggestion that the wall adjacent to the parking area provides reference to the past and may be a non-designated heritage asset. There is limited information before me to indicate what significance can be attributed to the wall although I accept that the wall is older than other surrounding boundary treatment. In my judgement the wall does not have a degree of significance that merits consideration in this planning decision because of its heritage interest.
24. In addition to the points raised by objectors that I have addressed above, Local residents and Councillors have also expressed a wide range of concerns including, but not limited to the following; the effect of alterations to the property, damage of crops in the surrounding fields, use of the public footpath,

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<sup>1</sup> App/X1355/W/18/3196269

disturbance to other local children, proximity of the appeal site to dense woodland, a large pond and railway tracks; house prices. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of residents and Councillors, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. I have considered this appeal proposal on its own merits and concluded that it would not cause harm for the reasons set out above.

25. Representations were made to the effect that nearby residents rights under Article 1 and Article 8 of the Human Rights Act 1998 would be violated if the appeal were to be allowed. The right to peaceful enjoyment of possessions and right to a private life are qualified rather than absolute rights and the consideration of a proposal will inevitably result in a balance between competing individual rights. I do not consider the arguments of nearby residents to be well-founded, because I have found that the proposed development would not cause unacceptable harm to their living conditions. The degree of interference that would be caused would be insufficient to give rise to a violation of rights.

### **Conditions**

26. As well as the standard implementation condition it is necessary to refer to the approved drawings in the interests of certainty. Conditions are required to ensure the implementation of the car and cycle parking arrangements and a travel plan is required to minimise the use of the car by staff. These conditions are necessary to ensure satisfactory parking arrangements at the site, to promote sustainable and non-motorised travel and to safeguard the living conditions of neighbouring occupiers. A condition requiring matching material will ensure that the development is appropriate to the character and appearance of the area.
27. Conditions are also proposed that limit the use of the property to a care home for a maximum of three children from the Northumberland County Council area, restricts the age range of the children when they first arrive at the home and which prevents the site being used for the emergency placement of children. Although the appellant sought to allow some flexibility in the region from where the children would have formerly resided, I find their suggested wording to be imprecise and unenforceable. In any case, based on the evidence of the Designing Out Crime Officer, I consider that it is important to the operation of the site that children are not remote from family and friends and are from the local area. These conditions are necessary to minimise the intensity of the use and protect the amenity of neighbours.

### **Conclusion**

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

*Diane Cragg*

INSPECTOR

### **Schedule of Conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall not be carried out other than in complete accordance with the following approved plans:

Site Location Plan 150-01 Rev 01  
Site Plan (Existing) 150-02 Rev 04  
Site Plan (Proposed) 300-02 Rev 05  
Existing Floor Plans 150-03 Rev 04  
External Elevation (as Existing) 150-04 Rev 04  
General Arrangement (Proposed) 300-01 Rev 04  
External Elevations (Proposed) 300-03 Rev 04

3. The development shall not be occupied until the car parking area indicated on the approved plans has been implemented in accordance with the approved plans. Thereafter, the car parking area shall be retained in accordance with the approved plans and shall not be used for any purpose other than the parking of vehicles associated with the development.
4. The development shall not be occupied until cycle parking shown on the approved plans has been implemented. Thereafter, the cycle parking shall be retained in accordance with the approved plans and shall be kept available for the parking of cycles at all times.
5. The facing materials and finishes to be used in the external alterations shall match the corresponding materials of the existing building in respect of colour, appearance, shape and texture.
6. Prior to occupation of the care home hereby approved, a Travel Plan must be submitted to and agreed in writing by the local planning authority. The Travel Plan shall at least include:
  - Targets for the travel of staff and visitors to and from the site by other means than the car;
  - Effective measures for the on-going monitoring of the Travel Plan;
  - A commitment to delivering the objectives of the Travel Plan for a period of at least five years from first occupation of the development;
  - Effective mechanisms to achieve the objectives of the Travel Plan by the occupiers of the property.

The development hereby permitted shall be implemented in accordance with the agreed Travel Plan.

7. The premises shall only be used as a residential care home for children, with a maximum of 3 children in residence at any one time who shall be from the Northumberland County Council area and shall be no older than 12 years

when first placed in care at the premises, and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

8. The residential care home for children hereby approved shall not be used to provide care to children requiring an emergency placement.